

ASSESSMENT OF THE ENABLING ENVIRONMENT FOR CIVIL SOCIETY ORGANIZATIONS IN THE PHILIPPINES



in partnership with the Alternative Law Groups (ALG)

September 2016

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

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The ***Caucus of Development NGO Networks*** (CODE-NGO) is the Philippines' biggest coalition of non-governmental organizations (NGOs) working for social development, grouping together six (6) national and six (6) regional member networks, representing more than 1,600 development NGOs, people's organizations and cooperatives nationwide. CODE-NGO's mission is to be a trusted national voice of civil society and to advance capacities of civil society organizations (CSOs) to exercise transformative leadership.

CODE-NGO aims to be the largest coalition of competent, credible and committed development CSOs in the Philippines that influences public policies, shapes development and creates tangible impact in its partner communities. CODE-NGO and its member networks and organizations have been active in promoting sustainable development for at least 25 years. CODE-NGO has rich experience in promoting asset reform and equitable development (including agrarian and fishery reform, socialized housing and ancestral domain), participatory governance and people empowerment, access to basic services and environmental protection.

The ***Alternative Law Groups, Inc.*** (ALG) is a coalition of twenty three (23) legal resource NGOs that adhere to the principles and values of alternative or developmental law. These organizations have distinct programs for developmental legal assistance that is primarily concerned with the pursuit of public interest, respect for human rights and promotion of social justice. At the heart of developmental law is the dual work of empowering the poor and the marginalized, and effecting justice system reforms. The first component entails enhancing the capacity of the poor and marginalized groups to access and use judicial, quasi-judicial and other mechanisms for addressing their issues and concerns, and for protecting and enforcing their rights. The second focuses on the pursuit of a favorable policy environment that promotes the rights and interests of the poor and marginalized. ALG members' operations cover a wide area of concerns involving justice issues of the poor and marginalized groups in the Philippines. These include issues on women, labor, peasant, fisherfolk, children, urban poor, indigenous peoples, persons living with HIV-AIDS, local governance, and the environment.

FOREWORD

The important role of civil society organizations (CSOs) in national and global development and the need to ensure an enabling environment for CSOs are widely acknowledged. The Busan High Level Forum (HLF) on Development Effectiveness held in 2011 declared in the Busan Partnership for Effective Development Cooperation that:

“Civil society organizations (CSOs) play a vital role in enabling people to claim their rights, in promoting rights-based approaches, in shaping development policies and partnerships, and in overseeing their implementation. They also provide services in areas that are complementary to those provided by states. Recognizing this, we will:

a) Implement fully our respective commitments to enable CSOs to exercise their roles as independent development actors, with a particular focus on an enabling environment, consistent with agreed international rights, that maximizes the contributions of CSOs to development.”

We view this Assessment of the Enabling Environment for Civil Society Organizations (CSOs) in the Philippines as a vital step in the effort to improve the environment for CSOs in the country. This report assesses the legal, regulatory, policy, financial and social environment in which CSOs operate. It covers the following eight dimensions: (1) formation of CSOs, (2) operation of CSOs, (3) access to resources, (4) freedom of expression, (5) peaceful assembly, (6) CSO-government relations, (7) CSO cooperation and coalition, and (8) taxation.

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The Caucus of Development NGO Networks (CODE-NGO) worked on this assessment in partnership with the Alternative Law Groups (ALG). We were guided in the assessment by an Expert Advisory Panel composed of: 1) Ma. Fe V. Mendoza, Dean, National College of Public Administration and Governance, University of the Philippines (UP NCPAG); 2) Benedict Balderrama, National Coordinator, Partnership of Philippine Support Service Agencies (PHILSSA); 3) Raul Socrates Banzuela, National Coordinator, Pambansang Kilusan ng mga Samahang Magsasaka (National Confederation of Peasant Organizations) or PAKISAMA; 4) Helen Orande, Executive Director, League of Corporate Foundations (LCF); 5) Marissa Camacho, former Chief of Party, Strengthening CSOs in the Philippines Project, USAID and Ayala Foundation led consortium of CSOs, and, currently, Vice President for Partnerships, Ramon Magsaysay Awards Foundation; 6) Max De Mesa, Chairperson, Philippine Alliance of Human Rights Advocates (PAHRA), and 7) Andrea Maria Patricia M. Sarenas, Chairperson, Mindanao Coalition of Development NGO Networks (MINCODE) and former Chairperson of CODE-NGO.

We in CODE-NGO hope that this assessment will lead to actions on the identified key concerns, and the emergence of a more enabling environment for civil society organizations.

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Executive Summary

This report explains the assessment of the legal, regulatory, policy, financial and social environment in which civil society organizations (CSOs) operate in the Philippines. Different aspects that impact on CSOs' ability to register and operate freely, access resources, engage with government, and work collectively, all form part of the enabling environment for CSOs in the Philippines. This study is not an assessment of CSOs' contribution to the country's development, but rather, an inquiry into the legal and policy environment that allows CSOs to form and operate, and, ultimately, to contribute to the country's development.

This is a national level assessment for the Philippines, part of the Enabling Environment National Assessments (EENA), a methodology developed jointly by CIVICUS: World Alliance for Citizen Participation and the International Center for Not-for-Profit law (ICNL). The EENAs are action-oriented research projects focused on assessing the legal, regulatory and policy environment of civil society in different countries.

For the purpose of this assessment, the term civil society organization (CSO) refers to a formalized collection of individuals that are independent of government and do not function as for-profit business.¹ The assessment includes labor unions in the term "CSO" as these organizations are a significant component of the CSO community in the Philippines, both in terms of applicable laws and regulations, and in the interaction among CSOs themselves. Labor unions are covered by the same regulatory agency (Department of Labor and Employment) as other organizations (e.g., farmers registering as a rural workers association) and are treated as part of the CSO community, both by the CSOs themselves, and by the government.

The research methodology used in the assessment adheres to the guidelines laid down in the Enabling Environment National Assessments (EENA) Research Guide, jointly developed by CIVICUS and ICNL.² The methodology entailed four key data collection methods: (1) Desktop Research; (2) Focus Group Discussions (FGDs); (3) Key Informant Interviews; and (4) Survey.

This assessment covers the following eight dimensions: (1) formation of CSOs; (2) operation of CSOs; (3) access to resources; (4) freedom of expression; (5) peaceful assembly; (6) CSO-government relations; (7) CSO cooperation and coalition; and (8) taxation. The first six dimensions are the mandatory dimensions, as outlined in the EENA Research Guide, while the last two are the chosen optional dimensions.³ Each dimension is discussed in this report as a separate chapter, which analyzes in detail the results of the above mentioned different research methods.

¹ Enabling Environment National Assessment (EENA) Research Guide.

² The EENAs are part of the Civic Space Initiative, implemented by CIVICUS and the International Center for Not-for-Profit Law in partnership with, ARTICLE19, and the World Movement for Democracy.

³ The EENA Research methodology prescribes a total of 10 dimensions, 6 of which are mandatory for all EENA-countries, and 4 which are optional. Based on the country context, one to four optional dimensions can be chosen to be included in the EENA, if deemed relevant for the country context. The optional dimensions are: (1) internet freedom; (2) CSO cooperation and coalition; (3) taxation and (4) access to information.

While the Philippine Constitution guarantees freedom of association, CSOs are required to register with the appropriate government agency to acquire legal personality, which gives CSOs the right to enter into contracts, access funds and open bank accounts. However, CSOs that opt not to register can continue to function according to its purpose. Four government agencies are mandated to act as registration authorities and provide legal personality for CSOs: (1) Securities and Exchange Commission (SEC); (2) Department of Labor and Employment (DOLE); (3) Cooperative Development Authority (CDA); and (4) Housing and Land Use Regulatory Board (HLURB).

Most CSOs are registered with the SEC as non-stock, non-profit corporations. The SEC is the registration agency for both stock/for-profit and non-stock non-profit corporations. The DOLE registration covers both labor unions and workers' associations. Many peoples' organizations (POs) or grassroots sectoral organizations (including farmers or fisherfolk organizations) register as workers' associations (in particular as rural workers' associations) with the DOLE. The registration requirements differ for the four categories of CSOs.

Based on the review of the applicable laws and policies, there are clear procedures and lists of requirements for the registration of the different types of CSOs, including provisions on how to appeal decisions. The applicable legal regimes for the registration of the various CSOs overlap in certain aspects, allowing CSOs to choose the mode of registration and acquisition of legal personality. In general, there are no restrictions on the purposes for which CSOs can be formed, i.e., there are no categorical prohibitions for certain objectives, other than the general requirement that the organization must be set up for lawful purposes.

After securing their registration, which gives CSOs the necessary legal personality, the registration authorities require the registered CSOs under their jurisdiction to submit regular reports, as will be explained in the chapter on the operation of CSOs. The registration of CSOs can be revoked or cancelled on specific grounds by registration authorities. Government oversight of CSO operations is considered by CSO representatives as light or minimal. No history of state harassment of CSOs, in the guise of regulation, has been reported.

In general, there are no legal impediments for CSOs to access financial resources. There is no prior government consent needed before a CSO can apply or receive funds from international or national donor agencies or individuals. There is also no prohibition for CSOs to receive and use public funds. Many CSOs depend on grants and donations. Other possible sources of funding for CSOs are membership fees and revenue from income-generating activities.

Most Philippine CSOs still rely on private (i.e., non-government) sources of funds for their operations. Sources of funding are foundations, international NGOs and other donor agencies that are based outside the Philippines, both government and private. Some CSOs implement projects that are funded by foreign governments or by multilateral institutions.

Philippine CSOs enjoy freedom of expression as organized groups of citizens. The Constitution guarantees freedom of expression as one of the fundamental freedoms of the people. CSO representatives in the discussion sessions confirm that the constitution is observed in practice, and that there is tolerance for CSO statements and other forms of expression of positions on controversial issues, even if these may be critical of the government or of certain key government officials.

There are no legal barriers to access to the Internet, and CSOs have freely used the Internet to their advantage. Unfortunately, however, the country has not yet passed a Freedom of Information Law, which is viewed as a policy that is necessary for a more effective exercise of the freedom of expression.

Like freedom of expression, freedom of assembly is recognized and guaranteed by the Constitution as a fundamental freedom. Except for a short period during the administration of former President Gloria Arroyo (2001-2010) when there was a categorical policy against the exercise of freedom of assembly, the country's past and present governments, after the Marcos period (from 1986), have been generally tolerant of public assemblies. CSOs have freely exercised the freedom of assembly. For most CSOs, rallies, demonstrations, marches, and other forms of public assembly, are generally accepted as legitimate and strategic action.

CSOs are permitted to engage in the electoral and other political processes. There is no prohibition against supporting candidates, or nominating candidates for public office. More importantly, CSOs' participation in governmental decision-making processes is mandated by the Constitution. There are multiple institutionalized spaces for CSO participation in policy-making, and in the monitoring of policy and program implementation.

Since the end of the Marcos era, there has been a significant improvement in the relationship between CSOs and government. For most CSOs, the relationship has evolved from one of antagonism to one of cooperation, and in many aspects, partnership. CSO-government relations have been described as generally harmonious by the respondents. Despite the many available mechanisms for CSO participation, and the regular organization of consultations by the government, there is a need to improve the depth of the consultations and cooperation, as many consultations are seen as merely complying with obligations, instead of a genuine appreciation for CSO participation and input.

The recent restrictive rules concerning CSOs' access to government funds is widely seen as impeding CSO-government relations, as the rigid requirements are seen as disincentives for the receipt of government funds, hence, limiting cooperation opportunities.

In the same way that there are numerous CSOs in the Philippines, there is likewise, a variety of CSO groups or organizations in the form of federations, coalitions, networks and other multi-organization associations. These coalitions are organized on the basis of various factors, such as geographic area of operations (provincial or regional), sectoral focus, similarity of programs, or unity of positions on issues.

Some of these bigger organizations are registered as entities independent of its member organizations, while others remain informal, but functional, groupings and coalitions.

Overall, there is openness to cooperation and collaboration among CSOs, which has led to the formation of different categories of umbrella organizations and coalitions. This is essentially voluntary, as it is not mandated by law. Funding trends also drive CSOs to work together, as it is increasingly requested by donors, although there is still a healthy competition among CSOs.

In general, CSOs are eligible for tax exemption. There have been numerous concerns raised, however, about the lack of clarity of the rules on tax coverage and exemption, and the lack of consistency in the application of the rules by the different field officers of the Bureau of Internal Revenue (BIR). It is clear, however, that the taxation power of the government have not been used to harass CSOs or to restrict their operations. Considering the dwindling resources for CSOs, the imposition of taxes is widely seen as having an adverse impact on the financial sustainability of CSOs.

Combined together, the assessment of the eight dimensions support the overall finding that in the Philippines, the legal, regulatory, and policy environment in which CSOs operate is generally positive, encouraging and enabling civil society to operate, as individual organizations and collectively, to continue their significant contribution to the country's governance and development.

The 1987 Constitution, which was adopted after the non-violent revolution that toppled the Marcos authoritarian regime, constitutes a key element that fosters and protects an overall healthy enabling environment for CSOs. The Constitution initially provided the opening of the democratic space that allowed the country's CSOs to proliferate, especially in the first decade after the revolution. After thirty years, this Constitution, with its clear principles and provisions that encourage CSO formation, operation, and involvement in governance and development, has continued to provide the essential protective framework for CSOs as they perform their valuable role in Philippine society.

Section I. Introduction

The Philippines was ruled by President Ferdinand Marcos under Martial Law from 1972 to 1986.⁴ Under the Marcos dictatorship, the Congress was abolished, civil liberties suspended, human rights violations proliferated and military authority prevailed. A non-violent revolution took place in 1986 (known as the 1986 People Power Revolution or the EDSA Revolution⁵) that led to the ouster of President Marcos and the restoration of the country's democracy. Thirty years after the People Power Revolution, Philippine civil society organizations (CSOs) are now widely seen as among the most diverse, vibrant, and in many aspects, advanced, not only in the region, but also globally. The last three decades have seen Philippine CSOs significantly thriving, not only in number, but also in terms of their contribution to the country's development.

The 1987 Philippine Constitution, adopted soon after the People Power Revolution, ushered in the democratic space that allowed the country's CSOs to proliferate, especially in the first decade after the revolution, and to freely operate with substantial strategic participation in the country's overall governance and development. With recognition of direct, as opposed to merely representative, democracy, the 1987 Constitution contains key principles that have provided an institutionalized recognition of the valuable role of CSOs in Philippine society. The following relevant provisions are especially noteworthy:

Article II (Declaration of Principles and State Policies)

Section 23: The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.

Article XIII (Social Justice and Human Rights – Role and Rights of People's Organizations)

Section 15. The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

Section 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Article X (Local Government)

Section 14. The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region.

⁴ While Martial Law was officially lifted earlier, in 1981, the country remained under the repressive regime of President Marcos until 1986.

⁵ EDSA refers to Epifanio Delos Santos Avenue, the main thoroughfare in the capital city where the peaceful demonstrations took place.

The policy pronouncements enshrined in the 1987 Constitution are mirrored in a number of national laws. Among the most notable pieces of legislation that institutionalize the role and participation of CSOs are the Local Government Code of 1991 (Republic Act No. 7160), which mandates the membership of CSOs in different local government (sub-national) special bodies, and the Social Reform and Poverty Alleviation Act of 1997 (Republic Act No. 8425), which created the National Anti-Poverty Commission, with half of its membership coming from CSOs of fourteen (14) sectors (e.g. farmers, fishers, workers, women).

Despite the robust character of the CSO community, CSOs currently face a range of significant challenges in their operation, from the dwindling funds available for programs, to difficulties encountered in accessing government funds.

This report looks into the legal, regulatory, policy, financial and social environment in which CSOs operate. Different aspects that impact CSOs' ability to register and operate freely, access resources, engage with government, and work collectively, all form part of the enabling environment for CSOs in the Philippines. This study is not an assessment of CSOs' contribution to the country's development, but rather, an inquiry into the legal and policy environment that allows CSOs to form and operate, and, ultimately, to contribute to the country's development.

This national level assessment for the Philippines is part of the Enabling Environment National Assessments (EENA), developed jointly by CIVICUS and the International Center for Not-for-Profit Law (ICNL) as an action-oriented research project focused on assessing the legal, regulatory and policy environment of civil society in different countries.⁶

For the purpose of this assessment, the term civil society organization (CSO) refers to a formalized collection of individuals that are independent of government and do not function as for-profit business.⁷ This assessment includes labor unions as part of civil society as these organizations are considered as a significant component of the CSO community in the Philippines, both in terms of applicable laws and regulations, as in the interaction among CSOs themselves. Labor unions are covered by the same regulatory agency (Department of Labor and Employment - DOLE) as other organizations (e.g., farmers registering as a rural workers association) and are treated as part of the CSO community, both by CSOs themselves as by the government.

In the Philippines, CSOs are generally divided into non-government organizations (NGOs) and peoples' organizations (POs). Republic Act No. 8425 or the Social Reform and Poverty Alleviation Act defines NGOs and POs as follows:

⁶ Between 2013 and 2016, EENAs were implemented in 22 countries worldwide.

⁷ Enabling Environment National Assessment (EENA) Research Guide.

"Non-government organizations refer to duly registered non-stock⁸, non-profit organizations focusing on the upliftment of the basic or disadvantaged sectors of society by providing advocacy, training, community organizing, research, access to resources, and other similar activities."⁹

"A people's organizations refers to a self-help group belonging to the basic sectors and/or disadvantaged groups composed of members having a common bond of interest who voluntarily join together to achieve a lawful common social or economic end."¹⁰

In short, NGOs provide services to non-members, usually the poor and disadvantaged while POs are organizations that provide support and services to, and advance the interests of, their members.

CSOs in the Philippines are engaged in a wide range of activities: human rights campaigns and advocacy, organizing, service delivery, research and policy development, livelihood development, education and training, among others. CSOs are not required to be registered in order to fulfil their purpose. However, CSOs register with government agencies in order to acquire legal personality, so they are able to enter into contracts, open bank accounts, and access resources.

In this study, CSOs pertain to registered CSOs that are divided into four categories: (1) non-stock non-profit corporations; (2) labor unions and workers' associations; (3) cooperatives; and (4) homeowners' associations. As will be explained later in more detail, this categorization is based on the different regulatory authorities and policies for each category. Non-stock non-profit corporations are entities that register with the Securities and Exchange Commission (SEC), the government agency that regulates all corporations, both for profit and not for profit. Labor unions and workers' associations are organizations that register with the Department of Labor and Employment (DOLE). Labor unions are organized with the purpose of, among others, immediately or eventually becoming the representative of workers in collective bargaining with their employers. Workers' associations do not have this purpose, and are usually organized by those who do not have a definite employer-employee relationship with a common employer, such as farmers, farm workers and workers in the informal sector. Cooperatives register with the Cooperative Development Authority (CDA), and homeowners' associations register with the Housing and Land Use Regulatory Board (HLURB).

Labor unions, workers' associations and homeowners' associations are considered as "people's organizations" or POs. Based on the definition given above, cooperatives

⁸ Non-stock corporation refers to organizations which do not have capital stock and are not established to operate for business or profit. Stock corporations on the other hand pertain to corporations which have capital stock divided into shares and profits distributed to its shareholders.

⁹ *Social Reform and Poverty Alleviation Act*, Republic Act No. 8425 §3 (m) (1997).

¹⁰ *Social Reform and Poverty Alleviation Act*, Republic Act No. 8425 §3 (n) (1997).

would also be POs.¹¹ “NGOs” are usually registered as non-stock non-profit corporations; along with other types of POs that are not registered by DOLE, HLURB or CDA.

Based on recent data¹² available, there are at least 261,762 registered CSOs in the Philippines. Non-stock non-profit corporations form the bulk of CSOs with a total of 164,000¹³, constituting 63% of all CSOs in the country. The labor unions and workers’ associations total 58,019 entities (18,853 labor unions and 39,166 workers’ associations)¹⁴, which constitute 22% of the total number of CSOs. Lastly, there are 24,652¹⁵ cooperatives and 15,091¹⁶ homeowners’ associations, representing 9% and 6% of the total CSOs respectively.

This assessment covers the following eight dimensions: (1) formation of CSOs; (2) operation of CSOs; (3) access to resources; (4) freedom of expression; (5) peaceful assembly; (6) CSO-government relations; (7) CSO cooperation and coalition; and (8) taxation. The first six dimensions are the mandatory dimensions, as outlined in the EENA Research Guide, while the last two are the chosen optional dimensions.¹⁷ Among the optional dimensions, these two are perceived to be the most relevant to the Philippine context, for several reasons. CSO cooperation and coalition are seen as a major strength of Philippine CSOs and considered as a key enabler for their operation. Taxation is viewed as a major area of concern due to a lack of clarity of tax policies and its application with respect to CSOs.

Formation of CSOs covers the regulatory framework for the formation and registration of CSOs, including how legal personality is acquired by CSOs, which is necessary to enable CSOs to conduct transactions, access resources, and proceed with its operations.

Operation of CSOs focuses on the level of government oversight on CSO operations, including reporting requirements of CSOs.

¹¹ Most cooperatives in the Philippines would however see themselves as distinct from “POs” because of their adherence to cooperative principles.

¹² All available data are updated “as of December 2014,” except for the data on Homeowners’ Associations, which was updated in February 2016.

¹³ Securities and Exchange Commission, *2014 Annual Report: Securities and Exchange Commission* (Accessed March 3, 2016); Available From

http://www.sec.gov.ph/aboutsec/annualreport/pdf/sec_annual_report_09042015.Pdf.

¹⁴ *2015 Yearbook of Labor Statistics*, Philippine Statistics Authority (PSA), October 2015 (Accessed March 3, 2016); Available From

http://labstat.psa.gov.ph/publications/yearbook%20of%20labor%20statistics/Stat_Tables.Html.

¹⁵ Cooperative Development Authority, *Statistics as of December 31, 2014* (Accessed March 3, 2016); Available from <http://cda.gov.ph/resources/updates/statistics/527-statistics-as-of-december-31-2014>.

¹⁶ Housing and Land Use Regulatory Board, *List of Registered Homeowners* (Accessed March 3, 2016); Available From <http://hlurb.gov.ph/list-of-registered-homeowners/> and <http://hlurb.gov.ph/list-of-registered-homeowners-regions/>.

¹⁷ The EENA Research methodology prescribes a total of 10 dimensions, 6 of which are mandatory for all EENAs, and 4 which are optional. Based on the country context, one to four optional dimensions can be chosen to be included in the EENA, if deemed relevant for the country context. The optional dimensions are: (1) internet freedom; (2) CSO cooperation and coalition; (3) taxation and (4) access to information.

Access to resources covers the ability of CSOs to raise funds for their programs and operation, and the availability and reliability of those funds. Access to resources covers government funding, international funding and philanthropy.

Freedom of expression refers to the ability of CSOs to engage in various forms of expression, especially those that are, or may be viewed as, critical of government.

Freedom of assembly covers the ability of CSOs to engage in peaceful demonstrations and other forms of public assemblies.

CSO-government relations tackles the dynamics of the engagements and partnerships between CSOs and government, both at the national level as the sub-national level. This dimension includes the level of participation of civil society in decision making processes.

CSO coalition and cooperation focuses on the relationships among CSOs themselves, and how they conduct their work collectively.

Taxation covers the tax regime and regulatory framework that applies to CSOs.

The assessment of the eight dimensions was done through a combination of desktop review of laws and policies, review of related studies on CSOs in the Philippines, focus group discussions, informant interviews and a survey. The research collected data on both the factual questions and perception questions, thus covering both the regulatory framework on paper, as how these are applied in practice. At the end of the research – on 18 March 2016 - a National Consultation was held in order to discuss and validate the research findings. The research methods are further discussed in the second section on the methodology.

As any assessment is influenced by the current country context and shaped by recent events, it is important to note that, at the time of the assessment, the Philippines had recently experienced a media exposé of a large-scale corruption scandal regarding the misuse and abuse of the legislators' Priority Development Assistance Fund (PDAF). In 2013, a leading newspaper exposed the scam where the Philippine government was alleged to have been swindled out of an estimated P10 billion (around \$ 216.6 million) in ten years (2001-2010) through non-existent PDAF projects that were supposed to have been implemented by NGOs.¹⁸ While cases are still pending and the perpetrators are still undergoing trial, evidence that has so far surfaced point to the use of bogus, but registered, NGOs as conduits and false beneficiaries of public funds. This development has affected, in particular, the willingness of the government to release public funds to CSOs, and, conversely, the willingness (and ability) of CSOs to access government funds.

¹⁸ Nancy Carvajal, "NBI probes P10-B scam," *Philippine Daily Inquirer*, July 12, 2013 (Accessed May 31, 2016); Available from <http://newsinfo.inquirer.net/443297/nbi-probes-p10-b-scam>

It was clarified in the different discussion sessions during this research, including at the National Consultation, that the assessment would use the term “government” to refer to both national and sub-national (local) governments, although for some areas of the assessment, the experience of CSOs with respect to the national government, on the one hand, and with local governments on the other hand, vary significantly, with some respondents citing negative experiences with local governments.¹⁹ Indeed, CSO engagement with local governments constitutes an additional and separate layer of interaction that can have its own dynamics, distinct from the CSO-national government relationship. Due to the huge number of local governments in the Philippines²⁰, however, and the varying experiences of CSOs in the different areas, the assessment did not have the capacity nor the timeframe as to make general conclusions that can be applied with a certain degree of uniformity to the various levels of governments. Whenever relevant, however, the report mentions specific issues pertaining to CSOs’ experiences with local governments.

It must also be clarified, that, while the assessment makes observations based on the perception of the participants during the discussion sessions, the findings must be understood as a general description of the situation. Even with the broad representation of the participants, the findings are not presented as unqualified conclusions. The findings must be understood as subject to contrary experiences and perceptions that some CSOs may have.

¹⁹ The government of the Philippines pertains to national and local governments. The national government consists of three departments: legislative, executive and judicial. The local government consists of the following territorial and political subdivisions: provinces, cities, municipalities and barangays (villages).

²⁰ There are 81 provinces, 145 cities and 1,490 municipalities.

Section II. Methodology

The research methodology used in the assessment adhered to the guidelines laid down in the Enabling Environment National Assessments (EENA) Research Guide, jointly developed by CIVICUS and ICNL.²¹ An Expert Advisory Panel (EAP) was created to help guide the research and, eventually, review the Country Report and the Advocacy Plan. The panel is composed of well-respected leaders of the country's major CSOs, who have vast experiences and expertise in the area of CSO operations and the enabling environment for CSOs in the Philippines.²²

It must be clarified that, at the outset, the Research Team and the Expert Advisory Panel (EAP) decided to include trade unions in the scope of the research. This deviation from the Research Guide was made as trade unions in the Philippines are considered as a significant part of the CSO community, both in terms of applicable laws and regulations, and in the interaction among CSOs themselves.

The methodology entailed four key data collection methods:

(1) Desktop Research – the Research Team conducted a desktop research on the country's regulatory and legal environment for CSOs. Online sources formed the basis for information on relevant laws, regulations, and policies. The initial results of the desktop research were presented to the EAP in November 2015. The desktop research addresses the factual questions for each dimension in the Research Guide. Literature review also included existing studies on civil society in the Philippines.

(2) Focus Group Discussions (FGDs) – six FGDs took place in three areas, two each for Luzon (Northern Philippines), Visayas (Central Philippines), and Mindanao (Southern Philippines). Each area had two discussion sessions, one for CSO representatives and another for officials of government agencies. Each CSO FGD had about 10-11 participants, mostly representatives of major CSO networks and coalitions. The government sessions had respectively, 7, 7 and 21 participants for the areas of Mindanao, Visayas and Luzon. The government participants who attended the Luzon session were representatives of the national/central offices of the regulatory agencies.

²¹The EENAs are part of the Civic Space Initiative, implemented by CIVICUS and the International Center for Not-for-Profit Law (ICNL) in partnership with ARTICLE 19 and the World Movement for Democracy.

²² The members of the Expert Advisory Panel (EAP) are the following: 1) Ma. Fe V. Mendoza – Dean, National College of Public Administration and Governance, University of the Philippines (UP NCPAG); 2) Benedict Balderrama – National Coordinator, Partnership of Philippine Support Service Agencies (PHILSSA), a national network of NGOs focusing on socialized housing and urban development; 3) Raul Socrates Banzuela – National Coordinator, Pambansang Kilusan ng mga Samahang Magsasaka (National Confederation of Peasant Organizations) or PAKISAMA; 4) Helen Orande – Executive Director, League of Corporate Foundations (LCF), a nationwide association of corporate foundations; 5) Marissa Camacho – former Chief of Party, Strengthening CSOs in the Philippines Project, USAID and Ayala Foundation led consortium of CSOs, and, currently, Vice President for Partnerships, Ramon Magsaysay Awards Foundation; 6) Max De Mesa, Chairperson, Philippine Alliance of Human Rights Advocates (PAHRA), 7) Andrea Maria Patricia M. Sarenas – Chairperson, Mindanao Coalition of Development NGO Networks (MINCODE) and former Chairperson of CODE-NGO (until February 10, 2016).

The CSO sessions were held before the government sessions (in Visayas and Mindanao, two sessions were conducted in one day with the CSO session happening in the morning and the government session in the afternoon). The aim of this schedule was that issues raised in the CSO group could be relayed to the government group for discussion and clarification. The FGDs focused on the perception questions of the eight dimensions, as outlined in the Research Guide.

In addition to the six aforementioned FGDs, the Research Team also conducted a separate discussion session with the national coordinators of four (4) major CSO networks with nationwide membership, namely – Philippine Partnership for the Development of Human Resources in Rural Areas or PHILDHARRA (network of rural focused CSOs), Partnership of Philippine Support Service Agencies or PHILSSA (network of urban focused CSOs), National Confederation of Cooperatives or NATCCO (network of cooperatives) and Association of Foundations or AF (network of foundations).

(3) Key Informant Interviews – to complement the discussions in the FGDs, the Research Team conducted interviews with the head of the Bureau of Labor Relations of the Department of Labor and Employment, and the Sectoral Representative of the Formal Labor Sector (trade unions) of the National Anti-Poverty Commission. These two were targeted in particular because, among the different categories of CSOs, unions and workers' associations were not well represented in the FGDs.

(4) Survey – five perception questions that are directly linked to the EENA study are included in the Perception Survey of Civil Society Organizations (CSOs) on Government and Civil Society, an annual survey conducted by the Caucus of Development NGO Networks (CODE-NGO). The survey was first conducted in 2014 as a means to gauge the satisfaction ratings of civil society leaders across the Philippines on the performance of the government and the CSO sector. It also looks into the levels of trust of CSO leaders on different government positions and various civil society organizations.

The 2015 survey was conducted from October 2, 2015 to November 12, 2015, with a total of 228 respondents coming from different areas from all eighteen regions of the country. The survey questionnaire was divided into 6 parts with a total of 51 rating questions. The survey was conducted through an online survey tool that was disseminated to CODE-NGO's members and CSO partners. For those who were not able to respond online, the questionnaire was also printed and distributed during CSO gatherings within the survey period.

Out of the 228 returns, 60% of the respondents were from the member networks and member base organizations of CODE-NGO, while 40% came from CSOs outside of the CODE-NGO network. All 18 regions of the Philippines were represented, with a third (33.3%) of the respondents coming from the National Capital Region (NCR).

The survey included the following questions, that are relevant for the EENA study:

1. Do you think government regulation and oversight of CSOs is very inadequate, inadequate, sufficient, excessive or very excessive?
2. Do you think there is a good legal/ policy environment in the Philippines to encourage philanthropy, including individual and corporate donations to CSOs?
3. Do you think the relations between the national government and CSOs is good?
4. Do you think the relations between the local governments and CSOs is good?
5. Do you think there is a good legal/ policy environment for CSOs in the Philippines? (e.g., policies/laws on CSO registration, operations, reporting, tax treatment, government support to CSOs)?

The survey results on these five questions are discussed in this report as part of the different dimensions.

Each dimension is presented as a separate chapter, and will analyze in detail the results of the different research methods, as described above.

The initial report was presented at the National Consultation, which was held on March 18, 2016 in Quezon City, Philippines, attended by thirty nine (39) participants coming from different government agencies and CSOs. During the Consultation, the report and its research results were discussed and validated by the participants, while advocacy priorities and strategies were also discussed. A meeting of the Expert Advisory Panel (EAP) was convened shortly after the National Consultation to finalize the EENA Country Report and the National Advocacy Plan.

Section III. The Eight Dimensions

A. Formation of CSOs

1. Overview

While the 1987 Constitution guarantees the freedom of association²³, CSOs are required to register with the appropriate government agency in order to acquire legal personality that gives CSOs the right to enter into contracts, access funds and open bank accounts. However, CSOs that opt not to register may continue to function according to its purpose.

Four government agencies are mandated to act as registration authorities and provide legal personality for CSOs: (1) Securities and Exchange Commission (SEC); (2) Department of Labor and Employment (DOLE); (3) Cooperative Development Authority (CDA); and (4) Housing and Land Use Regulatory Board (HLURB).

Most CSOs are registered with the SEC as non-stock, non-profit corporations. The SEC is the registration agency for both stock/for profit and non-stock non-profit corporations. The DOLE registration covers both labor unions and workers' associations.²⁴ Many peoples' organizations (POs) or grassroots sectoral organizations (including farmers or fisherfolk organizations) register as workers' associations (especially, as rural workers' associations) with the DOLE. This explains the large number of workers' associations, constituting the second highest category of CSOs, forming 15% of the total number of CSOs. The CDA includes registration of all kinds of cooperatives. While the HLURB covers all types of homeowners' associations, including associations from upscale subdivisions, many informal settler communities, especially in urban areas, resort to this mode of registration for their organizations.

The registration requirements differ for the four categories of CSOs. In addition to the initial registration process to acquire legal personality, some categories of CSOs must undergo an additional process to secure government permission before they can engage in certain activities, as will be explained later.

Based on the review of the applicable laws and policies, there are clear procedures and lists of requirements for the registration of the different types of CSOs, including provisions on how to appeal registration decisions. The applicable legal regimes for the registration of the various CSOs overlap in certain aspects, allowing CSOs to choose the mode of registration and acquisition of legal personality. In general, there are no restrictions on the purposes for which CSOs can be formed, i.e., there are no categorical prohibitions for certain objectives, other than the general

²³ Philippine Constitution Art. III, § 8 provides "The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged."

²⁴ Labor unions are association of employees which exists for collective bargaining or of dealing with the terms and conditions of employment. Workers' association refers to an association of workers for the mutual aid and protection of its members or for any purpose other than collective bargaining.

requirement that the organization must be set up for lawful purposes. According to the participants of the FGDs, the registration process is considered as being non-political. There are no known cases of the use of the registration process by the government to discriminate against, restrict or harass CSOs.

2. Applicable Laws

The right to form unions, associations, or societies is guaranteed by the Philippine Constitution.

This is in line with the Universal Declaration of Human Rights (UDHR) which provides that “everyone has the right to freedom of peaceful assembly and association.”²⁵ Likewise, the International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a State Party, states in its article 22:

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.²⁶

The main legal instruments that govern the formation of the different types of CSOs are as followed:

2.1 Batas Pambansa (National Law) Bilang (Number) 68 or the Corporation Code of the Philippines) (1980)

Batas Pambansa Bilang 68 (B.P. 68) also known as the Corporation Code of the Philippines is the law that governs the formation and operation of all corporations, both stock corporations and non-stock corporations. Most CSOs, in particular NGOs, fall under the definition of a “non-stock corporation”:

“one where no part of its income is distributable as dividends to its members, trustees, or officers, provided, that any profit which a non-stock corporation may obtain as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized.”²⁷

²⁵ Universal Declaration of Human Rights, G.A. Res. 217, U.N. Gaor, 3d Sess., U.N. Doc. A/810 (1948), Art 20.

²⁶ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, Art. 22.

²⁷*The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 §87 (1980).

Foundations are also non-stock non-profit corporations established for the purpose of extending grants or endowments to support its goals or raising funds to accomplish charitable, religious, educational, athletic, cultural, literary, scientific, social welfare or other similar objectives.²⁸ Foundations have to comply with more stringent requirements such as compliance with a minimum amount of capital (P1 million pesos) before they can be registered. Foundations are also required to submit certifications of operation from local governments where they implement programs/projects and/or provide grants.

It must be noted, however, that the SEC considers all registered non-stock corporations with the word “foundation” in its name as a foundation, including those CSOs with “foundation” in their names which were registered before the minimum P1 million capital was required starting in 2004.²⁹ Many of these CSOs do not actually extend grants or endowments, but only implement programs and projects like other CSOs. Nonetheless, they are treated as foundations and have to follow the more stringent requirements for foundations – unless they amend their corporate name to delete the word “foundation”.

2.2 Presidential Decree No. 442 (P.D. 442) or Labor Code of the Philippines, as amended (1974)

The Labor Code is the primary law that applies to employment. It contains provisions on the formation and registration of labor organizations and workers’ associations. Labor organizations refer to “any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employees concerning terms and conditions of employment.”³⁰ On the other hand, a workers’ association is defined as “an association of workers organized for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining.”³¹

2.3 Republic Act No. 9520 (R.A. 9520) or Philippine Cooperative Code of 2008³²

The Cooperative Code is the primary legislation that governs cooperatives. Under the law, “a cooperative is an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable

²⁸ Securities and Exchange Commission Memorandum Circular No. 8, *Revised Guidelines on Foundations*, §1 (2006).

²⁹ Securities and Exchange Commission Memorandum Circular No. 1 (2004).

³⁰ *Labor Code of the Philippines*, Presidential Decree No. 442, as Amended, Article 212 (1974).

³¹ Department of Labor and Employment Department Order No. 40-03, Rule 1, §1 (ccc) (2003).

³² *Philippine Cooperative Code of 2008*, Republic Act No. 9520 (2009). In addition, cooperatives are governed by the following laws and policies: *Rules and Regulations Implementing certain provisions of the Philippine Cooperative Code Of 2008* (2010); Executive Order No. 95: “Designating the Cooperative Development Authority as the lead government agency on cooperative promotion, development, regulation and calling on all government agencies with cooperative programs to coordinate these with the Cooperative Development Authority and for other purposes.” (1993); Executive Order No. 96: “Implementing Rules and Regulations on cooperative promotions, organization, development and supervision by local government units” (1993); Cooperative Development Authority Memorandum Circular No. 2015-01: “Revised Guidelines Governing the Registration Of Cooperatives” (2015).

contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.”³³

Cooperatives are categorized according to membership and territory. According to its membership, cooperatives are considered as (1) Primary, where members are natural persons; (2) Secondary, where members are primary cooperatives; and (3) Tertiary, where members are secondary cooperatives and are considered as federations or unions. Under territory, cooperatives are classified according to the areas of operation. Cooperatives organized by minors are considered as a laboratory cooperative and must be affiliated with a registered cooperative.³⁴

2.4 Republic Act No. 9904 or Magna Carta for Homeowners and Homeowners’ Association (2011)

This law covers all types of homeowners’ associations. A homeowners’ association may include a non-stock, non-profit corporation previously registered with government agencies such as Home Insurance Guarantee Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC). The homeowners’ association is organized by owners of a lot in a subdivision or other residential real property located within the jurisdiction of the association; or awardees or legal occupants of a housing unit; or homeless citizens in the process of being accredited as awardees of ownership rights.³⁵

3. Organization and Registration

Participants in the focus group discussions described the registration process as generally not complicated, seen there are clear guidelines and downloadable forms which are all available online. However, it was pointed out that the challenge lies in the requirement that the registration documents must be submitted manually, in the absence of any facility for electronic filing. The government representatives in the FGDs relayed that there are plans for developing an electronic filing system for both SEC and DOLE.

There is no minimum capitalization required for non-stock corporations (except foundations, which must have a minimum capital of at least P1,000,000.00 [approximately \$21,687]), labor unions and workers’ associations, and homeowners’ associations. All primary cooperatives must be organized with share capital. The authorized share capital must be provided for in its Articles of Cooperation (AOC). At least 25% of the authorized share capital must be subscribed by the members and

³³*Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 3 (2009).

³⁴ Cooperative Development Authority, *Frequently Asked Questions* (Accessed May 31, 2016); Available from <http://www.cda.gov.ph/frequently-asks-questions-faqs>. There are various types of cooperatives which includes credit cooperative, consumer cooperative, producers cooperative, marketing cooperative, service cooperative, multi-purpose cooperative, advocacy cooperative, agrarian reform cooperative, cooperative bank, dairy cooperative, education cooperative, electric cooperative, financial service cooperative, fishermen cooperative, health services cooperative, housing cooperative, insurance cooperative, transport cooperative, water service cooperative, and workers cooperative.

³⁵*Magna Carta for Homeowners and Homeowners’ Associations*, Republic Act No. 9904 § 3 (b) (2011).

at least 25% of the subscribed share capital must be paid by the members prior to registration.³⁶ The paid up capitalization requirement for primary cooperatives must be not less than P15,000 (\$326) except for multipurpose cooperatives which must have at least P100,000 (\$2,171) or as required by the feasibility study of the cooperative³⁷, whichever is higher.

3.1 Non-stock corporations

Most CSOs obtain legal personality by registering as a non-stock non-profit corporation at the SEC. The purpose of a non-stock corporation may be for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural, or any of its combination.³⁸ The Certificate of Incorporation is issued upon approval of the application for registration by the SEC.

The official website of the SEC is informative and almost all needed information for the incorporation and registration are available online. Some online services are already provided by SEC on its website such as the viewing and downloading of documents submitted to the SEC (from 1997 to the current year)³⁹ and the reservation of a company name.⁴⁰ The submission of annual reports online was already launched in March 2016.⁴¹ However, the actual filing of the registration documents remains to be done physically at the SEC offices.

A SEC official who participated in the Davao FGD explained that, *"the main reason why we want the documents delivered personally (and not sent through mail) is that we check them thoroughly, and if there are any mistakes, we explain the errors and how they should be corrected. Otherwise, the documents that need corrections are once again returned, and time is wasted. And then again, if no one explains the errors, they might not be properly corrected, in which case we will keep on returning the documents until the necessary corrections are made."*

The Citizen's Charter of the SEC provides the step by step process of registration indicating the duration of activity (under normal circumstances), fees, forms and services provided.⁴² There is no indication of a maximum period of time for the registration process. The processing time provided in the Charter, does not take into consideration the period of evaluation, processing and waiting time, at the SEC, in between the different steps.

³⁶ *Rules and Regulations Implementing Certain Provisions Of The Philippine Cooperative Code Of 2008*, Rule 10 §1-12 (2010). Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. VIII § 2 (2015).

³⁷ A detailed feasibility study must indicate the economic viability of the proposed business activity.

³⁸ *The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 88 (1980).

³⁹ See <http://www.sec.gov.ph/online-services/sec-i-view/>

⁴⁰ Securities and Exchange Commission, *Reserve a Company Name* (Accessed June 8, 2016), Available at <http://www.sec.gov.ph/online-services/reserve-company-name/>

⁴¹ See <http://www.sec.gov.ph/online-services/sec-express-nationwide-submission/>

⁴² Securities and Exchange Commission, *Citizen's Charter of the SEC*, 29-31, 2014 (Accessed March 3, 2016); Available at http://www.sec.gov.ph/cmanual/sec_citizen%60s_charter_asof_20141223.pdf

The Citizen's Charter provides the following costs and processing time: (1) the verification or reservation of the proposed name will only take 10 minutes and will cost P40 to P120 (\$0.87 to \$2.61) (the price depends on the number of days the proposed name will be reserved for the applicant); (2) the presentation of the Articles of Incorporation (AOI) and By-Laws (BL) at the Corporate and Partnership Registration Division (CPRD) of the SEC will take 10 to 20 minutes, with a registration fee of P1,020 (\$22.15); (3) When the application is reviewed and forwarded to the Company Registration and Monitoring Department (CRMD) Director for approval, around 5 minutes per activity must be taken into account; and (4) the issuance of the signed Certificate of Incorporation and By-Laws takes around 5 minutes.

3.2 Labor Unions and Worker's Associations

Many CSOs especially POs prefer registration with the Department of Labor and Employment (DOLE) as workers' associations because the process and documentary requirements are not as tedious as registration through the SEC. The participants in the discussion sessions confirmed that, to date, the DOLE registration (for workers' association) is the easiest and cheapest mode of acquiring legal personality. With existing DOLE regional offices (in some areas, even provincial field offices) in all administrative regions, it is also very accessible for those who want to register a newly established organization. Hence, between the SEC and DOLE, newly organized POs are usually registered with the DOLE. An additional incentive for registration with DOLE as a workers' association is the availability of support programs, including financial support, to the registered associations, a service that the SEC does not offer.

However, despite plans to implement electronic filing in DOLE by 2015, the Director of the Bureau of Labor Relations said that its implementation was delayed because of an initial failure of bidding.

The application for registration must be filed with the DOLE Regional Office where the applicant principally operates. The total process cycle time is one (1) working day upon receipt of complete documents and the payment of the registration fee of P70.00 (\$1.52). The labor union or workers' association is deemed to be registered and vested with legal personality on the date of the issuance of its certificate of registration. A certificate of registration will be issued with an indefinite validity period. The legal personality can only be questioned through an independent petition for the cancellation of registration.⁴³

3.3 Cooperatives⁴⁴

Cooperatives are granted legal personality through registration at the Cooperative Development Authority (CDA) which is evidenced by a certificate of registration.⁴⁵

⁴³ DOLE Department Order No. 40-30, Rule IV §8 (2003).

⁴⁴ Cooperative Development Authority (Accessed March 3, 2016). Available at <http://www.cda.gov.ph>.

⁴⁵ *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 5 (7) (2009).

Legal personality is acquired from the date the CDA issues the certificate.⁴⁶ Applications for registration of cooperatives are filed with the CDA Extension Office (CDA-EO) having jurisdiction over the principal office of the proposed cooperative.⁴⁷

A cooperative can have the following purposes: (1) savings, (2) credit, (3) production and marketing, (4) provision of goods and services, (5) development of expertise and skills, (6) acquisition of lands and provision of housing benefits, (7) insurance against losses, (8) promotion and advancement of economic, social and educational status of the members, (9) establishment, ownership, lease or operation of cooperative banks, cooperative wholesale and retail complexes, insurance and agricultural/industrial processing enterprises, and public markets, (10) coordination and facilitation of the activities of cooperatives, (11) advocacy for the cause of the cooperative movements, (12) insurance of the viability of cooperatives through the utilization of new technologies, and (13) encouragement and promotion of self-help or self-employment as an engine for economic growth and poverty alleviation.⁴⁸

One good practice of the CDA was highlighted during the discussions, namely - the policy of the agency to provide orientation sessions for newly formed cooperatives, before their registration, as a condition for such registration. In Iloilo, a CSO participant also mentioned that the CDA sent them regular updates or new guidelines through email. Unfortunately, this has not been a practice in other areas.

3.4 Homeowners' Association

It is mandatory for all homeowners' associations to register solely with the Housing and Land Use Regulatory Board (HLURB). All associations whose purpose is to promote and protect their mutual interest and assist in their community development as homeowners are considered homeowners associations.⁴⁹

Given that a homeowners' association may include a non-stock, non-profit corporation previously registered with Home Insurance Guarantee Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC), registration with HLURB grants juridical personality to all homeowners associations that have not previously acquired personality.⁵⁰ The issuance of a certificate of registration will confer upon the association its legal personality.⁵¹

The following table summarizes the registration requirements for each CSO type.

⁴⁶Philippine Cooperative Code of 2008, Republic Act No. 9520, Art. 16 (2009).

⁴⁷Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. VII (2015).

⁴⁸Philippine Cooperative Code of 2008, Republic Act No. 9520, Art. 6 (2009).

⁴⁹ Housing and Land Use Regulatory Board Resolution No. 877, *Implementing Rules and Regulations of RA 9904*, Rule 5 § 21 (2011).

⁵⁰*Magna Carta for Homeowners and Homeowners' Associations*, Republic Act No. 9904 § 4 (2011).

⁵¹ HLURB Resolution No. 877, Rule 5 § 25 (A) (2011).

	Non-stock corporations⁵²	Labor Unions and Workers' Association⁵³	Cooperatives⁵⁴	Homeowners' Association⁵⁵
Applicable Law	<i>Batas Pambansa</i> (National Law) <i>Bilang</i> (Number) 68 or the Corporation Code of the Philippines) (1980)	Presidential Decree No. 442 (P.D. 442) or Labor Code of the Philippines, as amended (1974)	Republic Act No. 9520 (R.A. 9520) or Philippine Cooperative Code of 2008	Republic Act No. 9904 or Magna Carta for Homeowners and Homeowners' Association (2011)
Registration Entity	Securities and Exchange Commission (SEC)	Department of Labor and Employment (DOLE)	Cooperative Development Authority (CDA)	Housing and Land Use Regulatory Board (HLURB)
Registration Requirements	1. Name Verification Slip which can be secured online ⁵⁶ or at the Name Verification Unit of the SEC; 2. Articles of Incorporation (AOI) and By-laws (BL); 3. Joint affidavit of two	1. Seventy pesos (P70.00) (\$1.52) registration fee ⁵⁷ ; 2. Names of its officers, addresses, principal address of the labor organization, minutes of the organizational (founding) meetings and list of workers who participated	1. Cooperative Name Reservation; 2. Economic Survey ⁵⁸ ; 3. Articles of Cooperation and approved By-Laws; 4. Treasurer's Affidavit ⁵⁹ ; 5. Surety bond of accountable officers ⁶⁰ ;	1. Articles of Association and by-laws; 2. Notarized undertaking by the association to change the name of the association in the event that another person, firm or entity has acquired a prior right

⁵² Securities and Exchange Commission, *SEC Registration Requirements* (Accessed March 3, 2016); Available at:

http://www.sec.gov.ph/gsr/primary/primaryreg_newv.html#table1.

⁵³ Bureau Of Labor Relations Department Of Labor And Employment, *Registration Of Union* (Accessed March 3, 2016); Available at: <Http://Blr.Dole.Gov.Ph/Clients-Corner/74-Union-And-Cba-Registration>.

⁵⁴ Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. VIII § 4 (2015).

⁵⁵ HLURB Resolution No. 877, Rule 5 § 22 (2011); Housing and Land Use Regulatory Board, *Homeowners Association* (Accessed March 3, 2016); Available at: <http://hlurb.gov.ph/homeowners-association/>.

⁵⁶ See <http://www.sec.gov.ph/online-services/reserve-company-name/>

⁵⁷ Bureau of Labor Relations Department of Labor and Employment, *Registration of Union* (Accessed March 3, 2016); Available at: <http://blr.dole.gov.ph/clients-corner/74-union-and-cba-registration>.

⁵⁸ The Economic Survey is a general statement of the structure and purposes of the proposed cooperative, area of operation, economic and technical aspects of business operations, financial aspects, management structure, the size of membership, staffing pattern including bookkeeper. *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 11 (2009).

⁵⁹ A Treasurer's Affidavit is a sworn statements of the treasurer elected by the subscribers showing that at least twenty-five *per centum* (25%) of the authorized share capital has been subscribed and at least twenty-five *per centum* (25%) of the total subscription has been paid: *Provided*, That in no case shall the paid-up share capital be less than Fifteen thousand pesos (P15,000.00). *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 14(5) (2009).

⁶⁰ A surety bond shall be obtained to cover every director, officer, and employee handling funds, securities or property on behalf of any cooperative for the faithful performance of their respective duties and obligations. The board of directors shall determine the adequacy of such bonds. *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 56 (2009).

	<p>incorporators to change corporate name upon receipt of notice from the SEC that another corporation or partnership has acquired a prior right to the use of the name, or that name has been declared misleading, deceptive or confusingly similar to a registered name, or contrary to public morals, good customs or public policy;</p> <p>4. List of members certified by the corporate secretary, unless already stated in the Articles of Incorporation;</p> <p>5. List of the names of contributors or donors and the amounts contributed or donated certified by the treasurer.</p>	<p>in such meetings;</p> <p>3. In case the applicant is an independent union, the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;</p> <p>4. If the applicant union has been in existence for one or more years, copies of its annual financial reports; and</p> <p>5. Four copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.</p> <p>A registered federation can directly create a local chapter by issuing a charter certificate indicating the establishment of the chapter. The chapter is entitled to all rights of a legitimate labor organization upon the submission of the following documents in addition to its charter certificate: 1. The names of the chapter's officers, their addresses, and the principal office of the</p>	<p>6. Certificate of Pre-Membership Education Seminar (PMES)⁶¹;</p> <p>7. Undertaking to change name in the event that another cooperative has acquired a prior right to the use of the proposed name⁶²;</p> <p>8. Undertaking to comply with CDA prescribed auditing and accounting standards⁶³;</p> <p>9. Undertaking to comply with other requirements prescribed by CDA, when applicable;</p> <p>10. Favorable endorsement/ written verification/ authority/ pre-feasibility study, if applicable⁶⁴;</p> <p>11. Registration fee⁶⁵ of Primary Cooperatives: (1) Initial registration fee will be 1/10 of 1% of the authorized share capital or (2) the basic fee of P500 (\$10.86) for regular lane or P1,000 (\$21.71) for express lane, whichever is higher.</p>	<p>to the use of the name or one that is similar; and, comply with the rules and regulations;</p> <p>3. Information Sheet that details the names of the members of the board of directors or trustees, including the executive and other accountable association officers;</p> <p>4. List of the founding members of the association with the members' corresponding signatures;</p> <p>5. Certification as to the existence or absence of any other association in the subdivision/village; and the name and address of the nearest association, if any;</p> <p>6. Power of Authorization given by the incorporators of the association to its representative to transact and follow-up its registration application with the HLURB; and,</p> <p>6. Approved Subdivision /Development Plan indicating the area covered by the</p>
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⁶¹ Included in the registration process of a cooperative is the submission of the Certificates of PMES of the founding members of the cooperative applicant. Each founding member must have completed a PMES. *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 10 (2009).

⁶² This undertaking is in the form of a sworn statement.

⁶³ This undertaking is in the form of a sworn statement.

⁶⁴ For example, in case of agrarian reform cooperatives, one requirement for its registration is the prior written verification from the Department of Agrarian Reform (DAR). *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 94 (2009).

⁶⁵ Cooperative Development Authority, *Schedule of Fees and Charges* (Accessed March 3, 2016); Available at: <http://www.cda.gov.ph/index.php/transparency/transparency-seal/cda-mandate-powers-and-functions-citizen-s-charter-and-contact-informtation/citizen-s-charter/schedule-of-fees-and-charges>

		chapter; and 2. The chapter's constitution and by-laws.		association.
Main Organization Document to be Submitted	<p><i>Articles of Incorporation (AOI)</i>, which includes the following:</p> <ol style="list-style-type: none"> 1. Name of the corporation; 2. Specific purpose or purposes; 3. Principal office of the corporation (within the Philippines); 4. Term of existence; 5. Names, nationalities and residences of the incorporators; 6. Number of trustees (members of the governing board): five (5) to fifteen (15); 7. Names, nationalities and residences of trustees until the first regular trustees are duly elected and qualified; 8. Amount of capital, names, nationalities and residences of the contributors and the amount contributed by each; and 9. Other matters.⁶⁶ 	Constitution and By-Laws (no specific content requirements)	<p><i>Articles of Cooperation (AOC)</i>, which must state the following:⁶⁷</p> <ol style="list-style-type: none"> 1. The name of the cooperative which must include the word cooperative; 2. The purpose or purposes and scope of business for which the cooperative is to be registered; 3. The period of existence of the cooperative⁶⁸; 4. The area of operation and the postal addresses of its principal office; 5. The names, nationality, and the postal addresses of the organizers; 6. The common bond of membership; 7. The list of names of the directors who will manage the cooperative; and 8. The mount of its share capital, the names and residences of its contributors and a statement of whether the cooperative is primary, secondary or tertiary.⁶⁹ 	<p><i>Articles of Association (AOA)</i>, which must substantially contain the following matters:⁷⁰</p> <ol style="list-style-type: none"> 1. Full association name; 2. Specific purpose or purposes for association. Where the association has more than one stated purpose, the articles of association must state the primary and secondary purposes; 3. Complete office address; 4. Period of existence of the association not exceeding fifty (50) years; 5. Names, nationalities and residences of the incorporators; 6. Number of directors or trustees, which must not be less than five (5) nor more than fifteen (15);⁷¹ 7. Names, nationalities and residences of persons who will act as directors or trustees until the first regular directors or

⁶⁶*The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 14 (1980).

⁶⁷*Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 14 (2) (3) (2009).

⁶⁸ The period does not exceed fifty (50) years from the date of registration unless sooner dissolved or unless said period is extended.

⁶⁹ Under membership, cooperatives are considered (1) Primary where members are natural persons; (2) Secondary where members are primary cooperatives; and (3) Tertiary where members are secondary cooperatives and are considered as federations or unions.

⁷⁰ HLURB Resolution No. 877, Rule 4 § 17 (2011).

				trustees are duly elected and qualified; 8. Amount of capital, if any, and names, nationalities and residences of the incorporators as well as the amount of contributions by each; and, 9. Such other matters not inconsistent with law and which the incorporators may deem necessary and convenient.
Incorporators or founding members	The incorporators of a non-stock corporation are the members who originally form and compose the corporation, as mentioned in the articles of incorporation (AOI). They are also the signatories to the AOI. The incorporators are natural persons, not less than five (5) but not more than fifteen (15), all of legal age (at least 18 years old) and a majority of whom are Philippine residents. ⁷²	In general, there is no required minimum membership or list of founding members. In case the applicant is an independent union, it is required to submit the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate.	In order to be registered, the cooperative is required to have fifteen (15) or more founding members. The members must be natural persons who are Filipino citizens, having a common bond of interest and are residing or working in the intended area of operations. ⁷³	Directors or trustees must not be less than five (5) nor more than fifteen (15) ⁷⁴

⁷¹ Incorporators are those in charge of organizing and incorporating the homeowners association; Members refers to a homeowner who is a member of the association where his/her housing unit or lot is situated and those defined in the articles of incorporation and bylaws of the association; and Directors or Trustees are those that manage the association once it has obtained legal personality.

⁷² *The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 10 (1980).

⁷³ Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. VIII § 1 (2015).

⁷⁴ Incorporators are those in charge of organizing and incorporating the homeowners association; Members refers to a homeowner who is a member of the association where his/her housing unit or lot is situated and those defined in the articles of incorporation and bylaws of the association; and Directors or Trustees are those that manage the association once it has obtained legal personality.

Capitalization Requirement	No fixed amount of capital required, except for foundations, which must have a minimum capital of at least P1,000,000.00 (approximately \$21,687)	No minimum capitalization required.	The paid up capitalization requirement for primary cooperatives must be not less than P15,000 (\$326) except for multipurpose cooperatives which must have at least P100,000 (\$2,171) or as required by the feasibility study ⁷⁵ , whichever is higher.	No minimum capitalization required.
Corporate Term	<p>The corporation will exist for a period not exceeding fifty (50) years from the date of incorporation unless dissolved or in case the term has been extended.⁷⁶</p> <p>The corporate term as originally stated in the AOI may be extended for periods not exceeding fifty (50) years in any single instance by an amendment of the AOI, which does not require a re-registration of the CSO.</p>	No corporate term.	<p>A cooperative exists for a period not exceeding fifty (50) years from the date of registration unless sooner dissolved or unless said period is extended.⁷⁷</p> <p>The cooperative term, as stated in the Articles of Cooperation (AOC), can be extended for periods not exceeding fifty (50) years by an amendment of the AOC.</p>	Not exceeding fifty (50) years
Action on Application	The SEC may reject the application for registration if the applicant does not comply with the registration requirements as. ⁷⁸	The DOLE Regional Office or the Bureau of Labor Relations (BLR) are required to act on all applications for registration within ten (10) days from receipt either by: (1)	The CDA decides on registration applications within 60 days from the filing of the complete application documents. The application is considered approved	Upon finding that the requirements for registration are in order, and that the articles of association and by-laws contain the provisions required by this

⁷⁵ The detailed Feasibility Study shall indicate the economic viability of the proposed business activity.

⁷⁶ *The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 11 (1980).

⁷⁷ *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 13 (2009).

⁷⁸ *The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 17 (1980).

	<p>The following are grounds for such rejection or disapproval:⁷⁹</p> <ol style="list-style-type: none"> 1. The articles of incorporation or any amendment is not substantially in accordance with the form prescribed by the Corporation Code; 2. The purpose or purposes of the corporation are patently unconstitutional, illegal, immoral, or contrary to government rules and regulations; and 3. The Treasurer's affidavit concerning the amount of contribution paid is false. 	<p>approving the application and issuing the certificate of registration/acknowledging the notice/report; or (2) denying the application/notice for failure of the applicant to comply with the requirements for registration/notice.⁸⁰</p> <p>Registration can be denied when the required documents are incomplete or do not contain the required certifications and attestations. In this case, the DOLE regional office or the Bureau of Labor Relations must give notice in writing to the applicant organization within five (5) days from receipt of the application or notice. The applicant organization has thirty (30) days to complete the application file.⁸¹</p> <p>Where the applicant concerned fails to fulfil the requirements within the time prescribed, the registration will be denied. The applicant is not barred from filing a new application or notice.⁸²</p>	<p>outside of this timeframe, unless the delay was caused by the applicant.⁸³</p> <p>All types of cooperatives will be subjected to validation by the CDA before registration. On-site validation of the proposed cooperative's principal office address and gathering of relevant information including but not limited to its adherence to the cooperative principles, concept and values carried out by the cooperators/officers necessary in the submission of complete validation report.⁸⁴</p>	<p>Rules, the HLURB shall issue a Certificate of Registration to the applicant.⁸⁵</p>
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⁷⁹*The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 17 (1980).

⁸⁰ DOLE Department Order No. 40-30, Rule IV §4 (2003).

⁸¹ DOLE Department Order No. 40-30, Rule IV §5 (2003).

⁸² DOLE Department Order No. 40-30, Rule IV §5 (2003).

⁸³ Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. VIII § 10.1 (2015).

⁸⁴ Cooperative Development Authority Memorandum Circular No. 2015-01, *Revised Guidelines Governing the Registration of Cooperatives*, Art. X (2015).

⁸⁵ HLURB Resolution No. 877, Rule 4 § 25 (2011).

Appeal/ Remedy of Applicant	The SEC will give the incorporators a reasonable time within which to correct or modify the objectionable portions of the articles or amendment.	<p>The notice denying the registration from the DOLE regional office or Bureau of Labor Relations is in writing, and must state clearly the reasons for the denial. The decision can be appealed at the Bureau of Labor Relations (if the denial was done at the DOLE regional office) or at the DOLE Secretary (if the denial was done at the Bureau of Labor Relations). The appeal can be made within ten (10) days from receipt of such notice of denial, on the ground of grave abuse of discretion or violation of DOLE Department Order No. 40-30.⁸⁶</p> <p>The Bureau of Labor Relations or the Office of the Secretary of DOLE has a period of twenty (20) days from the receipt of the appeal to decide on the case.</p>	Denial of registration can be appealed at the Office of the President ⁸⁷ within 90 days from receiving the notice of denial. The failure of the Office of the President to act on the appeal within 90 days from the filing is considered as the approval of said application. ⁸⁸	<p>If the application for registration is incomplete, the same shall be returned to the applicant. If any of the documents submitted are defective, the Regional Office shall notify the applicant of the defective submissions.</p> <p>If the applicant fails to comply with the requirements stated in the notice of deficiency within sixty (60) days from receipt thereof, the application shall be deemed denied and the documents shall be returned to the applicant.⁸⁹</p>

⁸⁶ DOLE Department Order No. 40-30, Rule IV §6-7 (2003).

⁸⁷ CDA is under the executive department of the government. Under Art. VII § 17 of the Philippine Constitution, the President shall have control of all the executive departments, bureaus and offices. Thus, the president has the power of control which means the power to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute his judgment. Ruben E. Agpalo, *Philippine Administrative Law* (Quezon City: Rex, 1999 First Edition), 66.

⁸⁸ CDA MC No. 2015-01, Art. VIII § 10.1; 10.3 (2015).

⁸⁹ HLURB Resolution No. 877, Rule 4 § 25 (2011).

4. Other registration processes

While CSOs may obtain their legal personality through the processes discussed above, there are additional certificates and permits that a CSO must obtain and processes it must undergo before the organization can become fully operational. This includes: (1) obtaining a business permit with the municipality or city where its office is located, regardless of whether the CSO is involved in social enterprise activities or not (although some municipalities/cities do not require CSOs to get a business permit, unless they are engaged in business activities); (2) registration with the barangay (the lowest level of local government) where the main office is located in order to obtain a barangay clearance; (3) registration with the Bureau of Internal Revenue (BIR), the government tax authority, which includes application for taxpayer identification number (TIN), registration of the books of accounts, and authority to print official receipts; and (4) registration with the Social Security System (SSS), Home Development Mutual Fund (HDMF)⁹⁰ and the Philippine Health Insurance Corp. (PhilHealth)⁹¹, should there be employees in the CSO.

A CSO's registration with the Bureau of Internal Revenue (BIR) allows CSOs to issue official receipts, an indispensable requirement for resource mobilization and management. CSOs secure permits from local government agencies, even though some local governments maintain a policy that CSOs do not need to secure any permit as long as they are not engaged in business activities.

Some participants of the FGDs shared that some field offices of the BIR reportedly did not recognize the legal personality of the associations, noting that it is the DOLE, and not the SEC, that issued the certificate of registration. The Director of the Bureau of Labor Relations stated that the DOLE has already brought this concern to the attention of the BIR.

5. Implementation Issues

One of the implementation issues common to all categories of CSOs (non-stock corporation, labor union/worker's association, cooperatives and homeowners association) is the absence of uniformity in the way the regional or field offices interpret or apply the policies of their respective offices. Even some government representatives confirmed that, in some cases, the regional officers have different ways of dealing with the registration processes, and apply varying degrees of flexibility. This has led to confusion on the part of CSOs as to which requirements should be complied with, and which can be dispensed with or replaced with other documents.

Mixed views had been received from both CSO and government officials with regards to the human resources of the government agencies. Some participants were of the

⁹⁰ Mandatory membership in Pag-ibig Fund to all employees covered by the SSS. An Act Amending Decree No. 1752, as amended, *Home Development Fund Law of 2009*, Republic Act No. 9679 (2009).

⁹¹ All Filipino citizens shall be covered by the National Health Insurance. *National Health Insurance Act of 2013*, Republic Act No. 7875, as amended by RA 9241 and RA 10606 (2013).

opinion that there is sufficient personnel available at the government agencies, while others said that more front line employees are needed for the registration of CSOs.

The participants in the discussion sessions, of both CSOs and the government, were unanimous, however, in saying that the registration process is non-political. Registration requirements are not being used by the government to harass certain CSOs or individuals. As long as the registering organization complies with the requirements, there is an objective review and processing of the application for registration.

It has been pointed out, however, that, when it comes to local governments, there have been anecdotal accounts of local chief executives who use the business permit⁹² process or the CSO accreditation⁹³ process (for participation in the local special bodies), as instruments for advancing political interests. While these are post-formation requirements that do not affect the acquisition of the legal personality of CSOs, these processes affect the operation of CSOs and their involvement in local participatory mechanisms.

A CSO participant from the Luzon/Metro Manila FGD asked, "*We are not a business, so why are we required to secure a business permit?*" As raised during the discussions, some LGUs (Local Government Units) even require CSOs to secure a business permit before they are allowed to operate. However, as some LGUs are strict with this requirement, others are not. Also, some LGU officials will not accredit CSOs that are critical of the local officials, thus hampering their ability to participate in government-mandated participatory mechanisms.

CSO representatives in the discussion sessions expressed their perception that the SEC is more "corporate", since the agency has more familiarity with the nature and operations of stock corporations, compared to the non-stock corporations such as CSOs. This is reflected, according to some participants, in the SEC's review of the documents submitted by CSOs, both at the time of registration and in subsequent reporting or amendments. Participants from the different FGDs strongly suggested to make the registration process less complicated, in particular for CSOs (not using a commercial or corporate framework), or at least having a special unit within the agency devoted to the registration of CSOs.

The accessibility of the SEC field offices was raised as a major concern for CSOs. Unlike other government agencies with offices in all of the country's eighteen (18) administrative regions, the SEC only has eight (8) field offices outside of Metro Manila. On the entire island of Mindanao, which covers six (6) administrative regions, there are only three (3) SEC field offices. The Visayas has two (2) field offices, while three (3) offices exist in Luzon.

⁹² Some local government units (LGUs) conduct tax mapping and includes CSOs. Thus, they are required to have business permits. However, in some LGUs, these permits are not required for CSOs.

⁹³ Accreditation is required to be able to access government programs and funding.

Another issue raised by CSOs was related to social enterprise activities of CSOs. These activities were mentioned as being necessary to sustain their organizations and serve their members. However, the Bureau of Internal Revenue (BIR) (the government tax agency), and the SEC question them about it, stating that CSOs are to be non-profit, and that any income derived should be subject to taxes. The CSOs said that these activities are only used to provide alternative economic opportunities for their members and income derived from social enterprise activities only aim at sustaining the operations of their organizations. A SEC participant from the Davao FGD suggested that these groups should therefore change the wordings in their mission or by-laws to include "to provide livelihood activities for the members", so that the social enterprise activities become an important part of their service to members. He added that what the SEC wants to avoid are for-profit companies wanting to be exempted from tax obligations (the creation of a "tax shield").

An issue raised in relation to the registration with the Housing and Land Use Regulatory Board (HLURB) was the requirement to submit a manifestation of the landowners' Intent to Sell the property to the association which was cited during the FGD in Davao City where an informal settler community was applying for registration as a homeowners' association. Since the association is a group of informal settler families, they could not produce the said landowners' Intent to Sell, as the landowner, in turn, would ask for a guaranteed purchase before the issuance of such manifestation. When asked about this issue, representatives of the HLURB in the discussion sessions explained that alternative documents can be submitted (such as an "Intent to Buy" the property), in lieu of the landowners' "Intent to Sell." Apparently, however, such alternatives were not clearly explained to the representatives of the registrant association.

Respondents of the Perception Survey of CSOs, did not perceive the general legal/policy environment as good. The total rating for Question 17 of the Perception Survey was only 3.29, which was closer to "Undecided" (3) than to "Good" (4).

6. Summary of Key Challenges

The key challenges related to the formation of CSOs are:

- The Securities and Exchange Commission's (SEC) limited field offices.
- The requirement that the documents must be submitted manually, in the absence of any facility for electronic filing.
- The non-recognition by some Bureau of Internal Revenue (BIR) field offices of the certificate of registration issued by the Department of Labor and Employment (DOLE) to labor unions and workers' associations.
- The absence of uniformity in the way the regional or field offices interpret or apply the policies of their respective agencies.

B. Operation of CSOs

1. Overview

After securing their registration, which gives CSOs the necessary legal personality, the registration authorities require the registered CSOs under their jurisdiction to submit regular reports, as will be explained in later sections in this chapter. The registration of CSOs can be revoked or cancelled on specific grounds by registration authorities.

Many CSOs undergo a second level of administrative regulation before they can commence the implementation of their chosen programs pursuant to their organizational objectives. An example of this is the accreditation that CSOs have to undergo to secure the status of a Social Welfare and Development Agency (SWDA) before they can engage in social welfare and development activities. The accreditation process is being handled by the Department of Social Welfare and Development (DSWD).

In general, government oversight of CSO operations is considered as light or minimal by CSO representatives. No history of state harassment of CSOs, in the guise of regulation, has been reported.

2. Reporting requirements

CSOs that are registered under any of the four government registration agencies must comply with annual reporting requirements such as periodic reports, government audits, inspections or public disclosure.

The following table lists the reporting requirements that must be submitted by the registered CSOs to the appropriate regulatory agency, and the corresponding repercussions in case of failure to comply with these requirements.

	Reporting Requirements		Failure to file
Non-stock⁹⁴ corporations	1. General Information Sheet (GIS) (annual)	1. Certified and sworn to by the corporate secretary 2. Submitted in electronic format 3. Filed within 30 calendar days from the date of the actual annual members' meeting	Liable to pay a fine. ⁹⁵ When the corporation has consistently failed to comply with the mandatory reporting requirements, the SEC has the authority to revoke the Certificate of
	2. Audited Financial	1. Financial statements must be audited by an independent certified	

⁹⁴ Securities and Exchange Commission, *A Citizen's Manual on Reportorial Requirements* (Pamphlet No. 4) (Accessed March 3, 2016); Available at:

<http://www.sec.gov.ph/cmanual/CITIZENS%20MANUAL%20NO.%204.pdf>; Securities and Exchange Commission, *SEC Reportorial and Monitoring Requirements for Domestic Corporations* (Accessed March 3, 2016); Available at: <http://www.sec.gov.ph/gsr/primary/pdf/reportorial%20requirements%20for%20DS.pdf>

⁹⁵ Securities and Exchange Commission, *Consolidated Scale of Fines* (Accessed March 3, 2016); Available at: [http://www.sec.gov.ph/accountantsinfo/others/CONSOLIDATED%20SCALE%20OF%20FINES%2005%20Nov%202013%20\(26%20Nov%202013\).pdf](http://www.sec.gov.ph/accountantsinfo/others/CONSOLIDATED%20SCALE%20OF%20FINES%2005%20Nov%202013%20(26%20Nov%202013).pdf)

	<i>Statement (AFS) and General Form of Financial Statement (GFFS) (annual)</i>	public accountant (CPA), where total assets amount to at least P500,000.00 or annual gross receipts total at least P100,000.00. 2. If less, may be attested and sworn to by the treasurer of the corporation. 3. Submitted in electronic format.	Incorporation, after proper notice and hearing. ⁹⁶
	<i>3. Affidavit of Non-Operation</i>	Filed within 120 calendar days after the end of the fiscal year as specified in the by-laws.	
	<i>4. Membership Book</i>	Filed within 30 days from the date of the issuance of the certificate of incorporation.	
	<i>5. Names, nationalities and residences of the directors, trustees, and officers elected</i>	Immediately report such fact to the SEC within thirty (30) days after the election of such directors, trustees and officers of the corporation. In case of death, resignation or in any manner cease to hold office, his heirs in case of his death, the secretary, or any other officer of the corporation, or the director, trustee or officer himself will report.	
Labor Unions and Workers' Association	<i>1. Constitution and by-laws, or amendments, the minutes of ratification, and the list of members who took part in the ratification of the constitution and by-laws</i>	Within thirty (30) days from adoption or ratification of the constitution and by-laws or amendments.	Failure to comply will not be a ground for cancellation of registration but will subject the erring officers or members to suspension, expulsion from membership, or any appropriate penalty.
	<i>2. List of officers, minutes of the election of officers, and list of voters</i>	Within thirty (30) days from the date of the election.	
	<i>3. Annual financial report</i>	Within thirty (30) days after the close of every fiscal year	
	<i>4. List of members</i>	At least once a year or whenever required by the DOLE.	
Cooperatives	<i>1. Cooperative Annual Performance Report (CAPR) (annual)</i>	Submitted to the CDA either through personal, registered mail courier, or electronic means, within one hundred twenty (120) days from the end of every calendar	1. Failure to submit will subject the accountable officer to fines (P100.00 per day of delay) and penalties, and will be a ground for the

⁹⁶The Securities Regulation Code, Republic Act. No. 8799 § 5.1 (M) (2000); *Reorganization of the Securities and Exchange Commission with additional power and placing the said agency under the administrative supervision of the Office of the President*, Presidential Decree No. 902-A, §6 (i) 6 (1976).

	2. <i>Social Audit Report (annual)</i>	year. ⁹⁷ Chairperson and the General Manager will certify to the truthfulness of the statement contained in these reports.	revocation of the authority of the cooperative to operate. ⁹⁸ 2. Failure to submit reports on time will be considered as Delay or Default except when due to fortuitous events. 3. In addition to the imposition of monetary penalties, the CDA may likewise <u>dissolve or revoke</u> the authority of the cooperative to operate.
	3. <i>Performance Report (annual)</i>		
	4. <i>Audited Financial Statements stamped Received by BIR (annual)</i>		
	5. <i>List of Officers and Trainings Undertaken⁹⁹ (annual)</i>		
Homeowners Association	1. <i>General Information Sheet (GIS) (annual)</i>	HOA is required to submit the GIS and the other listed annual requirements within 90 days from the closing of the fiscal period. ¹⁰⁰	
	2. <i>Latest Financial Statement (annual)</i>	Certified correct by the treasurer and auditor of the association and attested by the Chair of the Board of Directors of the President and externally audited, preferably by an independent CPA.	
	3. <i>Updated List of members (annual)</i>	Prepared and certified correct by the Association Secretary and attested to by the Association President.	
	4. <i>Compiled Resolution (annual)</i>	Duly signed by the majority of the Board and certified correct by the Association Secretary.	
	5. <i>After Election Reports</i>	To be submitted within fifteen (15) days from the date of election.	
	6. <i>Affidavit of Non-Holding of Election</i>	In case of failure of elections, to be submitted within five (5) days from the date of the failed election.	

3. Secondary registration, accreditation and/or licensing of CSOs

3.1. CSOs engaged in social welfare and development activities

CSOs that operate as social work agencies are required to undergo a registration process under the Department of Social Welfare and Development (DSWD), in addition to their initial registration.¹⁰¹

⁹⁷Philippine Cooperative Code of 2008, Republic Act No. 9520, Art. 53 (2009).

⁹⁸Philippine Cooperative Code of 2008, Republic Act No. 9520, Art. 53 (2009).

⁹⁹Rules and Regulations Implementing Certain Provisions of the Philippine Cooperative Code of 2008, Rule 8 §2 (2010).

¹⁰⁰ Housing and Land Use Regulatory Board, *Receiving of Homeowners Association* (Accessed March 3, 2016); Available at: [http://hlurb.gov.ph/wp-content/uploads/services/hoa/Rcvng_Docs_Anual%20RepRqmnt_HOA%20\(2x2.5\).pdf](http://hlurb.gov.ph/wp-content/uploads/services/hoa/Rcvng_Docs_Anual%20RepRqmnt_HOA%20(2x2.5).pdf)

¹⁰¹ Republic Act No. 4373, *An Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in the Philippines and for other Purpose*, Art. IV §23 (1965)

The DSWD undertakes a tedious process of registration, accreditation and licensing of CSOs that are considered as social welfare and development agencies.

A Social Welfare and Development Agency (SWDA)¹⁰² refers to a person, corporation or organization, engaged in providing social welfare services and obtains its finances from any government agency and/or from the community by direct or indirect solicitations and/or fund drives and/or endowment.¹⁰³

There are two types of SWDAs: (1) a Social Welfare Agency (SWA) which is a SWDA that employs social worker/s and/or community development worker/s and other paraprofessionals that directly provide remedial, preventive and developmental programs and services to individuals, families, groups and/or communities; and (2) an Auxiliary SWDA which provides supportive activities in the delivery of social welfare and development programs and services to the disadvantaged groups.

Registration (or accreditation) is the official recognition of the operation of an SWDA within the purview of social welfare and development through the issuance of a certificate of registration by DSWD and its inclusion in the registry of social welfare and development agencies.¹⁰⁴ DSWD reports indicate that, in 2014, 190 auxiliary SWDAs/SWAs were issued a certificate of registration.¹⁰⁵

a. Registration Requirements

The process of registration applies to Auxiliary SWDAs, while registration and licensing applies to SWAs. Application for registration of a private SWDA operating within a region must be filed at the concerned DSWD field office (FO) while the application of a SWDA that operates in more than one region must be filed at the Standards Bureau at the DSWD Central Office.

Any SWDA that intends to engage or is currently engaged in social welfare and development activities must apply for registration with the concerned DSWD Office within six (6) months after its registration with the Securities and Exchange Commission (SEC) or with the Cooperative Development Authority (CDA).¹⁰⁶

¹⁰² A private SWDA refers to a group of individuals organized to meet the identified needs of the community or group of people, utilizing community resources and engaged in providing direct or indirect social welfare services to the disadvantaged, the marginalized and the vulnerable. It has its own constitution and by-laws, a governing board responsible for policy formulation, manual of operations and trained personnel. Funds are obtained through direct or indirect solicitations and/or fund drives and/or endowment. Department of Social Welfare and Development Administrative Order No. 17 Series of 2008, *Rules and Regulations on the Registration and Licensing of Social Welfare and Development Agencies and Accreditation of Social Welfare and Development Programs and Services*, IV (9); (15) (2008).

¹⁰³ Republic Act No. 4373, *An Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in the Philippines and for other Purpose*, Art. I §1 (C) (1965). Department of Social Welfare and Development Administrative Order No. 17 Series of 2008, *Rules and Regulations on the Registration and Licensing of Social Welfare and Development Agencies and Accreditation of Social Welfare and Development Programs and Services*, IV (9); (15) (2008).

¹⁰⁴ DSWD AO No. 17 Series of 2008, IV (11); (1) (2008).

¹⁰⁵ Department of Social Welfare and Development, *Annual Report 2014* (Accessed June 8, 2016), Available at: [http://www.dswd.gov.ph/download/Publication/Annual%20Report/FA%20AR%202014%20\(web\).pdf](http://www.dswd.gov.ph/download/Publication/Annual%20Report/FA%20AR%202014%20(web).pdf)

¹⁰⁶ DSWD AO No. 17 Series of 2008, VI (1)(a) (2008).

The DSWD charges and collects corresponding processing fees from all private SWDAs applying for registration, licensing or accreditation: for the registration of an Auxiliary Agency the amount of P1,000 (\$22) will be charged; for the registration and licensing of SWDA, the fees amount to P2,500 (\$54).¹⁰⁷

To be registered, the applicant organization must (a) show that it is engaged in social work activities¹⁰⁸, (b) employ a sufficient number of qualified and registered social workers, (c) present a certified financial statement that shows that at least sixty percent of its funds are disbursed for direct social work services, and (d) maintain a social work record of all cases and welfare activities handled.¹⁰⁹

The DSWD conducts a one day assessment/validation visit which may include ocular inspection of the SWDA's office, its project sites and an interview with the SWDA Board, Executive Director, key staff and beneficiaries, and other concerned officers and community leaders where the office is located.¹¹⁰ The Certificate of Registration is issued together with the report on the assessment of the SWDA, if the assessment is favorable to the applicant.

If the SWDA fails the assessment, it will be given an opportunity to comply with the missing requirements for registration within six (6) months after the receipt of the assessment report from the DSWD.

b. Validity of the Certificate of Registration¹¹¹

The Certificate of Registration of a SWDA already in operation will be valid for three (3) years, and an eligible SWDA that intends to operate will be issued with a Certificate of Registration valid for only one year. If the registered SWDA is not yet in operation after one (1) year, the registration certificate will be revoked.

The SWDA must apply for renewal of its Certificate of Registration following the same requirements and procedure as the registration procedure, within sixty (60) days prior to expiration of the issued Certificate of Registration. Non-renewal of registration after two (2) consecutive notifications and monitoring visits will subject the SWDA to closure.

c. Revocation of Registration and/or License.

The Certificate of Registration issued to any social work agency may be revoked if, after due investigation, the DSWD finds, that it has failed to perform its function as

¹⁰⁷ DSWD AO No. 17 Series of 2008, V (9) (2008).

¹⁰⁸ Social Work is primarily concerned with organized social service activity aimed to facilitate and strengthen basic social relationships and the mutual adjustment between individuals and their social environment for the good of the individual and of society. Republic Act No. 4373, *An Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in The Philippines and for other Purpose*, Art. I §1 (a) (1965).

¹⁰⁹ Republic Act No. 4373, *An Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in The Philippines and for other Purpose*, Art. IV §23 (1965).

¹¹⁰ DSWD AO No. 17 Series of 2008, VI (1) (c) (c.2) (2008)

¹¹¹ DSWD AO No. 17 Series of 2008, VI (1) (d) (2008)

social work agency, or it has violated existing laws, rules and regulations.¹¹²

Failure to submit annual reports and audited financial statements for two (2) consecutive years will result to delisting the SWDA from the registry and its Certificate of Registration will be revoked after due notice.

After the revocation of its Certificate of Registration and/or its license, the SWDA can apply for a new Certificate of Registration and/or license to operate, which can be granted after a thorough assessment by the concerned DSWD Office, and if the SWDA has proven to have removed or remedied the conditions that have given rise to the revocation of its registration or license to operate.¹¹³

3.2. CSOs engaged in other activities

CSOs engaged in other specialized activities would also need to be accredited and/or licensed by the appropriate government agency, including the Department of Education, Commission on Higher Education or the Technical Education and Skills Development Authority for non-stock non-profit corporations that are operating schools or technical education and skills training programs, the Department of Health for CSOs running clinics or hospitals, the Bangko Sentral ng Pilipinas for cooperative banks, and micro-finance NGOs with the newly established Micro-Finance NGO Regulatory Council.

CSOs that wish to participate in local governance bodies need to be accredited by the concerned local government unit. CSOs that plan to be beneficiaries of programs and projects of government agencies, especially if they will receive funds from the government agencies, have to be registered or accredited by those government agencies (e.g. Department of Agriculture, Bureau of Fisheries and Aquatic Resources, Department of Environment and Natural Resources, Department of Trade and Industry).

4. Dissolution or Cancellation of Registration

All four CSO types can either be dissolved voluntarily, through the members' action, or involuntarily, through the revocation of its registration by the concerned regulatory agency. Except for labor unions, CSOs can be dissolved by shortening the corporate term. The dissolution and revocation follows different sets of rules, as shown in the table below:

¹¹²Republic Act No. 4373, *An Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in The Philippines and for other Purpose*, Art. IV §25 (1965).

¹¹³ DSWD AO No. 17 Series of 2008, XVIII (2008).

	Non-stock¹¹⁴ corporations	Labor Unions and Workers' Association	Cooperatives	Homeowners' Association
<i>Voluntary dissolution where no creditors are affected</i>	<p>By majority vote of the Board of Trustees (BOT) and by a resolution adopted by the affirmative vote of at least 2/3 of the members.</p> <p>A copy of the resolution authorizing the dissolution will be certified by a majority of the BOT and countersigned by the Corporate Secretary, and submitted to the SEC.</p> <p>The SEC will then issue a certificate of dissolution.</p>	<p>Through a vote of at least 2/3 of its general membership, in a meeting duly called for the purpose of dissolving the organization.</p> <p>An application for voluntary dissolution is then submitted to the DOLE.</p> <p>The DOLE will then cancel the registration of the organization.</p>	<p>By majority vote of the Board of Directors, and by a resolution duly adopted by the affirmative vote of at least 3/4 of all the members with voting rights, at a meeting to be held upon call of the Directors. The notice of such meeting is sent to each member of record.</p> <p>A copy of the resolution authorizing the dissolution will be certified to by a majority of the Board of Directors and countersigned by the Board Secretary, and submitted to the CDA.</p> <p>The CDA will then issue a certificate of dissolution.</p>	<p>By a Board Resolution authorizing the dissolution of the association and majority vote of all the members, duly notified beforehand.</p> <p>Copies of the Resolutions of the Board and the General Assembly will be submitted to the HLURB.</p> <p>The HLURB will then issue a certificate of dissolution.</p>
<i>Voluntary dissolution where creditors are affected</i>	<p>Petition for dissolution will be filed with the SEC. Dissolution needs to be resolved upon affirmative vote representing at least 2/3 of the members.</p>		<p>By the affirmative vote of at least 3/4 of all the members with voting rights, present and constituting a quorum at a meeting called for that purpose.</p> <p>A petition for dissolution will then be filed with the CDA.</p>	<p>By a Board Resolution authorizing the dissolution of the association and majority vote of all the members, duly notified beforehand.</p> <p>Petition for dissolution will be filed with the HLURB.</p>
<i>Dissolution by shortening corporate term</i>	<p>By amending the Articles of Incorporation (AOI) to shorten the corporate term.</p> <p>A copy of the amended AOI will be submitted to the SEC.</p> <p>Upon approval of the</p>		<p>By amending the Articles of Association (AOA) to shorten the term of the existence of the association.</p> <p>Upon approval by the CDA of the amended AOA or expiration of the shortened term, and upon such terms as may</p>	<p>By amending the Articles of Association to shorten the term of the existence of the association.</p> <p>A copy of the amended articles of association shall be submitted to the</p>

¹¹⁴Securities and Exchange Commission, *A Citizen's Manual on Reportorial Requirements* (Pamphlet No. 4) (Accessed March 3, 2016); Available at <http://www.sec.gov/ph/cmanual/CITIZENS%20MANUAL%20NO.%204.pdf>; Securities and Exchange Commission, *SEC Reportorial and Monitoring Requirements for Domestic Corporations* (Accessed March 3, 2016); Available at: <http://www.sec.gov/gsr/primary/pdf/reportorial%20requirements%20for%20DS.pdf>

	amended AOI, the corporation will be deemed dissolved.		protect the rights of creditors, the association will be deemed dissolved.	HLURB. Upon approval by the HLURB of the amended Articles of Association or expiration of the shortened term, as the case may be, and upon such terms as may protect the rights of creditors, the association shall be deemed dissolved.
<i>Involuntary dissolution</i>	Filing of a verified complaint and after proper notice and hearing on the grounds provided by law.		A cooperative may be dissolved by an Order of a court after due hearing on the grounds of: (1) violation of any law, regulation or provisions of its by-laws; or (2) insolvency.	Upon the filing of a verified complaint and after proper notice and hearing on the grounds provided by existing laws, rules and regulations.

4.1. Non-stock corporations

The SEC has the power to suspend or revoke the registration of corporations.¹¹⁵ There is no automatic dissolution of a corporation after its incorporation has been approved by the SEC. A corporation continues to exist as a legal entity despite its non-operational status until the SEC has formally revoked its certificate of registration after due notice and hearing.¹¹⁶

Grounds for suspension or revocation of the registration of non-stock corporations include: (1) fraud; (2) serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public; (3) refusal to comply with any lawful order of the SEC which would amount to a grave violation; (4) continuous non-operation for a period of at least five (5) years; (5) failure to file

¹¹⁵The Securities Regulation Code, Republic Act. No. 8799 § 5.1 (m) (2000) provides:

Sec. 5. Powers and Functions of the Commission.

5.1. The commission shall act with transparency and shall have the powers and functions provided by this code, Presidential Decree No. 902-A, the corporation code, the investment houses law, the financing company act and other existing laws. pursuant thereto the commission shall have, among others, the following powers and functions:

(m) suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law;

2015 Implementing Rules and Regulations of the Securities Regulation Code or 2015 SRC Rules, Rule 5, provides that the SEC shall have as one of its powers and functions:

5.1.13. Suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law

¹¹⁶ Cesar L. Villanueva, *Philippine Corporate Law* (Quezon City: Rex, 2001), 683 Citing SEC Opinion, 4 May 1995, XXIX Sec Quarterly Bulletin 4 (No. 4, December 1996); SEC Opinion, 22 May 1998, XXXII Sec Quarterly Bulletin 12 (No. 1, June 1998).

by-laws within the required period; and (6) failure to file required reports in appropriate forms as determined by the SEC within the prescribed period.¹¹⁷

If a corporation does not formally organize and commence its business or the construction of its works within two (2) years from the date of its incorporation, its corporate powers cease and the corporation will be deemed dissolved.¹¹⁸

The corporation aggrieved by an order of the SEC for suspension or revocation may appeal the order to the Court of Appeals.¹¹⁹

A corporation whose term expires, or whose corporate existence is terminated in any other manner, will continue as a corporation for three (3) years after the time when it would have been dissolved. This is not for the purpose of continuing the business but in order to wind up its corporate affairs, and to distribute its assets. During those three (3) years, the corporation is authorized and empowered to convey all of its property to creditors and other persons in interest.¹²⁰

4.2. Labor Unions

The following are the grounds for cancellation of the registration of unions:

- a. Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments, the minutes of ratification, and the list of members who took part in the ratification;
- b. Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters;
- c. Voluntary dissolution by its members.

A recent amendment to the Labor Code (R.A. 9481) has limited the grounds for cancellation of registration to these three items. Among others, the failure of the organization to comply with the reporting requirements has been deleted from the list of grounds for involuntary dissolution of unions.

In addition to the involuntary and voluntary dissolution of organizations, the rules of the DOLE likewise provide for a procedure for the verification of the existence of a registered labor organization, which, may, eventually, lead to a declaration of its non-existence, and finally, to its delisting from the registry of registered organizations.

¹¹⁷*Reorganization of the Securities and Exchange Commission with additional power and placing the said agency under the administrative supervision of the office of the President*, Presidential Decree No. 902-A, §6 (I) 1-6 (1976)

¹¹⁸ BP Bilang 68 §22 (1980).

¹¹⁹*The Securities Regulation Code*, Republic Act. No. 8799 §70 (2000); *2015 Implementing Rules and Regulations of the Securities Regulation Code or 2015 SRC Rules*, Rule 70 (2015).

¹²⁰ BP Bilang 68 §122 (1980).

4.3. Cooperatives

The CDA can suspend or revoke, after due notice and hearing, the Certificate of Registration of a cooperative on any of the following grounds: (1) having obtained its registration by fraud; (2) existing for an illegal purpose; (3) willful violation, despite notice by the CDA, of the provisions of the Cooperative Code or its by-laws; (4) willful failure to operate on a cooperative basis; and (5) failure to meet the required minimum number of members in the cooperative.¹²¹

If a cooperative has not commenced its operation within two (2) years after the issuance of its Certificate of Registration or has not carried on its business for two (2) consecutive years, the CDA will send a formal notice to the said cooperative to show cause as to its failure to operate. Failure of the cooperative to promptly provide justifiable cause for its failure to operate will justify the CDA's deletion of its name from the roster of registered cooperatives, and the cooperative will be deemed dissolved.¹²²

4.4. Homeowners' Association

The association can be dissolved by the Regional Office of the HLURB upon the filing of a verified complaint and after proper notice and hearing on the grounds provided by existing laws, rules and regulations.¹²³

5. Distribution of profits, and distribution of assets upon dissolution

There are no categorical regulations on the distribution of assets of labor unions and workers' associations. For other types of CSOs, the rules vary, as will be explained below.

5.1 Non-stock non-profit corporations

As previously stated, non-stock corporations may earn profits from its operations for as long as it is used for its purpose and not contradict its nature.¹²⁴ For as long as its profit generating activities are necessary to carry out its purpose, these activities are allowed. However, the Corporation Code categorically prohibits distribution of the said profits during its corporate term.¹²⁵

¹²¹ *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 67 (2009).

¹²² *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 68 (2009).

¹²³ Housing and Land Use Regulatory Board Resolution No. 877, *Implementing Rules And Regulations of RA 9904* § 42 (2011).

¹²⁴ *The Corporation Code Of The Philippines*, Batas Pambansa Bilang 68 § 14 (2); § 88 (1980) Provides That "Non-Stock Corporations May be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this title governing particular classes of non-stock corporations."

¹²⁵ *The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 87 (1980).

A CSO can sell or dispose its assets through various means. The non-stock corporation may, by a majority vote of its Board of Trustees, sell, lease, exchange, mortgage, pledge or otherwise dispose of all or substantially all of its property and assets, which may be money, stocks, bonds or other instruments for the payment of money or other property or consideration, as its Board of Trustees may deem expedient, when authorized by the vote of at least two-thirds (2/3) of its members, in a stockholder's or member's meeting duly called for this purpose.¹²⁶

In case of dissolution of a non-stock corporation, its assets will be distributed based on the Rules of Distribution of the Corporation Code, with the liabilities and obligations of the corporation being paid first. Assets that were received subject to a condition - limiting their use to charitable, religious, benevolent, educational or similar purposes - will be transferred to one or more corporations engaged in activities that are similar to those of the dissolving corporation.¹²⁷

5.2. Cooperatives

If the cooperative's corporate term expires by its own limitation (based on the Articles of Association) or if it is terminated through voluntary dissolution or through an appropriate judicial proceeding, the cooperative will continue to exist for three (3) years after the dissolution, for the purpose of prosecuting and/or defending suits by or against it; for settlement and closure of its affairs, and disposition of its properties. At any time during these three (3) years, the cooperative has the authorization to transfer all of its properties to trustees for the benefit of its

¹²⁶*The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 40 (1980).

¹²⁷*The Corporation Code of the Philippines*, Batas Pambansa Bilang 68 § 94 (1980). *Rules Of Distribution*. – in case of dissolution of a non-stock corporation in accordance with the provisions of this code, its assets shall be distributed as follows:

1. All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefore;
2. Assets held by the corporation upon a condition requiring return, transfer or conveyance, and which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;
3. Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more corporations, societies or organizations engaged in activities in the Philippines substantially similar to those of the dissolving corporation according to a plan of distribution adopted pursuant to this chapter;
4. Assets other than those mentioned in the preceding paragraphs, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the by-laws, to the extent that the articles of incorporation or the by-laws, determine the distributive rights of members, or any class or classes of members, or provide for distribution; and

5. In any other case, assets may be distributed to such persons, societies, organizations or corporations, whether or not organized for profit, as may be specified in a plan of distribution adopted pursuant to this chapter.

Section 95. *Plan of distribution of assets*. – a plan providing for the distribution of assets, not inconsistent with the provisions of this title, may be adopted by a non-stock corporation in the process of dissolution in the following manner: The Board of Trustees shall, by majority vote, adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a regular or special meeting of members having voting rights. Written notice setting forth the proposed plan of distribution or a summary thereof and the date, time and place of such meeting shall be given to each member entitled to vote, within the time and in the manner provided in this code for the giving of notice of meetings to members. Such plan of distribution shall be adopted upon approval of at least two-thirds (2/3) of the members having voting rights present or represented by proxy at such meeting.

members, creditors and other persons of interest. A cooperative will only distribute its assets or properties upon lawful dissolution and after payment of all its debts and liabilities.¹²⁸ Payment of creditors will be in accordance with the contract upon which it is based and the provisions of the New Civil Code on the Preference and Concurrence of Credits.¹²⁹

If there are any assets remaining after the payment of the cooperative's obligations to its creditors, the remaining assets will be distributed to the members in payment of their respective share capital, upon written authority from the CDA. If the remaining assets are not sufficient to pay the full share capital contribution of the members, the distribution will be done in proportion to their capital.

5.3. Homeowners' Associations

If the homeowners' association was registered with the SEC (i.e., prior to the transfer of the authority to the HLURB), the rules on profit-making and non-distribution of profits as discussed above must be followed.

If the homeowners association is voluntarily dissolved where creditors are affected, the HLURB Regional Office will hear the petition and "render judgement and order such disposition of its assets as justice requires, and may appoint a management committee to collect such assets and pay the debts of the association."¹³⁰

6. Government Oversight

6.1. Non-stock corporations

The SEC has the power to regulate, investigate or supervise the activities of corporations and their officers to ensure compliance; compel the officers of any registered corporation to call meetings of members under its supervision; issue orders requiring witnesses to appear in any SEC proceedings and in appropriate cases, order the examination, search and seizure of all documents, papers, files and records, tax returns, and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it; and suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law.¹³¹

¹²⁸*Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 69 (2009); *Rules and Regulations Implementing Certain Provisions of the Philippine Cooperative Code Of 2008*, Rule 9 (2010).

¹²⁹*Rules and Regulations Implementing Certain Provisions of the Philippine Cooperative Code of 2008*, Rule 9 §8 (2010)

¹³⁰ Housing and Land Use Regulatory Board Resolution No. 877, *Implementing Rules and Regulations of RA 9904* Rule 7 §40 (d) (2011).

¹³¹*The Securities Regulation Code*, Republic Act. No. 8799 § 5 (2000)

6.2. Labor Unions and Workers' Association

The DOLE has the power to visit trade unions at any moment.¹³² The Regional or Bureau Director of DOLE may inquire into the financial activities of any legitimate labor organization and examine their books of accounts and other records to determine compliance with the law and the organization's constitution and by-laws. Such examination will be made upon the filing of a request or complaint for the conduct of an accounts examination by any member of the labor organization, supported by the written consent of at least twenty (20%) percent of its total membership. There is no equivalent categorical provision for workers' associations.

6.3. Cooperatives

Every cooperative is required to have the following documents ready and accessible to its members and CDA representatives for inspection during reasonable office hours at its official address: (a) a copy of the Cooperative Code and all other laws pertaining to cooperatives; (b) a copy of CDA regulations; (c) a copy of the Articles of Cooperation and the by-laws of the cooperative; (d) a register of members; (e) the books of the minutes of the meetings of the General Assembly, Board of Directors and Committee; (f) share books, when applicable; (g) financial statement; and (h) such other documents as may be prescribed by laws or the by-laws.¹³³

6.4. Homeowners' Association

All records involving the affairs of the association must be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents upon reasonable advanced notice, during normal working hours at the office of the association. In case of mortgages on lots, holders may have access to the information about the property held in mortgage with the consent of the registered owner.¹³⁴

The Regional Office of the HLURB can, on its own or upon report or request of an interested party, inspect and examine documents, books and records, and investigate transactions and activities of the association for the purpose of ascertaining and enforcing its compliance with laws, rules and regulations being implemented by HLURB, and in proper cases, impose appropriate sanctions.

7. Implementation Issues

Participants in the focus group discussions were unanimous in saying that there is minimal or light oversight by the government over CSOs, even though the reporting requirements are considered as excessive. This is consistent with the results of the Perception Survey of CSOs, where the respondents rated the government regulation and oversight of CSO at 2.82, between "Inadequate" (2) and "Sufficient" (3).

¹³² Department of Labor and Employment Department Order No. 40-03, Rule XIII §2 (2003).

¹³³ *Philippine Cooperative Code of 2008*, Republic Act No. 9520, Art. 52 (2009).

¹³⁴ Housing and Land Use Regulatory Board Resolution No. 877, *Implementing Rules and Regulations of RA 9904*, Rule 7 § 48 (2011).

Among the regulatory government agencies, the CDA has been described as the most rigorous in monitoring CSOs under its regulatory authority, as it conducts annual performance evaluations of registered cooperatives. One participant from the cooperative sector clarified, however, that the CDA's supervision should be stricter, especially for savings and credit cooperatives, as this is deemed necessary to build the credibility of the cooperatives. The SEC, on the other hand, was characterized by participants as being more lenient when it comes to monitoring non-stock corporations, except in the case of foundations, where there are more stringent requirements, such as the submission of the list of the sources of its funds and the beneficiaries of the foundations.

The process of accreditation and reporting to government agencies by CSOs is done manually. Applications and reporting requirements are submitted and processed physically in the offices of the government regulatory agencies. This is a challenge especially for the grassroots organizations that are located far from the urban areas where the offices are located. The lack of accessibility to these offices is costly, not only in terms of transportation costs but also costs related to the printing, reproduction, and notarization of documents when these can be easily done online. Of these government agencies, only SEC allows the online submission of the required reports such as annual reports, audited financial statements, and the general information sheet. The new online system was launched on March 18, 2016.¹³⁵

Participants from both CSOs and SEC relate that, as a general rule, documents that are submitted in compliance with the reporting requirements are not regularly reviewed by the SEC. According to SEC representatives, due to the voluminous records submitted by corporations, both stock and non-stock, only random reviews are done, especially for non-stock corporations. It is when a CSO requests for a Certificate of Non-Derogatory Information (akin to a certificate of good standing), that its submitted documents will be thoroughly reviewed. The same thing happens when a CSO amends its Articles of Incorporation and asks for SEC approval for the amendment. This has led, in some cases, to CSOs paying fines, as penalties for erroneous or irregular reports, at the time when it requests for a Certificate of Non-Derogatory Information or undergoes an amendment of its Articles of Incorporation, since the non-compliance would be discovered and penalized several years after the reporting period concerned.

In the Davao FGD, a participant from SEC said, *"we agree that the Certificate of Non-Derogatory Information (CNDI) can take a long time to produce because it is processed at the national office. What we do is to issue a certification that their application for the CNDI is already being processed at the head office. Other government agencies honor that certification because they recognize that the process usually takes a long time."* However, most of the CSOs said they were unaware about this second temporary certification.

¹³⁵ Securities and Exchange Commission, SEC Express Nationwide Submission (Accessed June 6, 2016), Available at: <http://www.sec.gov.ph/online-services/sec-express-nationwide-submission/>

The absence of regular monitoring contributes to the failure of many CSOs to comply with the reporting requirements. Since CSOs are not immediately alerted about their non-compliance with their reporting requirements, many CSOs tend to be less diligent about the submission of the reports. Compounding this is the challenge, for many CSOs, of manually submitting the reports and other documents due to the physical inaccessibility of SEC field offices.

For some grassroots CSOs, capacity to prepare the required documents has been identified as a major factor for non-compliance with the reporting requirements. For many small CSOs, for example, the costs related to the audit of their finances, for the submission of the audited financial statements, are an additional challenge. Some CSOs are likewise not aware of all reporting requirements. Unfortunately, non-compliance with these requirements have resulted for some CSOs in the cancellation of their registration.

A CSO participant from the Davao FGD said, *"Many small rural CSOs have staff who have only completed basic elementary education. These groups require assistance to be able to keep up with the annual reporting requirements. Without any assistance, a lot of them cannot keep up with the deadlines or requirements and may result in their registration being cancelled."*

The SEC participant added that the SEC has been lenient in not revoking the registration of non-stock corporations immediately. He explained, *"Delinquent organizations are merely put in an 'inactive' list, but once they submit all the necessary documents and pay the penalties and fines, their registration is once again restored."*

An interesting issue was raised about the pro-forma Articles of Incorporation of the SEC (what is known as the "express lane form"). This is a ready set of documents, which a registering CSO (and even stock corporations) can fill in with the necessary details. In different focus group discussions, participants relayed that in many cases, the description of the corporation as "non-stock" in the express lane form, would not be acceptable to the Bureau of Internal Revenue (BIR) as the BIR would require the description, "non-stock and non-profit". In some cases, this would necessitate an amendment of the Articles of Incorporation of the CSO soon after the Articles had been approved by the SEC. The situation, obviously, results in the duplication of efforts, both on the part of the CSO and the SEC. SEC representatives in the discussion sessions relayed that the SEC is already addressing this matter.

The participants in the discussion sessions, both the CSO and the government representatives, were united in saying that the dissolution and/or cancellation of registration of CSOs has not been used by the government to harass CSOs.

A CSO participant from the Luzon/Metro Manila FGD explained that, in practice, government oversight is low or minimal, saying, *"They do not exercise strong regulatory powers over CSOs. The registration process is simply something we all need to comply with, whether you are a CSO or a private corporation, and is not something that is being done specifically to harass, terminate or dissolve CSOs."*

8. Summary of Key Challenges

The key challenges related to the operation of CSOs are:

- The uniform application of the requirements and processes for reporting, without appropriate distinction on the nature, size, and level of operations of CSOs.
- The requirement of manual submission of documents.
- The lack of capacity of the regulatory agencies to conduct a prompt review of submitted reporting requirements, preventing them from giving timely information on the CSOs' deficiencies and non-compliance.

C. Access to Resources

1. Overview

CSOs are generally free to access financial resources. There is no requirement for prior government consent or review prior to receiving funds from private sources. Despite this, access to resources has been identified as a major challenge for Philippine CSOs. There is a general consensus that the traditional sources of CSO funding, i.e. from grants, are shrinking. Moreover, available funding sources are not as generous and as flexible, compared to the previous decades, and most grants are restricted in time and with regards to programs and expense items covered. The dwindling funds for CSOs have, unfortunately, led to fund-driven programs, sacrificing programs that are considered as highly strategic, such as community organizing, but have very minimal available funding support.

Despite the attempts of the CSO community to mobilize donations from private individuals and corporations, these attempts have so far generally not been successful. Government funding, on the other hand, is not seen as a major funding source, and, with new recent rules, has become increasingly difficult to access.

2. Applicable Laws

In general, there are no legal impediments for CSOs to access financial resources. There is no prior government consent needed before a CSO can apply for or receive funds from international or national donor agencies and/or individuals. There is also no prohibition for CSOs to receive and use public funds. In fact, the Constitution contains a provision recognizing that CSOs can use government funds and property, provided that it is subject to examination and audit by the Commission on Audit (COA).¹³⁶

In practice, many CSOs, particularly NGOs and POs as opposed to unions, homeowners associations and cooperatives, depend on grants and donations. Other possible sources of funding for CSOs are membership fees and revenue from income-generating activities. Labor unions and homeowners associations are dependent on membership dues, service fees and sales.¹³⁷ Cooperatives raise capital and funds from their members.

Most Philippine CSOs still rely on private (i.e., non-government) sources of funds for their operations. Many of the sources of funding are foundations, international NGOs and other donor agencies that are based outside the Philippines, both government and private. There are some CSOs which implement projects that are funded by foreign governments or by multilateral institutions.

¹³⁶ Philippine Const., Art. IX, D. The Commission on Audit, § 2 (1); §4.

¹³⁷ Asian Development Bank, Civil Society Briefs: Philippines (Accessed June 6, 2016), Available at <http://www.adb.org/publications/civil-society-briefs-philippines>.

Participants in the focus group discussions confirmed that CSOs are generally free to access donor and private funding. There is no requirement for prior government consent or review prior to receiving funds from private sources. Except for foundations, which are legally non-stock corporations under the authority of the SEC, there is generally no government oversight over CSOs' resources and utilization of private funds.

There is no specific law that applies to philanthropy. Under the tax law, as a general rule, a donor's tax is imposed on all donations of property. The tax rate ranges from 2% to 15% if given to close relatives, and subject to a flat rate of 30% if given to strangers.¹³⁸ Donations to accredited donee institutions are eligible to deductions from the donor's income tax, subject to certain conditions, and are exempt from donor's tax, on the condition that not more than thirty percent (30%) of the donations are to be used by the accredited donee institution for administrative expenses.¹³⁹

In the Perception Survey of CSOs, the legal/policy environment to encourage philanthropy was rated at 3.27, i.e., closer to "Undecided" (3) than to "Good" (4).

3. Government Funding

Government agencies provide only a small portion of funds used by CSOs for their programs.¹⁴⁰ CSOs in general are reluctant to access government funds primarily due to the very rigorous requirements related to the reception of government funds, and the similarly complicated process for reporting on the use of those funds. In the focus group discussion sessions, CSOs and government representatives both cited the Joint Resolution that was issued by the Department of Budget and Management (DBM), the Commission on Audit (COA) and the Department of Social Welfare and Development (DSWD), which requires CSOs to undergo an accreditation process administered by the DSWD if they receive government funds. This accreditation process is a separate process than the one described previously in the chapter on Operation. The controversy surrounding the corruption case of the legislators' fund (PDAF) (see under the introduction), and the involvement of bogus CSOs, were identified as major factors that led to the issuance of this Joint Resolution.

The Joint Resolution is considered as too cumbersome by most participants in the discussion groups, and serve as a disincentive for CSO-government partnerships that involve the transfer of public funds to CSOs.

Another reason why CSOs fail to access government funding is their lack of technical knowledge on the government bureaucracy and processes.¹⁴¹

¹³⁸ Section 99, National Internal Revenue Code, as amended.

¹³⁹ Bureau of Internal Revenue, Revenue Regulations No. 13-98;

¹⁴⁰ The 2009 Civil Society Index – Philippines study done by CODE-NGO estimated that 10% of the funding of CSOs came from government.

¹⁴¹ Asian Development Bank, Civil Society Briefs: Philippines (Accessed June 6, 2016), Available at: <http://www.adb.org/publications/civil-society-briefs-philippines>.

Considering the stringent accreditation process for CSOs to access government funds, one CSO participant from the Luzon/ NCR FGD advised CSOs not to accept government funding in order to maintain the CSOs' autonomy from the government: *"If you accept money from the government, you will be subjected to COA (Commission on Audit) scrutiny of all your funds, and you will definitely not like that kind of intrusion. Aside from that, the government releases numerous guidelines and circulars pertaining to the use, reporting and liquidation of those funds. Liquidation (submission of financial reports), in particular, can be very strict and problematic, and can result in many disallowances."*

A major observation that came out during the Luzon/Metro Manila FGD was that as a result of the difficult accreditation process, many of the government funds and projects which require CSO partners were put on hold because of the lack of CSOs who were willing to undergo the strict accreditation process.

4. Dwindling Resources

There was a general consensus among the participants of the focus group discussions that, compared to the two decades after the 1986 Revolution, the current decade (i.e. 2006-2016) can be characterized as a period of dwindling resources for CSOs. Based on comments from the CSO participants in the different FGDs, the bulk of funds for CSO operations come from private sources, and mainly from foreign donor agencies. CSOs obtain 60% of their funds from foreign donors and corporate donors.¹⁴²

International Funding

Some donor agencies have moved out of the Philippines, partly because the Philippines has become a middle-income country. The participants observed that funding sources are not as generous and as flexible, compared to the first two decades after the EDSA revolution. Most of the current grants are for short term periods (usually one year), with very specific coverage. In the past, CSOs usually received grants for a period of three or five years. There is also an observed general limitation on the funds that can be used for staff salaries and overhead expenses. Another trend that was identified is the availability of big funds for coalitions and consortia, instead of the grant funds for individual (and small) CSOs, which was previously generally available.

A CSO participant from the Iloilo FGD complained, *"As a result of shrinking development funds in the Philippines, CSOs are being forced to compete against each other. It is becoming 'survival of the fittest.' Also, unlike in the 1990's when the funders would support staff expenses, administrative overhead, and crucial programs like community organizing, most available funds right now are only for specific projects and activities. Staff salaries are now expected as expenses for the local counterpart (i.e., cannot be funded from the grant, and must be funded by the*

¹⁴² Asian Development Bank, Civil Society Briefs: Philippines (Accessed June 6, 2016), Available at: <http://www.adb.org/publications/civil-society-briefs-philippines>.

CSO out of its own funds), but we don't have the funds for that. The only thing we could do is to hire staff that are contractuels (per project basis), affecting the effectiveness and sustainability of our organizations."

There are some participants that expressed the view that many funds are available for some concerns (like Disaster Risk Reduction and Management), but many CSOs do not have the capacity to implement such projects. According to some participants, the dwindling funds for CSOs have, unfortunately, led to fund-driven programs. On the other hand, programs that are still considered as highly strategic, such as community organizing, have seen a lack of funding support.

In the Iloilo FGD, a CSO participant complained, *"We feel that community organizing work is still very much important to maintain our strong links with the communities. However, it is now being left out because donors are no longer funding that. Perhaps the donors think that the communities we organized way back in the 1980's and 1990's are still organized. What they are forgetting is that without continuous community organizing work, capacity-building and advocacy/campaign work, the organized communities tend to fall apart. Some unscrupulous local officials have taken over the organized communities by providing them projects, but use these groups to further their own political agenda. They are the ones to reap the harvest of what we sowed. Although we are deeply saddened by this, we couldn't do much."*

Philanthropy

Despite the attempts of the CSO community to mobilize donations from private individuals and corporations, these attempts have so far not been successful in providing resources to CSOs struggling for funds. Many private corporations and wealthy families regularly provide substantial donations, but these usually go to their respective corporate foundations, many of which implement directly their own programs and projects rather than provide grants to CSOs. Those that provide grants usually do so for service delivery and direct impact projects such as building schools and hospitals, and providing relief goods for communities affected by disasters. There is a significant number of corporate foundations, and a network called League of Corporate Foundations (LCF) that groups together more than eighty of these foundations.¹⁴³

In 1997, the Philippine Council for NGO Certification (PCNC) was established as a private non-stock non-profit organization with the aim to serve as a self-regulation mechanism that provides qualified CSO certifications of "donee institution status", i.e., as non-stock, non-profit institutions that can receive tax-deductible and tax-exempt contributions under the tax law. The establishment of PCNC came about in response to the government's challenge to the CSO community to establish a self-regulatory mechanism that would attest to the legitimacy of CSOs, especially those receiving donations from private corporations and individuals, and assure the government that donations to CSOs would not be used for tax avoidance purposes.

¹⁴³ See <http://www.lcf.org.ph/ilf/om> for a list of the members of the League of Corporate Foundations.

Six of the country's largest CSO networks¹⁴⁴ gathered to set up the PCNC, which was eventually authorized by the government, through the Department of Finance, to accredit NGOs applying for donee institution status. This accreditation serves as the basis for the Bureau of Internal Revenue (BIR) to grant donee institution status to the certified CSOs.

The PCNC certification, ideally, should entice donors to donate because donations are deductible from the donor's income for the calculation of the tax basis. Unfortunately, however, participants who represented PCNC certified organizations in the discussion shared that they were not able to receive donations as a result of the PCNC certification. A representative of PCNC informed that around twenty percent (20%) of PCNC certified organizations have not renewed their certification after these lapsed, and they believe that one reason for this was the lack of donations that went to them despite their PCNC certification. So far, PCNC certification and the donee institution status had benefitted CSOs which have historically relied on domestic donations (e.g. corporate and family foundations and non-profit schools), but not yet those CSOs starting to try to tap into local philanthropy. Despite this, CSOs who went through the PCNC process and had been certified enhanced their credibility among grant giving organizations.

5. Summary of Key Challenges

Regarding CSOs' access to resources, the main challenges are:

- In general, the dwindling resources available for CSOs.
- The increasing difficulty of accessing government funds.
- The generally unsuccessful efforts of CSOs to attract private donations.

¹⁴⁴ Association of Foundations; Bishops-Businessmen's Conference – Human Development; CODE-NGO; League of Corporate Foundations; National Council for Social Development; Philippine Business for Social Progress

D. Freedom of Expression

1. Overview

Philippine CSOs enjoy freedom of expression as organized groups of citizens. The Constitution guarantees freedom of expression as one of the fundamental freedoms of the people. There is a wealth of Supreme Court decisions¹⁴⁵ that have set the constitutional and policy framework for the exercise of freedom of expression, and for the limitations on government restrictions of such freedom.

CSO representatives in the focus group discussions confirm that the Constitution is observed in practice, and that there is tolerance for CSO statements and other forms of expression of positions on controversial issues, even if these may be critical of the government or of certain key government officials. A significant distinction was pointed out, however, as to the capacity and readiness of CSOs to exercise their freedom of expression, with respect to whether the object of the critical position is the national government or national government officials, on one hand, and the local governments or local government officials.

There are no legal barriers to access to the Internet, and CSOs have freely used the Internet to their advantage. Unfortunately, however, the country has not yet passed a Freedom of Information Law, which is viewed as a necessary policy for a more effective exercise of the freedom of expression.

2. Applicable laws

The freedom of expression and of the press is a constitutionally guaranteed right. The Constitution clearly provides in its article III, paragraph 4:

No law shall be passed abridging the freedom of speech, of expression, or of the press.¹⁴⁶

The freedom encompasses all kinds of expression, whether oral, written, tape or disc recorded. It also includes movies and symbolic speech such as the wearing of an arm band as a form of protest.

The Philippine Constitution's guarantee of the freedom of expression is consistent with Article 19 of the Universal Declaration of Human Rights (UDHR), which states that "everyone has the right to freedom of opinion and expression; this right

¹⁴⁵ In *Burgos, Sr. v. Chief of Staff, AFP*, GR No. L-64261 (December 26, 1984), the Supreme court held that "closure is in the nature of previous restraint or censorship abhorrent to the freedom of the press guaranteed under the fundamental law, and constitutes virtual denial of petitioners' freedom to express themselves in dissent."; In *Ayer Productions PTY. Ltd v. Judge Capulong*, G.R. No. 82380 (April 29, 1988), the Supreme court held that although there is such a thing as right to privacy, this cannot be invoked to resist publications of matters of public interest; In *Sanidad v. COMELEC*, GR No. 90878 (January 29, 1990), the court said that the people's choice of forum for discussion should not be restricted.

¹⁴⁶ Philippine Const. Art. III, §4.

includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”¹⁴⁷

The Philippines has ratified the International Covenant on Civil and Political Rights which protects free speech and expression stating in its article 19, thus:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or public health or morals.¹⁴⁸

The Constitution prohibits two forms of restrictions on free speech and expression – prior restraint and subsequent punishment. Prior restraint refers to government restrictions on the press and other forms of expression ahead of the publication or dissemination. Censorship, and the requirement of licenses and permits for publications, are examples of prior restraint. Subsequent punishment, on the other hand, refers to the imposition of punishment for speech or expression after the publication. The Constitution limits the government’s power to impose subsequent punishment.

Besides the constitutional guarantee of free speech and expression, the Supreme Court has been strict in ascertaining the validity of governmental curtailment of the freedom of expression. From the mild standard of “dangerous tendency”, which allows the punishment of speech as long as there is a reasonable connection between the speech and the evil sought to be prevented, the Supreme Court has adopted the more stringent “clear and present danger” rule, which requires that before governmental restriction or punishment can be allowed, it must be shown that the speech is of such a nature as to create a clear and present danger of a grave evil that the government must prevent.¹⁴⁹

As freedom of expression is seen as not absolute, libel is considered as unprotected speech, i.e., it is a form of expression that is not covered in the constitutional protection. Libel is defined in the Revised Penal Code as follows:

¹⁴⁷ Universal Declaration of Human Rights, G.A. Res. 217, U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948), Art. 19.

¹⁴⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, Art. 19.

¹⁴⁹ *Primicias v. Fugoso* (1948), *Cabansag v. Fernandez* (1957), *Gonzales v. COMELEC* (1969), *Imbong v. Ferrer* (1970), *Philippine Blooming Mills Employees v. Philippine Blooming Mills* (1973).

A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonour, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.¹⁵⁰

Under the 1930 Revised Penal Code, libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, is punished by imprisonment which could range from six months to four years and two months, or a fine ranging from 200 to 6,000 pesos (US\$ 5 to 125), or both imprisonment and a fine.¹⁵¹ In addition to the criminal liability, a civil action may be brought by the offended party.

On January 25, 2008, the Supreme Court issued Administrative Circular No. 08-2008, providing for Guidelines in the Observance of a Rule of Preference in the Imposition of Penalties in Libel Cases. The circular directs all courts to take note of an emergent rule of preference for the imposition of fine only rather than imprisonment in libel cases.

Online freedom of expression was restricted through the passage in 2012 of the Cyber Crime Prevention Act (R.A. 10175). Among other provisions, the law includes a provision on cyber libel, or libel committed through a computer system or any other similar means. The Cyber Crime Prevention Act imposes a penalty which is more severe than what is provided in the Revised Penal Code for libel, if the crime is committed by, through and with the use of information and communications technologies. From the maximum penalty of four (4) years and two (2) months imprisonment for ordinary libel, the maximum penalty imposed for online libel is eight (8) years under the new law. The law was challenged before the Supreme Court, but the disputed provision on cyber libel was upheld by the Supreme Court.¹⁵²

3. Implementation Issues

In the focus group discussions, the participants were unanimous in saying that there are no significant barriers on citizens' exercise of freedom of expression. There is general tolerance when citizens, whether as individuals or in organized groups, express their views and opinions, even if these are critical of government programs and policies, or even government officials. Some participants even expressed the view that, in some cases, freedom of expression has been abused by some groups. For example, the DOLE participant from the Iloilo FGD remarked that CSOs had been holding almost daily rallies in front of their office for several weeks, disrupting their work. They could also hear unfounded, unreasonable and "below the belt" remarks and demands that were being shouted out by the protestors.

In both the Davao and Iloilo FGDs, CSO participants mentioned that people are free to hold a rally or demonstration at any time. People are free to express their views

¹⁵⁰ Article 353, Revised Penal Code.

¹⁵¹ Article 355, Revised Penal Code.

¹⁵² *Disini v. The Secretary of Justice*, G.R. No. 203335 (February 11, 2014)

and sentiments as open criticism of government is very much tolerated. However, before holding a rally, one needs to apply for a permit (see the chapter on peaceful assembly), which is not difficult to secure.

In the Luzon/NCR FGD, the participant from the BIR said, *"I have been involved in giving trainings since 2003, and I have received a lot of complaints. Even today, I still hear a lot of complaints against the BIR, but I just maintain my composure and accept them. We are trying our best to address them, but we are still a government bureaucracy that has its own processes, dynamics and rhythm. We are not perfect, and people have to understand that."*

A significant difference was noted, however, between the exercise of freedom of expression in relation to the national government, on one hand, and in relation to local governments, on the other hand. Participants observed that, while at the national level (e.g., in national media), there is general awareness of issues and strong assertion of freedom of expression, the exercise of the freedom of expression is not as vibrant when it comes to programs and policies of local governments, and, more significantly, when it comes to expression of critical views of local government officials. Some participants pointed out that CSOs and communities are, in general, more fearful of local government officials than of national government officials.

In the Luzon/NCR FGD, a CSO participant said, *"At the national level, freedom of expression is the norm. But in some LGUs (Local Government Units), particularly in Western Mindanao and ARMM (Autonomous Region of Muslim Mindanao), patronage politics is the norm. The constituents and CSOs are fearful of the local officials, especially if they are warlords or come from rich and politically-influential families. In these areas, people find it easier to vent their anger against national government officials, agencies and issues ..."*

As regards to retaliation against expression that is critical of government, the participants likewise confirmed that currently the national government is tolerant of criticisms, and if ever retaliatory actions had been committed against CSOs for their exercise of freedom of speech, the retaliation had been committed by non-state actors such as individuals and corporations, rather than by the government. Many instances of violence in rural communities, in some cases resulting in deaths, allegedly come from big multinational mining or plantation corporations, or from their armed security guards, such as the murder of farmer leaders in some haciendas or big sugarcane plantations in Negros Island in Central Philippines.

Despite the clear policy under the Constitution that allows freedom of expression, the country has – fairly recently, under the administration of President Gloria Macapagal-Arroyo (2001-2010) – experienced a significant rise in cases involving extra-judicial killings and enforced disappearances, which has affected many activists. While many of the perpetrators were not identified, evidence pointed to the involvement of state agents, especially some officers of the military, in many cases. This development, in fact, prompted the creation of two bodies to investigate the killings and disappearances in 2006. The first was the Task Force Usig, created on May 13, 2006, under the Philippine National Police, and the second was the

Independent Commission to Address Media and Activist Killings (known as the “Melo Commission”), headed by retired Supreme Court Justice Jose A.R. Melo. On February 11, 2007, Philip Alston, United Nations Special Rapporteur on Extrajudicial Executions, visited the country to conduct an inquiry into the killings, and, thereafter, submitted his report and recommendations to the United Nations. For its part, the Supreme Court hosted the National Consultative Summit on Extralegal Killings and Enforced Disappearances on July 16-17, 2007, which was attended by more than 400 participants from various government and non-governmental institutions. Earlier, the Supreme Court designated 99 Special Courts to handle cases involving extra-legal killings.

Even after the change of leadership from Arroyo to President Benigno Aquino, the Philippines is still considered one of the 10 deadliest countries for journalists.¹⁵³ The culture of impunity remains in the Philippines and is considered the greatest threat to press freedom. In fact, in the study of the Committee to Protect Journalists, the Philippines is the “only country among the top 5 impunity offenders that is not in a state of large scale armed conflict”, at least 44 murders have taken place since September 2005, of which seven have occurred under the Aquino administration.¹⁵⁴ The case involving the massacre of 32 media workers (in addition to 26 other persons) in 2009, is considered as the single deadliest event for journalists anywhere in the world¹⁵⁵, and is still litigated in a trial court.

In the recent statistics of Front Line Defenders, and the International Foundation for the Protection of Human Rights Defenders, the Philippines is second to Colombia, and the highest outside the Americas, in terms of the number of human rights defenders killed. The 31 killings in the country in 2015 make up almost two third of the 52 reported killings of human rights defenders in the Asia Pacific region.¹⁵⁶

The extrajudicial killings of activists and journalists, perpetrated by both state and non-state agents, constitute the biggest threat to freedom of expression in the country. Significantly, there has been progress in the case of a former military general who was widely seen to be responsible for numerous killings and disappearances; he was arrested and now faces prosecution for a case involving the disappearance of two university student activists.¹⁵⁷ This case, however, is more an exception than a general rule for the numerous cases of enforced disappearances and extra-judicial killings, most of which remain unresolved.

¹⁵³ CNN, Naomi Ng, *Philippines: Why it's deadly for journalists*, May 5, 2015, Available at: <http://edition.cnn.com/2015/05/04/asia/philippines-deadly-for-journalists/>.

¹⁵⁴ Committee to Protect Journalists, (Accessed on June 6, 2016), Available at: <https://cpj.org/reports/2015/10/impunity-index-getting-away-with-murder.php#4>

¹⁵⁵ CNN, Naomi Ng, *Philippines: Why it's deadly for journalists*, May 5, 2015, Available at: <http://edition.cnn.com/2015/05/04/asia/philippines-deadly-for-journalists>

¹⁵⁶ Rappler, *PH 2nd Highest in Killings of Human Rights Defenders – Watchdog* (Accessed on June 6, 2016), Available at: <http://www.rappler.com/move-ph/118249-philippines-second-highest-human-rights-defenders-killings-report>

¹⁵⁷ Human Rights Watch, *World Report 2015: Philippines*, (Accessed on June 6, 2016), Available at: <https://www.hrw.org/world-report/2015/country-chapters/philippines>

There are fears that the culture of impunity will continue or even worsen under the new administration of President-elect Rodrigo Duterte who at a press conference said that the killing of corrupt journalists is justified.¹⁵⁸ His statement prompted the international CSO Reporters without Borders to urge Philippine media to boycott the President-elect's press conferences.¹⁵⁹

Despite free access to the internet, the cyber libel provision of Republic Act No. 10175 or the Cybercrime Prevention Act of 2012¹⁶⁰ could be used to harass human rights defenders and CSO workers in their work. A mining company recently sued a CSO and its staff for cyber libel over a press release published on the organization's website regarding an incident where small fishing boats were destroyed by the barge allegedly hired by the company.¹⁶¹ Additionally, a case for cyber libel is pending against another human rights defender for sending a series of emails to various government officials and to media stating that a typhoon destroyed mining pods that flooded farmlands with toxic sludge.¹⁶² These harassment suits proliferate despite provisions in the Rules of Procedure for Environmental Cases against Strategic Lawsuit Against Public Participation (SLAPP).¹⁶³

4. Policy Proposals

After several attempts, the Congress has failed to enact the proposed Freedom of Information (FOI) Act. While the Philippine Constitution provides for a general policy of transparency and disclosure¹⁶⁴, the proposed law is seen as an enabling act that will put the constitutional provision into practice, by providing the needed operational framework. The draft law is also seen as important for a more effective and meaningful exercise of the fundamental freedom of expression, as information on government actions and transactions are indispensable data that will enable well-informed citizen action. CSOs have actively lobbied for the passage of the FOI Act

¹⁵⁸ CNN, Robert Sawatzky, *Duterte says killing of corrupt Philippines journalists justified*, (Accessed on June 6, 2016), Available at: <http://edition.cnn.com/2016/05/31/asia/philippines-duterte-journalists/>

¹⁵⁹ Philippine Star, *International media groups say Duterte's comments risk lives, urge boycott*, (Accessed on June 6, 2016), Available at: <http://www.philstar.com/headlines/2016/06/02/1589388/international-media-groups-say-dutertes-comments-risk-lives-urge-boycott>

¹⁶⁰ It was declared by the Supreme Court as valid and constitutional in 2014. See *Disini Jr., et al. v. The Secretary of Justice*, GR No. 203335 (February 11, 2014).

¹⁶¹ UCA News, *Mining Firm sues Philippine faith-based group for libel* (Accessed June 6, 2016), Available at: <http://www.ucanews.com/news/mining-firm-sues-philippine-faith-based-group-for-libel/76223>

¹⁶² Romel Bagares, *Brief background to contemporary practice on free expression in the Philippines*, Global Freedom of Expression Conference 2016, April 2016, (Accessed from June 6, 2016), Available at: <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2016/04/Romel-Bagares.pdf>.

¹⁶³ Strategic lawsuit against public participation (SLAPP) is a legal action filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP. A.M. No. 09-6-8-SC, Rules of Procedure for Environmental cases, April 29, 2010.

¹⁶⁴ Philippine Const. Art. III, §7 provides: "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

but despite engagement with the government, the FOI Act has failed to pass into legislation.¹⁶⁵

There have been attempts to amend the libel provisions in the Revised Penal Code, such as House Bill No. 2562 (filed in the 16th Congress, 2013-2016), which proposed to remove the penalty of imprisonment but increase the amount of the fine.¹⁶⁶ These attempts have not been successful and instead, as explained earlier, a higher penalty is now imposed for online libel under the Cyber Crime Prevention Act.

5. Summary of Key Challenges

The key challenges related to freedom of expression are:

- The exercise of the freedom of expression is not as vibrant when it comes to programs and policies of local governments, and, more significantly, when it comes to the expression of views critical of local government officials.
- Retaliation against CSOs' exercise of freedom of expression, coming from both state and non-state actors, including extra-judicial killings, enforced disappearances, and harassment cases in court.

¹⁶⁵ Nepomuceno Malaluan, *OGP Has Failed as Platform for FOI in The Philippines*, March 24, 2016, Available at <http://www.freedominfo.org/2016/03/ogp-has-failed-as-platform-for-freedom-of-information/>.

¹⁶⁶ House of Representatives, House Bill No. 2562 (Accessed March 3, 2016); Available at http://www.congress.gov.ph/legisdocs/basic_16/HB02562.pdf

E. Freedom of Assembly

1. Overview

Like freedom of expression, freedom of assembly is recognized and guaranteed by the Constitution as a fundamental freedom.¹⁶⁷ There is likewise a long list of jurisprudence¹⁶⁸, which has evolved into a more or less consistent judicial doctrine on the conduct of public assemblies and the allowable government regulation or restriction.

The country's past and present governments, after the Marcos Administration, have been generally tolerant of public assemblies, except for a short period under the Administration of former President Gloria Arroyo (2001-2010) where there was a categorical policy against the exercise of freedom of assembly, and the incident during the early years of the Corazon Aquino presidency where there was a violent attack on a farmers' march, which led to the death of 13 farmers (the so-called "Mendiola Massacre", which happened on January 22, 1987)¹⁶⁹.

CSOs have freely exercised the freedom of assembly. For most CSOs, rallies, demonstrations, marches, and other forms of public assembly, are generally accepted as legitimate and strategic action.

2. Applicable laws

The right to peaceful assembly is a constitutionally guaranteed right that is equally fundamental as freedom of expression. The Constitution provides:

"No law shall be passed abridging...the right of the people to peaceably assemble and petition the government for redress of grievances."¹⁷⁰

The Universal Declaration of Human Rights (UDHR) states that "everyone has the right to freedom of peaceful assembly and association."¹⁷¹

The International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a State Party, provides in its article 21 that:

"The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity

¹⁶⁷ Philippine Const. Art. III, §4

¹⁶⁸ In the case of *Philippine Blooming Mills Employment Organization, et al. v. Philippine Blooming Mills Co., Inc.*, G.R. No. L-31195 (June 5, 1973), the Supreme Court held that primacy of human rights (freedom of expression and peaceful assembly) over property rights has been sustained; in *PCIB v. Philnabank Employees*, G.R. No. L-29630 July 2, 1981, the Supreme Court sustained that peaceful picketing is constitutionally protected.

¹⁶⁹ Rappler, Jodesz Gavilan, January 22, 2015, *28 years on: Still no justice for Mendiola Massacre victims*, Available at: <http://www.rappler.com/move-ph/81659-still-no-justice-mendiola-massacre>

¹⁷⁰ Philippine Const. Art. III, §4.

¹⁷¹ Universal Declaration of Human Rights, G.A. Res. 217, U.N. Gaor, 3d Sess., U.N. Doc. A/810 (1948), Art 20 (1).

with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”¹⁷²

Batas Pambansa (National Law) 880 or the Public Assembly Act of 1985 defines public assembly as:

“any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in a public place for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances.

The processions, rallies, parades, demonstrations, public meetings and assemblages for religious purposes shall be governed by local ordinances: provided, however, that the declaration of policy as provided in section 2 of this Act shall be faithfully observed.

The definition herein contained shall not include picketing and other concerted action in strike areas by workers and employees resulting from a labor dispute as defined by the Labor Code, its implementing rules and regulations, and by the Batas Pambansa Bilang 227.”¹⁷³

Under the law, a written permit is required to organize and hold a public assembly in a public place. However, no permit is needed if the public assembly takes place in a freedom park (established by law or ordinance) or in a private property, in which case only the consent of the owner is needed.¹⁷⁴ When the assembly is conducted on the campus of a government-owned and operated educational institution, it is subject to the rules and regulations of the educational institution.

An application for a permit must be filed with the local government unit (office of the mayor of the city or municipality) covering the area of the assembly at least five (5) working days before the planned assembly. The application must include the names of the organizers of the assembly, the purpose of such public assembly, the date, time and duration, and place or streets to be used for the intended activity, the estimated number of persons participating, and the transport and the public address systems to be used.¹⁷⁵

The law mandates the city or municipal mayor to issue the permit unless there is clear and convincing evidence that the public assembly will create a clear and present danger to public order, safety, convenience, morals or health. The mayor

¹⁷² International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, Art. 21.

¹⁷³ *The Public Assembly Act of 1985*, Batas Pambansa Blg. 880 § 3 (a) (1985).

¹⁷⁴ *The Public Assembly Act of 1985*, Batas Pambansa Blg. 880 § 4 (1985).

¹⁷⁵ *The Public Assembly Act of 1985*, Batas Pambansa Blg. 880 § 5 (1985).

must act on the application within two (2) working days from the filing of the application, otherwise, the permit shall be deemed granted. If the application for a permit is denied, the applicant can appeal the decision before the courts.¹⁷⁶

The law prohibits law enforcement agencies from interfering in public assemblies. However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police officer can be stationed in a place at least one hundred (100) meters away from the area of activity ready to maintain peace and order at all times. Police officers are allowed to disperse the assembly when it becomes violent, or when an assembly is held without a permit where a permit is required.¹⁷⁷

In a decision that was promulgated on April 25, 2006,¹⁷⁸ the Supreme Court had the opportunity to clarify the application of BP 880. This case arose after a series of violent dispersals of public assemblies, supposedly in implementation of BP 880, and pursuant to a public statement of then Executive Secretary Eduardo Ermita, saying that the “rule of calibrated preemptive response” was put in force, “in lieu of maximum tolerance”. This statement, issued on September 21, 2005, was entitled, “On Unlawful Mass Actions,” and warned that “unlawful mass actions will be dispersed”.¹⁷⁹

In the decision, the Supreme Court upheld the validity of BP 880, and explained that the law is not an absolute ban of public assemblies but a restriction that simply regulates the time, place and manner of the assemblies. This means that, as a general rule, the city or municipal mayor must grant the permit, subject to modifications as to the change of the place and time of the public assembly, rerouting of the parade or street march, the volume of loud-speakers or sound system and similar changes, when necessary. The Court ruled that BP 880 was a content-neutral regulation of the time, place, and manner of holding public assemblies. The Court further clarified that a permit can only be denied on the ground of a clear and present danger to public order, public safety, public convenience, public morals or public health.

The Supreme Court also noted that after twenty years from BP 880’s passage, its provision that every city and municipality set aside a freedom park within six months from its enactment appeared to have been taken for granted. In this regard, the Court ruled that after thirty (30) days from the final decision, no prior permit may be required for the exercise of such right in any public park or plaza of a city or municipality until that city or municipality has complied with section 15 of the law, which mandates cities and municipalities to set aside a freedom park. The Court explained that without such alternative forum, the denial of the permit would be a denial of the right. The Court clarified, however, that advance notices must be given to the authorities to ensure proper coordination and orderly proceedings.

¹⁷⁶ *The Public Assembly Act of 1985*, Batas Pambansa Blg. 880 § 6 (1985).

¹⁷⁷ *The Public Assembly Act of 1985*, Batas Pambansa Blg. 880, § 9; §11; §12 (1985).

¹⁷⁸ *Bayan v. Ermita*, G.R. No. 169838 (April 25, 2006).

¹⁷⁹ *Bayan v. Ermita*, G.R. No. 169838 (April 25, 2006).

As regards the “rule of calibrated preemptive response”, the Court decided that, in view of the maximum tolerance mandated by B.P. No. 880, calibrated preemptive response served no valid purpose “if it means the same thing as maximum tolerance and is illegal if it means something else”. The Court reiterated that “maximum tolerance” is what is mandated by B.P. 880, and should therefore be followed. The Court cited the definition of maximum tolerance in the law as “the highest degree of restraint that the military, police and other peace keeping authorities shall observe during a public assembly or in the dispersal of the same.”

The Court further noted that “as a necessary consequence and part of maximum tolerance, organizers who can show the police an application duly filed on a given date can, after two days from said date, rally in accordance with their application without the need to show a permit, as the granting of the permit is presumed under the law. In this case, it is the burden of the authorities to show that there has been a denial of the application, in which case the rally may be peacefully dispersed following the procedure of maximum tolerance prescribed by the law.”

To date, the “calibrated preemptive response” fiasco has been the only significant affront to freedom of assembly in the post-Marcos period.

3. Implementation Issues

The participants in the focus group discussions agreed that the government is currently tolerant of public assemblies. While there has been occasional clashes between protesters and police officers (especially during the annual President’s State of the Nation Address), the participants observed that the government does not hold an anti-assembly policy, and there has not been a history of government-led violence against peaceful demonstrations of citizens. Still, a clear policy stating that a permit is not required for peaceful assemblies will facilitate the exercise of the freedom to assemble.

Similar to the discussions on freedom of expression, the participants explained that in some cases incidences of demolition, evictions, or retaliatory actions has been initiated by private parties such as landowners and big companies. In some of these cases, however, the police was involved. Parallel to the discussion of freedom of expression, the participants pointed out that there is a greater propensity for violent retaliatory action against public assemblies to come from local government officials and local political and business interests, than from the national government.

The participants also observed that, in general, there has been an increased consciousness among the police about human rights, command responsibility, and about how they should conduct themselves during public assemblies. In the Davao FGD with government officials, a participant said, *“the issue of command responsibility is a key focus for the police. They are now conscious about human rights, which is included in their Program of Instruction (POI), and they are constantly reminded about it in their Rules of Engagement (ROE).”*

Some participants in the focus group discussions pointed out that, in some cases, community members are made to join assemblies, either by local government officials or by CSOs, even if many of these participants do not fully understand the issues involved.

At the time of the preparation of this report, a violent incident arising from a police dispersal of demonstrators, mostly farmers, resulted in the death of some civilians while many others were injured. This happened in Kidapawan, South Cotabato, on April 8, 2016.¹⁸⁰ Investigations are being conducted, and there are conflicting reports on who instigated the violence with some initial accounts indicating the excessive use of force by some police officers. While this may be considered as an isolated incident, in the context of the general assessment of this dimension, it is noteworthy to mention that, despite the overall positive assessment of the level of the enjoyment and exercise of freedom of assembly, incidents such as this still happen, and are a cause of concern.

4. Policy Proposals

House of Representatives Bill No. 3668¹⁸¹ or the Freedom of Expression Act of 2013 and House Bill No. 3058¹⁸² or the Revised Public Assembly Act both seek to repeal BP 880. The bills propose that no permit is required for peaceful assembly, and require only a notification or declaration and coordination with the mayor of the city or municipality where the assembly is to be held. The 16th Congress (2013-2016) closed without the enactment of the proposed laws on public assemblies. As in the past, there is a likelihood that the same or similar proposals will be filed in the 17th Congress (2016-2019), but the probability of these proposed bills becoming law is low, considering that they are not seen as urgently needed legislation.

5. Summary of Key Challenges

In relation to freedom of assembly, the major challenges are:

- Incidences of demolition, evictions, or retaliatory actions that had been initiated by private parties such as landowners and big companies, with the involvement of the police in some cases.
- The propensity for violent retaliation against public assemblies coming from local government officials and local political and business interests.

¹⁸⁰ Rappler, *1 Killed, 13 wounded in farmers' protest in Kidapawan*, Available at: <http://www.rappler.com/nation/127852-kidapawan-farmers-protest-dispersal>. GMA Network, *CHR report: Cops fired first, used excessive force in bloody Kidapawan protest*, June 1, 2016, Available at: <http://www.gmanetwork.com/news/story/568419/news/nation/chr-report-cops-fired-first-used-excessive-force-in-bloody-kidapawan-protest>

¹⁸¹ House of Representatives, House Bill No. 3668 (Accessed March 3, 2016); Available at: http://www.congress.gov.ph/legisdocs/basic_17/HB03668.pdf

¹⁸² House of Representatives, House Bill No. 3058 (Accessed March 3, 2016); Available at: http://www.congress.gov.ph/legisdocs/basic_17/HB03058.pdf

F. CSO-Government Relations

1. Overview

CSOs are permitted to engage in the electoral and other political processes. There is no prohibition against supporting candidates, or nominating candidates for public office. More importantly, CSO's participation in governmental decision-making processes is mandated by the Constitution. There are multiple institutionalized spaces for CSO participation in policy-making, and in the monitoring of policy and program implementation.

Since the end of the Marcos era, there has been a significant improvement in the relationship between CSOs and the government. For most CSOs, the relationship has evolved from one of antagonism to one of cooperation, and in many aspects, partnership. CSO-government relations have been described as generally harmonious by the respondents. Despite the many available mechanisms for CSO participation, and the regular organization of consultations by the government, there is a need to improve the depth of these consultations and mechanisms of cooperation, as many consultations are seen as merely complying with obligations, instead of a genuine appreciation for CSO participation and input.

The recent restrictive rules concerning CSOs' access of government funds, as discussed above, is widely seen as impeding CSO-government relations, as the rigid requirements are seen as disincentives for the reception of government funds, hence, limiting cooperation opportunities.

2. Engaging the Philippine government

CSOs in the Philippines have shown their power to mandate the government to make a change and in influencing the course of development as an alternative voice of the people. CSOs are not just the main critics of the government, but more importantly, CSOs are influential in policy development and implementation and have also engaged the government as partners in the implementation of government programs.¹⁸³

There was unanimity among the participants in the focus group discussions that there has been a significant improvement in the relationship between the government and CSOs. Under the Marcos Administration, where most CSOs, on one hand, and government, on the other hand, generally viewed each other as adversaries, the relationship between the government and CSOs has evolved into one of critical engagement and cooperation, and, in many areas, partnership. There is an overall perception of greater openness among government agencies and officials (both national and sub-national) to the participation of CSOs in the decision-making process and in the implementation of government programs and projects.

¹⁸³ Isagani R. Serrano, NGOs and NGO-GO Relations in the Philippines, Available at: http://www.iam.or.jp/asia-pacific_panel/pdfdownloads/delhi02-paper3.pdf.

The 1987 Constitution provides the State policy that allows peoples' organizations to effective and reasonable participation in governance. Article XIII (Social Justice and Human Rights – Role and Rights of People's Organizations) provides in its section 16:

"The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms."

2.1 Participation in Politics

CSOs are not prohibited from engaging in the political process. They are free to support or oppose political parties or candidates that are aligned with their advocacy and purpose. The Constitution provides that members of the House of Representatives can be elected through a party-list system of registered national, regional, and sectoral parties or organizations, and by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.¹⁸⁴ The party-list system has led to the direct involvement of many CSOs in the legislative process.

Some local NGOs and POs have actively supported candidates in local positions, rationalizing that it is a strategic tactic to push for their advocacy especially when there has been little or no support or even strong opposition from local government unit (LGU) officials.

However, engagement in the electoral process may compromise the "non-partisan" status of an organization. While it is not prohibited, it might affect the perception of partners, networks and even funders on the objectivity and independence of an organization.

2.2 Participation in public policy activities

CSOs are allowed to participate in public policy activities. In fact, CSOs should actively engage in various public fora such as the legislative and executive departments. It's the basic tenet of the Constitution that "sovereignty resides in the people and all government authority emanates from them".¹⁸⁵

There are many institutionalized mechanisms for CSO participation in governmental decision-making processes and for the promotion of cooperation and partnership between government and civil society. For example, the National Anti-Poverty Commission (NAPC), which is created by law as a multi-agency, multi-sector body under the Office of the President, serves as the coordinating and advisory body for the implementation of the Social Reform Agenda (SRA) and the government's anti-poverty programs. It helps with the institutionalization of basic sectoral and NGO

¹⁸⁴ Philippine Const. Art. VI § 5 (2).

¹⁸⁵ Philippine Const. Art. II, § 1.

participation in effective planning, decision making, implementation, monitoring and evaluation of the SRA at all levels.¹⁸⁶ Fourteen (14) CSO (“basic sector”) representatives sit as members of NAPC, together with key government officials. Reflecting the government-CSO composition of NAPC, there are two Vice-Chairpersons, one representing the government, and the other representing CSOs.

Under President Aquino’s Administration, many CSOs were able to engage with the government in the drafting of the Philippine Development Plan (2011-2016). CSOs took part in the development and consultation process of the plan, partly as a result of the organized and persistent advocacy of CSOs as there was initial reluctance of certain government officials to provide more significant mechanisms and opportunities for CSO participation.

The Philippines became a founding member of the Open Government Partnership, a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance.¹⁸⁷

2.3 Engaging Local Government Units (LGUs)

CSOs are also provided with spaces to engage LGUs through the regional development councils¹⁸⁸ and local special bodies.¹⁸⁹ However, CSOs are subject to an accreditation and selection process provided for by the National Economic and Development Authority (NEDA) and the Department of the Interior and Local Government (DILG).¹⁹⁰

Some participants emphasized the recurring issues concerning local government officials who do not follow the provisions of the Constitution and various laws on opening up government processes to CSO participation. Despite clear policies, some local governments still refuse or limit the participation of CSOs in mechanisms such as membership in the local special bodies (LSBs) and participation in local development planning. In some cases, local government officials allow only their preferred CSOs to participate in these mechanisms.

A CSO Participant from the Iloilo FGD said, *“generally, there is an openness, but there are still some LGUs that choose the CSOs they will work with. Some LGUs will work only with CSOs if they are a requirement (for compliance) – for example, to be able to get a ‘Seal of Good Governance’ from the DILG (Department of the Interior and Local Government), but they do not seriously address the issues that are being raised by the CSOs. Some LGUs choose to work only with the CSOs that agree to*

¹⁸⁶ See *Social Reform And Poverty Alleviation Act*, Republic Act No. 8425 (1997); Administrative Order No. 21, *Revised Rules and Regulations Implementing the Social Reform and Poverty Alleviation Act* (2001).

¹⁸⁷ Open Government Partnership, (Accessed June 6, 2016), Available at: <http://www.opengovpartnership.org/country/philippines>. Asian Development Bank, *Civil Society Briefs: Philippines* (Accessed June 6, 2016), Available at: <http://www.adb.org/publications/civil-society-briefs-philippines>.

¹⁸⁸ *Providing For The Reorganization of The Regional Development Councils*, Executive Order No. 308 (1987)

¹⁸⁹ *Local Government Code of 1991*, Republic Act No. 7160, §34-36 (1991).

¹⁹⁰ See Department of the Interior and Local Government Memorandum Circular No. 2013-70 (July 24, 2013); Department of the Interior and Local Government Memorandum Circular No. 2010-73 (August 4, 2010).

their executive and political agenda. The CSO community needs to assert their own concerns because in a lot of cases, the LGUs will just comply with the minimum requirements."

Although government transparency and accountability has greatly improved compared to previous years, CSO representatives pointed out that these aspects of governance still need to be further improved. While there are government-mandated participatory mechanisms, some CSOs voiced a concern that many CSOs do not have sufficient capacity to maximize the participatory mechanisms that are available. For example, they need legal expertise to be able to actively engage in disputes and appeals mechanisms. They also need training on mediation and arbitration. Additionally, knowledge on local development planning, budgeting, project implementation and monitoring, drafting of local bills and ordinances, etc. is needed so that CSOs can effectively participate in the participatory mechanisms and spaces. Unfortunately, funding for capacity development of CSOs is scarce.

2.4 Mandatory consultation with CSOs

The Local Government Code (1991) requires national agencies to consult with LGUs, NGOs and other sectors in the planning and implementation of any project or program that may cause pollution, climate change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species.¹⁹¹

Consultation with CSOs and other concerned community sectors is also required for the issuance of an environmental clearance certificate for any project or program that has high potential for significant adverse impact on the environment.¹⁹²

Some participants have expressed the reservation that, while many consultative processes are now in place, the CSO-government relationship has remained mostly superficial, with many government agencies conducting token consultations, in order to comply with requirements for CSO participation. The degree of openness still depends to a large extent on the leadership of the concerned office, national agencies, or local government units. There is a need, therefore, for CSOs to continue to demand the right to participate in policy-making, implementation, and monitoring.

A CSO participant from the Davao FGD said, *"We were represented in the Davao City Development Council (CDC) for 3 years. However, we felt that CSOs were there merely as a requirement for the LGU to comply with because we found it difficult to participate in the meetings. When we asked questions or raised some concerns, the other CDC members would look at us with disdain and our concerns were not being addressed. We were disempowered and felt like outcasts. So in the next elections, on the advice of our Council, we no longer participated in the CDC. They said that our being present in the CDC helped to legitimize the wrong decisions of the local officials."*

¹⁹¹ *Local Government Code of 1991*, Republic Act No. 7160, § 26-27 (1991)

¹⁹² Department of Environment and Natural Resources, Memorandum Circular No. 2010-14 (June 29, 2010)

Another way that CSOs participate is as members of Boards of agencies or institutions with policy-making functions such as:

- (1) the Water Quality Management Area which formulate strategies to coordinate policies necessary for the effective implementation of the *Philippine Clean Water Act*¹⁹³;
- (2) Airsheds, which shall perform the following: a) Formulation of policies; b) Preparation of a common action plan; c) Coordination of functions among its members; and d) Submission and publication of an annual Air Quality Status Report¹⁹⁴;
- (3) the Fisheries and Aquatic Resources Management Councils (FARMCs) or the M/CFARMCs¹⁹⁵;
- (4) the National Solid Waste Management Commission¹⁹⁶;
- (5) the City/Municipal/Provincial Solid Waste Management Board¹⁹⁷;
- (6) the Protected Area Management Board (PAMB)¹⁹⁸;
- (7) the Multipartite Monitoring Team (MMT) (Mining Act)¹⁹⁹;
- (8) the multi-sectoral monitoring team with broad public representation shall be convened by the Department for each LGU to conduct periodic inspections of air pollution sources to assess compliance with emission limitations contained in their permits (*Clean Air Act*)²⁰⁰.

2.5 CSO-government partnership

Both CSO and government representatives in the focus group discussions confirmed that currently, there has been a noted improvement in the available venues for CSO participation in governance. In terms of attitude, there is more appreciation on the part of government agencies that CSOs can be effective partners, and the capacity of CSOs to participate in government programs has been enhanced.

One CSO participant from the Iloilo FGD mentioned, "*Our cooperative signed a partnership with the LGU, wherein the cooperative managed the local public market. As the cooperative managed the public market, the revenues increased. The cooperative had a profit sharing scheme where 70% of the revenues went to the cooperative, and 30% goes to the LGU.*"

Under the Aquino Administration, the Bottom-Up Budgeting (BUB) Program opened up opportunities for CSOs to be involved in the preparation of the budgets of the line agencies (main departments) of the Executive, and in the monitoring of the implementation of projects that are funded under the BUB Program. Despite some

¹⁹³*Philippine Clean Water Act of 2004*, Republic Act No. 9275 § 5 (2003).

¹⁹⁴*Philippine Clean Air Act of 1999*, Republic Act No. 8749 § 9 (1999).

¹⁹⁵*The Philippine Fisheries Code of 1998*, Republic Act No. 8550 § 68-79 (1998).

¹⁹⁶*Ecological Solid Waste Management Act of 2000*, Republic Act No. 9003 § 4-5 (2001).

¹⁹⁷*Ecological Solid Waste Management Act of 2000*, Republic Act No. 9003 § 11-12 (2001).

¹⁹⁸*National Integrated Protected Areas System Act of 1992*, Republic Act No. 7586 § 11 (1992).

¹⁹⁹*Revised Implementing Rules and Regulations of R.A. 7942, otherwise known as the Philippine Mining Act of 1995*, Department of Environment and Natural Resources, Administrative Order No. 2010-21 § 185 (June 28, 2010).

²⁰⁰*Philippine Clean Air Act of 1999*, Republic Act No. 8749 § 8 (1999).

implementation challenges such as the varying capacities among more organized and less organized CSOs, and a lack of competent implementing personnel and facilitators²⁰¹, the BUB program is widely seen as an innovative program that has democratized what used to be a very technical and government-led aspect of governance.

CSOs likewise engage DSWD and assist the agency in monitoring and implementing its programs and services such as the Pantawid Pamilyang Pilipino Program (4Ps) and Sustainable Livelihood Program (SLP), ensuring transparency and its effective implementation.²⁰² In 2013, there were 421 CSOs in the Philippines helping DSWD in implementing the 4Ps and 131 CSOs in SLP. For 4Ps, CSOs are engaged in facilitating family development sessions, validation of beneficiaries, trainers training, monitoring and collecting feedback.

3. Constraints

Despite the generally positive assessment of government-CSO relations, some participants in the discussion sessions pointed out major concerns. It has been observed that the openness of the government depends, to a large extent, on the people in government, and of the leadership of the President. Some participants noted that in past Administrations, there had been serious concerns that led to a rift between CSOs and government.

In the Davao FGD, a CSO participant said, *"In terms of government-CSO relations, I think we are somewhere in the middle. It will depend a lot on the issue, on the people and groups involved, and on the government officials. If the right people are there, things can go smoothly, but if not, it will take a lot of time and effort to make it work. However, under the Benigno Aquino Administration, we were generally able to feel a huge improvement in the openness of the government to work with CSOs, compared to how our relationship with government was before that time. We really felt that a lot of doors were opened to us."*

The controversy surrounding the corruption of the legislators' fund (PDAF) (see the introduction), and the involvement of bogus CSOs, were identified as major factors that led to the new rules governing CSO access and reception of government funds (see under the chapter on access to resources). The accreditation process that is required by the new rules is seen as cumbersome by most CSOs (and even by some government officers), and serve as a disincentive for CSO-government partnerships that involve the transfer of public funds to CSOs.

A CSO participant from the Luzon/NCR FGD said, *"Dwindling development funds to the Philippines was aggravated by the infamous 'Napoles Scam,' wherein millions of pesos were supposedly awarded to fund agricultural and livelihood projects of*

²⁰¹ Rappler, Ted Alwin Ong, *Bottom Up Budgeting: Experience at the grassroots?*, (Accessed June 6, 2016), Available at <http://www.rappler.com/move-ph/issues/budget-watch/34734-bub-experience-grassroots>

²⁰² The Philippine Star, *DSWD cites tedious accreditation process for NGOs*, Rainier Allan Ronda, August 18, 2013, Available at: <http://www.philstar.com/headlines/2013/08/18/1103881/dswd-cites-tedious-accreditation-process-for-ngos>

selected NGOs. It was later discovered that these were bogus NGOs, and the money was pocketed by corrupt people. When this was discovered, there was a tightening of measures and implementation of new stricter policies. Suddenly, all NGOs were under suspicion of being fake NGOs. Government implemented strict requirements for CSOs to access government funds and projects, whereas before this happened, the government would only run after the CSOs if they have not paid their taxes for several years."

In the Perception Survey of CSOs, the overall rating of the relations between the national government and CSOs is 3.51, middle of "Undecided" (3) and "Good" (4). The respondents rated the relations between the local government and CSOs slightly lower at 3.37.

4. Summary of Key Challenges

In the area of CSO – government relations, the major challenges are as follows:

- The cumbersome process of accreditation for CSOs in accessing government funds.
- The absence of a shared repository of information on CSOs among government agencies.
- The absence of a general framework and set of guidelines for government-CSO relations, especially with regards to regulation and accreditation, provision of financial and non-financial support, and formulation of rules affecting CSOs and CSO operations.

G. CSO Coalition and Cooperation

1. Overview

With the existence of numerous CSOs in the Philippines, there are likewise a variety of CSO groups or organizations in the form of federations, coalitions, networks and other multi-organization associations. These coalitions are organized on the basis of various factors, such as geographic area of operations (provincial or regional), sectoral focus, similarity of programs, or unity of positions on issues. Some of these bigger organizations are registered as entities independent of the member organizations, while others remain informal, but functional, groupings and coalitions.

Overall, there is openness to cooperation and collaboration among CSOs, which leads to the formation of different categories of umbrella organizations and coalitions. This is essentially voluntary, as it is not mandated by law. Funding trends also drive CSOs to work together, as this is increasingly requested by donors, although there is still a healthy competition among CSOs.

2. Applicable laws

There is no special law that applies specifically to CSO coalitions and cooperation. The laws that govern the registration and operation of CSOs apply to both first-level CSOs and to groupings of various CSOs. Hence, a coalition, federation or network of CSOs can register as a non-stock, non-profit corporation, with the SEC. In such case, the coalition, federation or network acquires its own legal personality, independent of its member organizations.

Under the Labor Code, the regulatory framework for labor unions allows for a "National Union" or "Federation", which refers to a group of legitimate labor unions in a private establishment organized for collective bargaining or for dealing with employers concerning terms and conditions of employment for their member unions or for participating in the formulation of social and employment policies, standards and programs, registered with the Bureau of Labor Relations.²⁰³ Similarly, a federation of cooperatives can be registered by undergoing the process and formalities for registration of a cooperative.²⁰⁴

Regarding homeowners' associations, a federation refers to an organization of homeowners' associations created and registered to pursue common goals beneficial to the interests of the constituent associations and members thereof.²⁰⁵ A confederation refers to an association of federated homeowners' associations.²⁰⁶

Under the law, there is neither a restriction nor any direct encouragement to create

²⁰³ Department Of Labor and Employment Department Order No. 40-03, Rule 1, §1 (kk) (2003).

²⁰⁴ *Philippine Cooperative Code of 2008*, Republic Act No. 9520, art. 24 (2009).

²⁰⁵ Housing And Land Use Regulatory Board Resolution No. 877, *Implementing Rules And Regulations of RA 9904*, Rule 1 § 4 (s) (2011).

²⁰⁶ Housing And Land Use Regulatory Board Resolution No. 877, *Implementing Rules And Regulations of RA 9904*, Rule 1 § 4 (m) (2011).

a CSO coalition, except in the case of federations of labor unions, which are given by the Labor Code the authority to create chapters with their own legal personality. CSOs enter into bigger groups voluntarily, not because of a legal requirement. CSOs usually see coalitions, federations or networks as an effective vehicle for working together towards a common vision and agenda, and engaging with government and other stakeholders.

Some government agencies encourage the formation of coalitions. The Department of Social Welfare and Development (DSWD), for example, facilitates the formation of a network of SWDAs (called Area-Based Standard Network or ABSNET) to strengthen cooperation and coordination among accredited SWDAs.²⁰⁷ This network also becomes a strategic mechanism for communications and cooperation between the DSWD and the SWDAs.

3. Implementation Issues

The participants in the focus group discussions confirmed that Philippine CSOs are generally open to cooperation and collaboration among themselves. Thus, there are many networks, federations and coalitions, many of them registered as legal entities independent of the member organizations. The Caucus of Development NGO Networks (CODE-NGO), for example, groups together twelve (12) national and regional networks²⁰⁸ that collectively have a membership base of more than 1,600 CSOs. CSOs view the formation of bigger groups, both at the sub-national (local and regional) and national level as strategic to engagements and/or partnerships with the government. CSO coalitions are likewise seen as a coordination mechanism among CSO members.

A CSO participant from the Davao FGD said, *"It is more strategic to have a coalition or partnership among CSOs. If we were to engage the LGU, we would discuss among ourselves which group would best sit in the local special bodies, like the Local School Board, the Local Health Board, the Local Tourism Board, the Local People's Law Enforcement Board, etc. In having a partnership, we are also able to deliver the agenda of the network. But if you are not a network, there would be a stiff competition for the available positions, and each group would only be bringing in their own particular agenda."*

While there are still some divisions, in terms of positions on issues or based on ideological differences, there is a general willingness on the part of CSOs to work together. To a certain extent, the availability of funding opportunities that are

²⁰⁷Department of Social Welfare and Development Administrative Order No. 17 Series of 2008, *Rules and Regulations on the Registration and Licensing of Social Welfare and Development Agencies and Accreditation of Social Welfare and Development Programs and Services*, V (6) (2008).

²⁰⁸ Association of Foundations (AF); Central Visayas Network of NGOS (CENVISNET); Eastern Visayas Network of NGOs (EVNET); Western Visayas Network of NGOs (WEVNET); Partnership of Philippine Support Service Agencies (PHILSSA); Philippine Partnership for the Development of Human Resources in Rural Areas (PHILDHARRA); Philippine Business for Social Progress (PBSP); National Council of Social Development Foundation of the Philippines, Inc. (NCSD); National Confederation of Cooperatives (NATCCO); Mindanao Coalition of Development NGOs (MINCODE); Cordillera Network of NGOs and POs (CORDNET); Coalition for Bicol Development NGOs (CBD)

available only to large consortia have also pushed CSOs to work together, either in formal, registered coalitions, or in informal groupings.

H. Taxation

1. Overview

In general, CSOs are eligible for tax exemption. There have been numerous concerns raised, however, about the lack of clarity of the rules on tax coverage and exemption, and the lack of consistency in the application of the rules, by the different field officers of the Bureau of Internal Revenue (BIR).

Based on the focus group discussions, it was concluded that the taxing powers of the government have not been used to harass CSOs or to restrict their operations. Considering the dwindling resources for CSOs, the imposition of taxes is widely seen as having an adverse impact on the financial sustainability of CSOs.

2. Applicable laws

2.1 Tax Exemption for CSOs

Tax exemption of CSOs is constitutionally mandated²⁰⁹, however the exemption only pertains to property taxes and not other taxes.²¹⁰ To be tax exempt, the property must be actually, directly, and exclusively used for charitable purposes (or religious, or educational).²¹¹ The exemption is not limited to property actually indispensable for charitable purposes, it extends to facilities which are incidental to or reasonably necessary for its purpose.²¹²

The tax laws also provide for exemption from income taxes for qualified CSOs.²¹³ Section 30 of the National Internal Revenue Code includes among the organizations that will not be taxed with respect to income the “non-stock corporation or association

²⁰⁹ Philippine Const. Art. VI, § 28 (3).

²¹⁰ Hector S. De Leon, *The Fundamentals Of Taxation*, 13th Ed. (Quezon City: Rex, 2000), 37 Citing “Lladoc v. Comm., L-19201, June 16, 1965”

²¹¹ Hector S. De Leon, *The Fundamentals of Taxation*, 13th Ed. (Quezon City: Rex, 2000), 38 Citing “Province Of Abra v. Hernando, 107 SCRA 104, Aug. 31, 1981.”

²¹² Hector S. De Leon, *The Fundamentals of Taxation*, 13th Ed. (Quezon City: Rex, 2000), 38 Citing *Abra Valley College, Inc. V. Aquino*, 162 SCRA 106, June 15, 1988).

²¹³ *The National Internal Revenue Code of the Philippines*, Republic Act No. 8424, As Amended (1997) §30. enumerates the organizations that shall not be taxed with respect to income received by them:

- a. Labor, agricultural or horticultural organization not organized principally for profit;
- b. A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness, accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents;
- c. Non-stock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;
- d. Business league, chamber of commerce, or board of trade, not organized for-profit and no part of the net income of which inures to the benefit of any private stock-holder, or individual;
- e. Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- f. A non-stock and non-profit educational institution;
- g. Government educational institution;

organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person". The Cooperative Code also provides that cooperatives transacting business with members only and cooperatives transacting business with members and non-members but with accumulated reserves and undivided net savings of not more than 10 Million Pesos (approximately US\$ 207,000) are exempted from income tax, value added tax, percentage tax and excise tax.

2.2 Restriction on tax exemption²¹⁴

Despite the tax exemption of CSOs, many CSOs have been experiencing tax-related challenges given that the Bureau of Internal Revenue (BIR) has made the application for exemption and the enforcement of tax rules restrictive.

In 2013, the BIR issued Revenue Memorandum Order (RMO) No. 20-2013, the guidelines for CSOs to benefit from the tax exemption on income received by them. Under this issuance, the BIR required non-stock, non-profit corporations and associations to have valid tax exemption rulings or certificates in order to be considered tax exempt.²¹⁵ CSOs are required to apply for tax exemption ruling or a Certificate of Tax Exemption before its tax exempt status as to income received is confirmed. The validity of the tax exemption ruling or certificate was also limited to a period of three (3) years from the date of effectivity.

The CSO must apply with the BIR Revenue District Office (RDO) where they are registered and submit a gamut of documents that a CSO already lacking in funds to operate will find costly and burdensome to comply with. Documents include: (1) Certified true copy of the latest AOI and By-Laws issued by the SEC; (2) Original copy of Certification under Oath by an executive officer of the CSO as amendments of AOI and BL, activities, and sources and disposition of income; (3) Certified true copy of the Certificate of Registration with the BIR; (4) Original copy of the Certification under Oath by the Treasurer of the CSO's income, compensation, salaries or any emoluments paid to its trustees, officers and other executive officers; (5) Original copy of the Certification issued by the RDO where the corporation or association is registered that the corporation or association is not subject of any pending investigation, on-going audit, pending tax assessment, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal; (6) Certified true copies of the Income Tax Returns or Annual Information Returns and Financial Statements of the corporation or association for the last three (3) years; and (7) Original copy of a statement under Oath by an executive officer of the CSO as to its *modus operandi* such as activities, receipts and expenditures, and revenue to be subject to exemption.

²¹⁴ See Bureau of Internal Revenue, Revenue Memorandum Order No. 20-2013(July 22, 2013); Bureau of Internal Revenue, Revenue Memorandum Circular No. 8-2014 (February 6, 2014); Bureau of Internal Revenue, Revenue Memorandum Order No. 34-2014 (September 18, 2014); Bureau of Internal Revenue, Revenue Memorandum Circular No. 51-2014 (June 6, 2014).

²¹⁵ Bureau of Internal Revenue, Revenue Memorandum Order No. 20-2013, *Prescribing the Policies and Guidelines in the issuance of tax exemption rulings to qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of the National Internal Revenue Code Of 1997, As Amended.* (2013)

RMO 20-2013 has been subject of a case filed before the Regional Trial Court of Makati City, which, in 2014, declared it as a violation of the Constitution. However, the court's decision only pertains to non-stock and non-profit educational institutions and cannot be applied to the broader category of CSOs.²¹⁶

The 2013 issuance later clarified in 2014, when the BIR issued another circular stating that Tax Exemption Rulings (issued by the BIR) do not confer tax exemptions which are not provided for by law. In this 2014 issuance, the BIR explained that in the review of applications for Tax Exemption Rulings the BIR merely validates if the conditions that are set by law for the granting of the income tax exemption are present or have been complied with by the covered organizations. In addition, the BIR also clarified that it will determine whether the applicant for exemption is earning income from other activities that are conducted for profit. The BIR pointed out that income from these activities are subject to tax.²¹⁷

3. Implementation Issues

Participants in the focus group discussions, both CSO and government representatives, agreed that taxation has not been used by the government to harass CSOs. They view the tax rules and processes, however, as problematic, because of the lack of clarity of the rules, and the varying application and interpretation by the field offices.

For smaller CSOs (such as farmers' associations, registered as rural workers' associations, or for informal settler communities, registered as HOAs), complying with the requirements of the BIR on registration, and application for the Tax Exemption Ruling, among others, can be too burdensome.

Some participants cited the 2015 experience when the BIR issued new rules concerning online registration, but the BIR website turned out to be incapable of accommodating the voluminous simultaneous access by individuals, business entities, and CSOs, resulting in a confusing process. Many complaints have also been aired about experiences of going from one office/officer to another to get a clear answer on certain tax concerns.

The BIR also clarified that even if the CSOs do not yet have a Certificate of Tax Exemption, they do not lose their tax exempt status. However, the CSOs in the Davao FGD complained, *"Based on our experience, we still need the Certificate of Tax Exemption to be able to enjoy tax exemption."*

The application process for tax exemption has been identified as a difficult process, not only because of the BIR's delayed decision on applications, but also because of

²¹⁶ Aries Rufo, *Catholic school wins versus BIR's Henares*, *Rappler*, November 5, 2014 (Accessed March 3, 2016); Available at: <http://www.rappler.com/nation/74138-Catholic-School-Bir-Henares>

²¹⁷ Bureau of Internal Revenue, Revenue Memorandum Order No. 34-2014, *Clarifying Certain Provisions of Revenue Memorandum Order (RMO) No. 20-2013, as amended by RMO No. 28-2013, on the Issuance of Tax Exemption Rulings For Qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of The National Internal Revenue Code Of 1997, As Amended*. (2014)

the lack of information on the status of the applications, or the deficiencies, if any, of the submitted documents. Some participants reported that very few CSOs have been successful in getting Tax Exemption Certificates from the BIR, and many of those who have filed their applications, after the BIR's issuance of the 2013 rules, have not yet received the BIR's decision on their applications.

One explanation offered for the slow processing of applications is the procedure that requires CSO tax exemption applications to be approved by the BIR's national office. While the regional offices make an initial assessment of the request for tax exemption, the final decision is centralized at the national office.

A CSO participant from the Davao FGD complained, *"When you apply for tax exemption, your papers are passed on to the regional office, then to the national office, then back. But there is no way for you to verify at which stage your application is. We have been waiting for two years already for our Certificate of Tax Exemption, and up to now, we still don't know at which stage it already is. Perhaps by the time we finally receive it, it is once again time to renew it."* Under the BIR's 2013 circular, a Tax exemption Ruling has a validity of three years.

Some participants have recommended closer coordination between the BIR and the agencies that are mandated to regulate the registration and operations of CSOs.

4. Summary of Key Challenges

The key challenge related to the taxation of CSOs is:

- The lack of clarity and consistency in the formulation, interpretation and implementation of tax exemption rules for CSO.

Section IV. Conclusion

This report assesses the legal, regulatory, policy, financial and social environment in which CSOs operate in the Philippines. Different aspects that impact on CSOs' ability to register and operate freely, access resources, engage with government, and work collectively, have been covered in the assessment as essential parts of the enabling environment of CSOs in the Philippines. This assessment covers eight dimensions: (1) formation of CSOs; (2) operation of CSOs; (3) access to resources; (4) freedom of expression; (5) peaceful assembly; (6) CSO-government relations; (7) CSO cooperation and coalition; and (8) taxation.

The 1987 Constitution, which was adopted in 1987 after the non-violent revolution that toppled the Marcos authoritarian regime, constitutes a key element that fosters and protects an overall healthy enabling environment for CSOs. The Constitution initially provided for the opening of the democratic space that allowed the country's CSOs to proliferate, especially in the first decade after the revolution. After thirty years, this Constitution, with clear principles and policies that encourage CSOs to form, operate, and engage in governance and development, has continued to provide the essential protective framework for CSOs as they perform their valuable role in Philippine society.

CSO formation and operation are governed by a clear set of rules. The registration and post-registration reporting requirements are considered reasonable regulations. For small CSOs, however, some registration and reporting requirements have proven difficult to comply with, both because of the lack of capacity of the organizations as the physical inaccessibility of the concerned field offices of the respective regulatory agencies.

There are different agencies with the mandate to act as the registration and regulatory bodies for specific categories of CSOs. There are likewise different sets of rules and requirements, applicable to the various CSO types. Despite the need for specialization on the part of the regulatory agencies, the varying regulatory systems still overlap in some respects and some implementation gaps resulting from this set-up have surfaced.

Access to resources has been identified as a major challenge for Philippine CSOs. There is a general consensus that the traditional CSO funding sources, i.e. from grants, are shrinking. Moreover, compared to the previous decades, the available funding sources are not as generous and as flexible. Additionally, most grants are restricted in time, and as to programs and expense items covered. The dwindling funds for CSOs have, unfortunately, led to fund-driven programs, sacrificing programs that are still considered as highly strategic, such as community organizing, but only have very minimal available funding opportunities.

Despite attempts of the CSO community to mobilize donations from private individuals and corporations, these attempts have so far generally not been successful. Government, on the other hand, is not seen as a major funding source, and, with new recent rules, has become increasingly difficult to access.

Freedom of expression and freedom of assembly are exercised by CSOs and citizens in general, with minimal government regulations. This is due to the Constitution's clear guarantees, and the Supreme Court's consistent decisions applying the constitutional provisions and upholding the primacy of these freedoms in relation to government interference. As a result of this policy environment, CSOs have freely used different forms of expression and assembly in the conduct of their programs and advocacies. The recent experience of the country under the Arroyo Administration, albeit considered an aberration in the three decade period after the Marcos era, calls for continued vigilance on the part of citizens and CSOs against attempts by the government to push the limits of allowable regulation of the freedom of expression and the freedom of assembly.

The assessment asserts that there has been a significant improvement in the relationship between the government and CSOs, from the Marcos era until the current period. From a mostly adversarial nature, the relationship between the government and most CSOs has evolved into one of critical engagement and cooperation, and, in many areas, partnership. Government transparency and accountability has greatly improved, compared to previous years, but these aspects of governance are seen as largely dependent on the people in government, and the leadership of the President, the government office involved, or the local chief executive. Some participants of the focus group discussions have expressed the reservation that, while many consultative and participatory processes are now in place, CSO-government relationship has remained as mostly superficial, with many government agencies conducting token consultations, only to comply with the mandatory requirements. There is a need, therefore, for continuing assertion on the part of CSOs on the right to participate in policy-making, implementation, and monitoring. The recent rules concerning CSOs' access of government funds is widely seen, not only as adversely affecting CSO financial sustainability, but more significantly, as impeding CSO-government relations. The rigid requirements are seen as disincentives for the reception of government funds, hence, limiting potential cooperation opportunities.

Complementing the generally positive assessment of CSO-government relations is the vibrant cooperation and coalitions among CSOs, which is seen as a major strength of Philippine CSOs and a key enabler for their operations. CSO networks, coalitions and federations have proven to be an effective mechanism not only for CSOs to work together among themselves, but also for CSOs' collective engagement with the government and other stakeholders, such as donor agencies.

Among the eight dimensions covered in this study, taxation is viewed as the most problematic dimension. While the impact on the operation of CSOs is not considered very significant, taxation remains a major area of concern due to the lack of clarity in the application of tax laws and rules with respect to CSOs.

Combined together, the assessment of the eight dimensions support the overall finding that, in the Philippines, the legal, regulatory, and policy environment in which CSOs operate is generally positive, encouraging and allowing civil society to operate

and enabling them, as individual organizations and collectively, to continue their significant contribution to the country's governance and development.

During the National Consultation, the participants have identified the following as key challenges that must be addressed by future advocacy:

1. The Securities and Exchange Commission's (SEC) limited field offices.
2. The non-recognition by some Bureau of Internal Revenue (BIR) field offices of the registration issued by the Department of Labor and Employment (DOLE) to labor unions and workers' associations.
3. The uniform application of the requirements and processes for registration and reporting, without appropriate distinction on the nature, size, and level of operations of CSOs.
4. The lack of capacity of the regulatory agencies to conduct a prompt review of submitted reporting requirements, preventing them from giving timely information on the CSOs' deficiencies and non-compliance.
5. The difficult process of accreditation for CSOs in accessing government funds.
6. The absence of a shared repository of information on CSOs among government agencies.
7. The lack of clarity and consistency in the formulation, interpretation and implementation of tax exemption rules for CSO.
8. The absence of a general framework and set of guidelines for government-CSO relations, especially with regards to regulation and accreditation, provision of financial and non-financial support, and formulation of rules affecting CSOs and CSO operations.

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ANNEX 1. ASSESSMENT MATRIX

* *Green (enabling), yellow (partially enabling), red (impeding)*

1. FORMATION OF CIVIL SOCIETY ORGANIZATIONS

Question	Flag
a. Factual Questions	
1. What legal instruments (laws, regulations, decrees, etc.) currently govern(s) the formation of Civil Society Organizations (CSOs)?	Few legal instruments; some overlap in regulatory regimes
2. Who is legally permitted to serve as a CSO founder? Who is excluded from serving as a founder?	Minimal eligibility requirements (e.g., residency of founders)
3. What minimum number of individuals is required to form a CSO? What are the requirements of membership?	5-10 minimum members ²¹⁸
4. What procedures are required to register/incorporate a CSO? (A comparison can be made with registering business entities.)	Minimal registration procedures; comparable with registration of for-profit legal entities (this was raised as an issue - there should be a more simplified process for CSOs)
5. Is there a minimum capitalization requirement to register a CSO?	Nominal minimum capitalization requirement for most CSOs; higher capitalization requirement for foundations
6. What are the specific grounds for rejecting a CSO's application for registration/incorporation? Are such grounds sufficiently detailed?	Minimal, clearly defined grounds for rejecting a CSO's application
7. Must CSOs adhere to certain categories of purpose before being allowed to form; or are some CSOs with certain agendas (human rights protection or democracy-promotion, for example) forbidden from forming?	In general, any purpose. No restrictions on CSO's purpose
8. Can registration decisions be appealed? If so, how frequently are registration decisions appealed? What are the results?	Clear, available means for unbiased appeal
9. What documentation is required for a CSO's incorporation/registration?	Extensive documentary requirements (e.g., minutes of founders' meeting, ministerial certification, detailed statement of purpose/activities)
10. Are CSOs required to regularly renew their registration?	In general, extension of term needed upon expiration of original term, which can be for 50 years
11. What registration fees are required?	Nominal registration fees
12. What is the approximate cost to register a CSO, and how long does the process typically take?	Nominal registration costs; clear deadlines in the law
13. How many CSOs are currently registered?	261,762 registered CSOs (164,000 non-stock non-profit corporations; 58,019 labor unions and workers' associations; 24,652 cooperatives; 15,091 homeowners' associations)
14. Are there draft laws or regulations that, if adopted, would restrict or, alternatively, ease the formation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None

²¹⁸ Except in case of cooperatives, where there is a requirement for 15 or more members, and in the case of independent labor unions, where 20% of the total employees in the bargaining unit must be members.

b. Perception Questions	
1. Is the entity responsible for registering CSOs sufficiently funded and staffed?	Some lack of capacity/resources
2. Is registration easily accessible? E.g., are there sufficient locations/centers around the state for registering CSOs, or is the process all done electronically?	Registration difficult to access for some CSOs (SEC needs to establish more field offices)
3. What non-legal and non-governmental barriers, such as slow or ineffective bureaucracies, inability to access funds, or difficulty buying/leasing property, affect the formation of CSOs?	Some non-legal and/or non-governmental barriers to formation
4. To what extent is there a perception of excessive discretion, favoritism (political, ethnic, religious, etc.), and/or corruption in the registration process?	None

2. OPERATION OF CIVIL SOCIETY ORGANIZATIONS

Question	Flag
a. Factual Questions	
1. What law(s) directly govern(s) the operation of CSOs? Do any other laws affect or influence the operation of CSOs?	Few enabling laws; some overlap in regulatory regimes
2. Are CSOs required to notify the government of any meetings? If so, of each meeting or only key meetings? Are they required to notify the government of the list of candidates for the board of directors? Of the results of elections?	Minimal required notification
3. Are CSOs required to submit periodic reports to the government? What kind of reports – e.g. activity or financial reports –, and how often?	Annual reports required; uniform rules apply, regardless of size of CSO
4. Are CSOs required to periodically report to the government for any other reasons? What reasons and how often?	No/minimal other reporting
5. Are CSOs subject to government audits or inspections? How often, and what types?	No annual government audits
6. What types of information are CSOs required to publicly disclose?	No/minimal other disclosure required
7. What administrative requirements affect the operation of CSOs?	Minimal administrative requirements
8. Are CSOs mandated to align their activities with governmental priorities as defined in national development plans?	No alignment required
9. On what grounds is the government legally permitted to terminate or dissolve a CSO? Is there an opportunity to appeal this decision?	Very limited grounds for termination/dissolution; sufficient opportunity to unbiased appeal
10. On what grounds can a CSO be voluntarily dissolved?	Some limitation on voluntary dissolution
11. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease - the operation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None
b. Perception Questions	
1. What level of oversight does the government have over CSOs? Extensive, moderate, or light?	Light oversight generally
2. In practice, do the legal and administrative requirements referred to above act as impediments to the productive operation of CSOs? Are they helpful to the daily operation of CSOs?	Legal and administrative requirements do not act as impediments
3. Are there non-legal grounds that, in practice, the government uses or cites to terminate or dissolve a CSO? In practice, how have such terminations been conducted: according to the law or otherwise?	None
4. Is there a history of state harassment of CSOs for allegedly not adhering to administrative and/or legal requirements? Is there a history of state harassment of CSOs for other reasons or in general?	None

3. ACCESS TO RESOURCES

Question	Flag
<i>General questions about the funding environment</i>	
a. Factual Questions	
1. Which financial resources do CSOs have legal access to: State funds? Earned income? Donations? Foreign donor funding? Other?	No limitation on funding; but accessing government funds becoming increasingly difficult
2. What legal barriers hinder access to each of these potential sources of funding?	No legal barriers to funding
3. Do laws and/or regulations prohibit CSOs from distributing profits or otherwise providing inappropriate private benefit to officers, directors, or other insiders?	Clear prohibition on profit distribution, private benefit
4. Upon dissolution or termination, what happens to a CSO's assets? What laws and/or regulations affect distribution of assets upon dissolution?	Few, clear enabling laws on CSO assets after termination/dissolution
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs access to resources? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None
b. Perception Questions	
1. What non-legal and non-governmental barriers hinder access to each of the potential sources of funding for a CSO?	Some non-legal or non-governmental barriers to funding (generally, dwindling funds)
2. How reliable is a CSO's access to legally permissible funds? And how freely available are these funds?	Extremely unreliable, limited availability of funds
3. How much does a CSO's financial sustainability depend on government oversight and approval?	Not at all (Most CSO funds come from private and foreign donors; CSO financial sustainability not dependent on government oversight)
4. How effectively does the legal and policy framework support the mobilization of local resources?	Not at all effectively
5. Does government and donor funding support the full range of CSO programming and activities, including e.g., innovation, policy development and advocacy?	Limited availability of such funds
6. What type of source of funding are CSOs most dependent on?	Mostly private foreign donor funds
7. What is the perceived reliability of different sources of funding? What source of funding is more reliable for CSOs?	A few reliable funding sources
8. Are you seeing any changes in the funding environment at the national level? What are the impacts of any changes on CSOs?	Funding environment significantly deteriorating
<i>Government funding</i>	
a. Factual Questions	
1. Is government funding currently available for CSOs? If so, is it available for any type of CSO or are there special types of CSOs that are supported by the government?	Government funding somewhat available (e.g., from certain departments for certain types of CSOs)
2. In what form and at what levels is government funding available? E.g. are grants, subsidies, institutional (core) support provided at the central level and/or at the local level? Is there a special funding mechanism (e.g. a fund) for CSO support? Are there examples of contracting with the government by CSOs?	Limited government funding options, mostly at the central government level; there are some, although limited, examples of government contracting with CSOs
3. What are the laws, rules and policies currently governing government grants and subsidies of CSOs?	Increasingly restrictive rules on accreditation of CSOs for accessing government funds
b. Perception Questions	
1. To what extent is the legal framework conducive to government	Burdensome rules for government

funding of CSOs? What are specific legal and non-legal barriers to increased, more efficient or more transparent government support?	funding
2. Is the dispersal of government funds seen as predictable, transparent, easily understandable and impartial?	Dispersal of government funds is seen as somewhat unpredictable
3. Has government support decreased or increased within the past years? What is expected in the following years?	Government support decreasing, as a result of restrictive rules
<i>International funding</i>	
a. Factual Questions	
1. Are there different standards/requirements for accessing foreign sources of funding versus domestic sources of funding?	No additional criteria/requirements for foreign funding
2. What are legal barriers to accessing and using foreign resources by a CSO, if any? E.g. is there government notification and/or oversight required to acquire foreign funding? Are there additional reporting requirements when using foreign funding?	No legal barriers to foreign funding
3. Are there bilateral or multilateral agreements in place that affect foreign donors' ability to donate and establish partnerships with CSOs? If yes, what kind of agreements are they (statement of medium to long-term commitment to a relationship; funding framework, etc.)	Bilateral and/or multilateral agreements facilitate access to foreign funding
b. Perception Questions	
1. What non-legal barriers to receiving foreign funds exist in practice?	Some non-legal barriers to foreign funds (e.g. funding sources are not as generous and as flexible, compared to the past two decades; most grants are for short term periods, with very specific coverage, and limitations on eligible expenses)
2. Has the overall state of governance and rule of law in the country affected donor's contribution to CSOs? If so, how?	Overall governance and rule of law encourages donors
<i>Philanthropy</i>	
a. Factual Questions	
1. What are the laws and/or regulations specifically addressing philanthropy?	No law that applies specifically to philanthropy (except the general tax law)
2. Are tax exemptions available to those who engage in philanthropy?	Limited tax exemptions available
3. Are CSOs permitted to be the recipients of both corporate and individual philanthropy?	Yes, under reasonable criteria
b. Perception Questions	
1. Does the legal and regulatory framework encourage philanthropy? If so, how? If not, how?	Somewhat – e.g., tax incentives
2. Is there a philanthropic tradition? What encourages it? What discourages it?	Somewhat; most Filipinos donate funds, but mainly to churches and schools or to families/communities affected by disasters, not to CSOs.
3. Do CSOs regularly fundraise from the domestic public or corporations? Do CSOs have fundraising capacity? Or capacity to diversify their funding?	Somewhat – e.g., there is growing awareness of the importance of domestic fundraising, although very few CSOs have been successful
4. Do individuals regularly donate to CSOs?	No – regular donations are insignificant in the income of most CSOs
5. Do corporations regularly donate to CSOs?	Somewhat – e.g., there are regular donations to corporate foundations (foundations organized by the corporations themselves) and to schools

4. EXPRESSION

Question	Flag
a. Factual Questions	
1. What laws affect a CSO's ability to freely express their opinions? What rights are guaranteed under the existing legal framework, including the constitution, with respect to expression, including access to the Internet?	No/minimal restrictions on CSOs' expression, restrictions in conformity with international norms
2. Which international treaties have been ratified that affect the ability to publicly express oneself? What treaties have been ratified that affect the right to access the Internet?	All relevant treaties have been ratified (UDHR, ICCPR)
3. What laws and/or regulations regulate the content of expression? What restrictions are placed on this content (i.e., restrictions for national security, "fighting words", commercial speech, obscenity)?	Few, clear laws minimally regulate expression in conformity with international norms
4. Are there time, place and manner restrictions placed on expression?	No/minimal time, place and manner restrictions
5. What legal barriers, if any, hinder a CSO's ability to openly express its opinions, particularly on matters critical of government policies?	No/minimal legal barriers to CSOs' expression
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs' freedom of expression? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	After several attempts, the Congress has failed to enact the proposed Freedom of Information (FOI) Act. This law will provide the needed operational framework for the constitutional policy of transparency and disclosure. The proposed law is seen as important for a more effective and meaningful exercise of the freedom of expression, as information on government actions and transactions are indispensable for well-informed citizen action. There have been unsuccessful attempts to amend the libel provisions in the Revised Penal Code, such as House Bill No. 2562 (filed in the 16 th congress, 2013-2016), which proposed to remove the penalty of imprisonment but increase the amount of imposable fine.
b. Perception Questions	
1. What non-legal barriers hinder a CSO's ability to openly express its opinions?	No non-legal barriers
2. Is open criticism of government policies and practices tolerated? What type of criticism is not tolerated? What, historically, has been the reaction of the government to such open criticism?	Public criticism of government is tolerated
3. Are individuals and CSOs aware of their rights with respect to expression? Does the political culture openly support these rights? Or are they actively suppressed regardless of legal protections?	Many individuals and CSOs are aware of their rights; Political culture support freedom of expression

5. PEACEFUL ASSEMBLY

Question	Flag
a. Factual Questions	
1. What laws address the rights to peaceful assembly, including domestic legislation/regulations and international treaties to which the country is a signatory?	Few, clear enabling laws governing assemblies; all relevant treaties have been signed and ratified
2. Are there limits placed on who can assemble? Are groups with certain agendas or orientations forbidden from assembling?	No/minimal limits on who can assemble
3. Are individuals or CSOs planning a strike/protest required to seek permission or notify the government in advance of the strike/protest?	Advance notice always required
4. Are there limits on the time, place and manner that individuals or groups can assemble, strike, protest or otherwise publicly (and peacefully) express their views?	Some limits on time, place and manner of assembly (but only in exceptional cases, when the local government official deems it necessary for public order and safety)
5. How are aggressive/violent demonstrators dealt with in the law and in practice?	Violence is avoided and contained; security response is proportionate
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – individuals and/or CSOs right to peacefully assemble? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	The 16 th Congress (2013-2016) closed without the enactment of the proposed law on public assemblies (House Bill No. 3668 or “The Freedom of Expression Act of 2013” and House Bill No. 3058 or “Revised Public Assembly Act”). Both bills propose that no permit is required for peaceful assembly, and require only a notice or declaration and coordination with the city or municipal mayor where assembly is to be held. There is a likelihood that the same or similar proposals will be filed in the 17 th Congress (2016-2019), but the probability of passage of these proposed laws is low, considering that they are not seen as urgently needed legislation.
b. Perception Questions	
1. Is there a history of government-led violence or aggression against peaceful demonstrators, activists and/or strikers?	Some history of violence or aggression; In many cases, violence usually comes from private business interests
2. In practice, are groups who gather to openly criticize the government through protest, strike or other form of peaceful demonstration tolerated?	Protests are tolerated; Maximum tolerance is the policy

6. GOVERNMENT-CIVIL SOCIETY ORGANIZATION RELATIONS

Question	Flag
a. Factual Questions	
1. To what extent are CSOs permitted to engage in the political (electoral) process? E.g., are they permitted to nominate candidates for public office? Support or oppose political parties/candidates? Fundraise for political parties/candidates? If so, under which conditions?	CSOs generally permitted to engage in political process; few, clear enabling laws governing CSOs and the political process, which establish reasonable limitations
2. To what extent are CSOs allowed to participate in public policy activities? Are they allowed to advocate (campaign) and lobby for legislation? If so, under which conditions?	CSOs allowed to participate in public policy activities; advocacy and lobbying are permitted with no/minimal restrictions
3. What are legal / institutionalized opportunities for CSOs to participate in the decision-making process? E.g., are there open hearings, consultations, multi-stakeholder working groups?	Multiple legal/institutional opportunities for CSOs to participate in decision-making processes on a regular basis
4. To what extent are there compacts, liaison officers, committees, or other similar mechanisms to promote cooperation and communication between government and civil society?	Multiple mechanisms available to promote cooperation and communication between government and civil society
5. Are there draft laws or regulations that, if adopted, would inhibit – or, alternatively, ease – government-CSO relations? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None
b. Perception Questions	
1. In general, what is the nature of the relationship between the Government and CSOs? Contentious? Harmonious? Somewhere in the middle?	Generally harmonious, but a lot depends on the people in government, the CSOs, and the issues
2. Is there regular communication between CSOs and the Government? How can the quality of the dialogue between the Government and CSOs be characterized?	There is regular communication between CSOs and the Government
3. Are the opinions of CSOs taken into account when drafting legislation, or more generally, anywhere in the legislative process?	Relevant CSO opinions are taken into account
4. Are there timely consultations with CSOs in order for them to impact government decisions?	Public consultations are required by law, but sometimes, it is up to the local officials to implement/follow
5. Is there full transparency and accountability for development priorities, strategies, plans and actions by government?	There is some transparency and accountability
6. Do CSOs have a mechanism to dispute or appeal certain government decisions at the central or local level? Is this mechanism a reliable, genuine and effective way for CSOs to voice their dissent to particular government decisions? In practice, has this mechanism been successfully utilized by CSOs to produce a fairer result?	Although mechanisms are available, these are not always reliable
7. Does the Government view CSOs as partners and allies in their own work, or as potential threats to their agenda?	Generally, CSOs are seen as partners
8. Are CSOs capable of participating in a broad range of public policy initiatives and activities, or are they restricted to a narrow range of circumscribed activities?	CSOs need more capacity building for them to engage meaningfully in the available participation mechanisms
9. Have there been any significant changes in relations between civil society and the government in your country in the last two years? If so, please describe these.	Relations between civil society and government have improved significantly, in the last five years
10. Have any global events in the past two years affected state-civil	None

society relations at the national level? (i.e. The Aid effectiveness debate, etc.)	
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7. CIVIL SOCIETY ORGANIZATION COALITION AND COOPERATION

Question	Flag
a. Factual Questions	
1. Do(es) the law(s) governing CSO operations similarly regulate coalitions of CSOs working together? Does the law(s) allow or prohibit such groupings? Does it encourage or hinder without outright prohibiting such groups?	Few, clear enabling laws facilitate coalitions; generally, the rules on registration cover coalitions
2. Are domestic CSOs legally able to partner with foreign CSOs, and vice versa? If not, what are the conditions for cooperation? What level of government oversight/notification is required, if any, for such alliances?	International partnerships are allowed or facilitated
3. Are coalitions, platforms or similar voluntary groups of CSOs, common? Are such coalitions often found working together for a common agenda?	Coalitions are widespread and mostly effective
4. Have CSOs adopted any means of voluntary self-regulation? ²¹⁹ If so, please describe this shortly.	Voluntary self-regulation is done through coalitions; PCNC can also be considered a self-regulation mechanism, but viewed mostly as a tax incentive mechanism
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSO cooperation or coalition-building? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None
b. Perception Questions	
1. What is the nature of the relationship between and among CSOs? Are they able and willing to cooperatively work with one another? Are there certain sectors (e.g. environment, women, human rights etc.) where this is more typical than others?	CSOs are generally cooperative and open to collaborative work with other CSOs through coalitions

²¹⁹Here self-regulation generally refers to the Istanbul Principles: <http://www.cso-effectiveness.org/istanbul-principles,067>. Please specify any other form of self-regulation that you may include.

8. TAXATION

Question	Flag
a. Factual Questions	
1. What taxes are imposed on the income of CSOs? Do they affect their earned income, grants, investments, or purchased goods and services?	Multiple, somewhat unclear tax laws/regulations; non-economic income may be taxed - regulations allow for government discretion in determining taxable income
2. Are CSOs subject to VAT and customs taxes?	Yes; regulations are unclear, allowing for government discretion
3. Are CSOs subject to local taxes, fees or charges, in addition to federal taxes? Are any other level of taxes imposed (regional or state taxes, for example)?	CSOs are generally tax exempt, or are eligible to receive tax exemptions (e.g. based on charitable activities)
4. What are the tax and regulatory requirements on CSOs that engage in economic activities?	Multiple, somewhat unclear tax laws/regulations on CSO economic activities; economic activities are generally taxed with minimal exemption
5. Are tax exemptions granted to all CSOs? Are only certain categories of CSOs granted tax exemptions?	Exemptions are available to all CSOs, but criteria and procedures for receiving exemptions are unclear/discretionary and slow
6. Are there draft laws or regulations that, if adopted, would affect the taxation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	None
b. Perception Questions	
1. Have taxes been used by the state as a form of repression of CSOs practices? If yes, how so?	No
2. Is CSOs financial sustainability affected by taxes, duties and/or fees? Do taxes, duties and/or fees facilitate or impede CSOs in achieving sustainability in their finances?	No significant effect on financial sustainability
3. To what extent are the tax laws/ regulations enforced? Are taxes regularly paid? What is the capacity of the government to enforce tax payments?	Government struggles to enforce tax laws/regulations and payments; paying taxes is a cumbersome process

ANNEX 2. Members of the Expert Advisory Panel (EAP)

The members of the Expert Advisory Panel (EAP) are the following:

- 1) **Ma. Fe V. Mendoza** – Dean, National College of Public Administration and Governance, University of the Philippines (UP NCPAG)
- 2) **Benedict Balderrama** – National Coordinator, Partnership of Philippine Support Service Agencies (PHILSSA), a national network of NGOs focusing on socialized housing and urban development
- 3) **Raul Socrates Banzuela** – National Coordinator, Pambansang Kilusan ng mga Samahang Magsasaka (National Confederation of Peasant Organizations) or PAKISAMA
- 4) **Helen Orande** – Executive Director, League of Corporate Foundations (LCF), a nationwide association of corporate foundations
- 5) **Marissa Camacho** – former Chief of Party, Strengthening CSOs in the Philippines Project, USAID and Ayala Foundation led consortium of CSOs, and, currently, Vice President for Partnerships, Ramon Magsaysay Awards Foundation
- 6) **Max De Mesa**, Chairperson, Philippine Alliance of Human Rights Advocates (PAHRA)
- 7) **Andrea Maria Patricia M. Sarenas** – Chairperson, Mindanao Coalition of Development NGO Networks (MINCODE) and former Chairperson of CODE-NGO (until February 10, 2016).

ANNEX 3. List of Participants in the Focus Group Discussions (FGDs) and National Consultation



Enabling Environment National Assessment - FGD

LUZON - CSOs

January 20, 2016

Participants: 10; Secretariat and ALG - 5

Name		Organization	Designation
1.	Arturo Nuera	People's Alternative Study Center for Research and Education in Social Development (PASCRES)/ Urban Poor Alliance (UP ALL)	Executive Director
2.	Caring Corridor	Philippine Partnership for the Development of Human Resources in Rural Areas (PHILDHRA)	National Coordinator
3.	Joy Banares	Coalition for Bicol Development (CBD)	Regional Coordinator
4.	Joyce Binalla	League of Corporate Foundations (LCF)	Program Officer
5.	Luis Morales	Philippine Council for NGO Certification (PCNC)	Executive Director
6.	Malou Navio	Scope Foundation/ NCSD	Executive Director
7.	Vitaliano Nanagas III	International Center for Innovation, Transformation and Excellence in Governance (INCITEGov)	
8.	Rhea Aguilar	Partnership of Philippine Support Service Agencies (PHILSSA)	Partnership Coordinator
9.	Salve Basiano	National Anti-Poverty Commission (NAPC) – Senior Citizens	Sector Representative
10.	Elizabeth Yang	Pilipina – Kilusan ng Kababaihang Pilipina	National Coordinator
11.	Marlon Manuel	Alternative Law Groups (ALG)	National Coordinator
12.	Rene Clemente	ALG	Program Officer
13.	Dodo Macasaet	Caucus of Development NGO Networks (CODE-NGO)	Executive Director
14.	Roselle Rasay	CODE-NGO	Deputy Executive Director
15.	Mikee Gubanco	CODE-NGO	Program Assistant



Enabling Environment National Assessment - FGD

LUZON - Government

February 3, 2016

Participants: 21; Secretariat and ALG - 6

Name		Organization	Designation
1.	Leonora S. Tandoc	Securities and Exchange Commission (SEC) – Monitoring Division	Assistant Director
2.	Mariz Maristela	Department of Social Welfare and Development (DSWD)	Director IV
3.	Gerardo Lobo	Local Government of Quezon City – Community Relations Office	Community Affairs Officer III
4.	Hernani Panganiban	Presidential Commission for the Urban Poor (PCUP)	Chairman
5.	Jaime Varela	PCUP	Executive Assistant
6.	Khristine Lorraine M. Cacatian	Commission on Human Rights (CHR)	Information Officer III
7.	John Lemuel B. Lerum	CHR	Special Investigator I
8.	Ivy Cheri R. Lademora	Commission on Audit (COA) - Project Management Office	Administrative Officer V
9.	Ma. Ramona L. Jimenez	COA - Project Management Office	Supervising Administrative Officer
10.	Reynaldo Dingal	National Commission on Indigenous Peoples (NCIP)	Chief Administrative Officer
11.	Haydee Toledo	Department of Budget and Management (DBM) - CSO Desk	
12.	Gloria Apresto	Housing and Land Use Regulatory Board (HLURB)	
13.	Benjie Ramos	HLURB	



14.	Rex Recote	Bureau of Internal Revenue (BIR)	
15.	Orlando Ravanera	Cooperative Development Authority (CDA)	Chairperson
16.	Luis Morales	Philippine Council for NGO Certification (PCNC)	Executive Director
17.	Leonardo Joarizo	Office of the City Mayor - Quezon City	ICDO
18.	Xarina Dominique David	National Economic and Development Authority (NEDA)	Economic Development Specialist (EDS)
19.	Ramon Paul Falcon	NEDA	Chief EDS
20.	Dulce Paloma	NEDA	Senior EDS
21.	Philip Latoreno	Quezon City – Civil Society Organization	
22.	Marlon Manuel	Alternative Law Groups (ALG)	National Coordinator
23.	Rene Clemente	ALG	Program Officer
24.	Dodo Macasaet	Caucus of Development NGO Networks (CODE-NGO)	Executive Director
25.	Roselle Rasay	CODE-NGO	Deputy Executive Director
26.	Tanya Zaldarriaga	CODE-NGO	Program Officer for Membership
27.	Mikee Gubanco	CODE-NGO	Program Assistant



Enabling Environment National Assessment - FGD

VISAYAS - CSOs

January 21, 2016

Participants: 11; Secretariat and ALG - 3

Name		Organization	Designation
1.	Emmanuel Arenó	Iloilo Caucus of Development NGOs, Inc. (Iloilo CODE)	Executive Director
2.	Mary Jane Homena	Western Visayas Network of NGOs (WEVNET)	Regional Project Coordinator
3.	Ted Aldwin Ong	Freedom from Debt Coalition (FDC)	Secretary General
4.	Eveline Jover	Iloilo People's Habitat Foundation	Executive Director
5.	Wilfredo Homicillada	Participatory Research Organization of Communities and Education towards Struggle for Self-reliance Foundation (PROCESS) – Panay	Executive Director
6.	Febie Ibojos	Signpost – Philippines	Director
7.	Romeo Villanueva	Highly Urbanized City Agriculture and Fishery Council of Iloilo City	Chairman
8.	Joy Palmada	Pavia Entrepreneurs Multi-purpose Cooperative	BOD Chairperson
9.	Ricardo Saradpon	Family Planning Organization of the Philippines (FPOP)	
10.	Lina Bungalso	Bubong Ilonggo	President
11.	Rogelio Elosendo	Ati Tribe Mission, Inc.	President
12.	Marlon Manuel	Alternative Law Groups (ALG)	National Coordinator
13.	Rene Clemente	ALG	Program Officer
14.	Tanya Zalदारriaga	Caucus of Development NGO Networks (CODE-NGO)	Program Officer for Membership



Enabling Environment National Assessment - FGD

VISAYAS - Government
January 22, 2016
Participants: 7; Secretariat and ALG - 3

Name		Organization	Designation
1.	Dir. Rebecca Palma-Geamala	Department of Social Welfare and Development (DSWD)	Regional Director
2.	Atty. Arnel Agrasada	Cooperative Development Authority (CDA)	Regional Director
3.	Dir. Ponciano Ligutom	Department of Labor and Employment (DOLE)	Regional Director
4.	Romel Genodia	Housing and Land Use Regulatory Board (HLURB)	
5.	Dino Nuñal	Department of Agriculture (DA)	
6.	Remia Aparri	Bureau of Fisheries and Aquatic Resources (BFAR)	Regional Director
7.	Emmanuel Areno	Western Visayas Network of NGOs (WEVNET)	Executive Director
8.	Marlon Manuel	Alternative Law Groups (ALG)	National Coordinator
9.	Rene Clemente	ALG	Program Officer
10.	Tanya Zalदारriaga	Caucus of Development NGO Networks (CODE-NGO)	Program Officer for Membership



Enabling Environment National Assessment - FGD
MINDANAO - CSOs
January 14, 2016 - Morning
Participants: 11; Secretariat and ALG - 3

	Name	ORGANIZATION	Designation
1.	Alfredo Latasa	Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHERRA) - Mindanao	MDO
2.	Fr. Emmanuel Cifra	Kahugpongan sa Mindanaw (KAMI) / San Lorenzo Ruiz Socio-Economic Development Foundation, Inc. (SALORSEDFI)	President
3.	Rex Anthony Obias	SALORSEDFI	Community Organizer
4.	Amelia Posas	SALORSEDFI	Technical Staff
5.	Marc Majala	Sentro ng Alternatibong Lingap Panligal (SALIGAN)	Legal Staff
6.	Raizsa Mae Anayatin	Mindanao Coalition of Development NGO Networks (MINCODE)	Executive Director
7.	Erlinda Loreto	MINCODE	OAC
8.	Elizabeth Suez	Mindanao Alliance of Self-Help Societies – Southern Philippines Educational Cooperative Center (MASS-SPECC)	Officer
9.	Michael Ibanez	Sentro sa Maayong Magbalantay, Inc.	Davao Coordinator
10.	Louise Lampon	Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA) – Mindanao	Regional Coordinator
11.	Richie Flores	El Grande Multi-purpose Cooperative	
12.	Rene Clemente	Alternative Law Groups (ALG)	Program Officer
13.	Marlon Manuel	ALG	National Coordinator
14.	Celia de Jesus	Caucus of Development NGO Networks (CODE-NGO)	Program Officer



Enabling Environment National Assessment - FGD

MINDANAO - Government
January 14, 2016 - Afternoon
Participants: 7; Secretariat and ALG - 3

Name		Organization	Designation
1.	Neilallan Baban	Department of Labor and Employment (DOLE)	Chief, LED
2.	Dale Canezal	Institute for Socio-Economic Development Initiatives – Ateneo de Davao	Research Assistant
3.	Atty. Paula Hope Chamen	Securities and Exchange Commission (SEC)	Securities Counsel
4.	Antonio Escobar	Cooperative Development Authority (CDA)	Senior Cooperative Development Specialist
5.	Elvie Jabines	National Commission of Indigenous Peoples (NCIP)	Engineer III
6.	Beverlie Montebon	Bureau of Internal Revenue (BIR)	Revenue Officer III
7.	Peter Neil Arendain	Commission on Human Rights (CHR)	Information Officer II
8.	Rene Clemente	Alternative Law Groups (ALG)	Program Officer
9.	Marlon Manuel	ALG	National Coordinator
10.	Celia de Jesus	Caucus of Development NGO Networks (CODE-NGO)	Program Officer



Enabling Environment National Assessment

National Consultation

March 18, 2016

Participants: 39; Secretariat and ALG - 8

Name		Organisation	Designation
1.	Mary Beth Ricafrente	Department of Interior and Local Government (DILG)	Planning Officer II
2.	Khristine Lorraine Cacatian	Commission on Human Rights (CHR)	Information officer III
3.	Artemio Guzman	Cooperative Development Authority (CDA) – Cooperative Project Development and Assistance Division	Division Chief
4.	Marian Ferreras	Department of Budget and Management – Civil Society Organization Desk	PDG III
5.	Oliver Larion	Local Government Academy (LGA)	
6.	Richard Villacorte	DILG - Grassroots Participatory Budgeting Project Management Office	Assistant Project Manager
7.	Paul Paraguya	National Anti-Poverty Commission (NAPC)	NGO Sectoral Representative
8.	Fernando Aldaba	Kasagana-Ka Development Center, Inc.	Chairperson
9.	Benedict Balderrama	Partnership of Philippine Support Service Agencies (PHILSSA)	National Coordinator
10.	Raul Socrates Banzuela	Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)	National Coordinator

11.	Caridad Corridor	Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRRA)	National Coordinator
12.	Jodel Dacara	Ibon Foundation	Membership Engagement Officer
13.	Judylyn Joven	Kasagana-Ka Development Center, Inc.	Chief Operating Officer
14.	Fe Mendoza	University of the Philippines National College of Public Administration and Governance (UP NCPAG)	Dean
15.	Arturo Nuera	People's Alternative Study Center for Research and Education in Social Development (PASCRES)/ Urban Poor Alliance (UP ALL)	Executive Director
16.	Tessa Oliva	Green Convergence	Summit Coordinator
17.	Helen Orande	League of Corporate Foundations (LCF)	Executive Director
18.	Peter Perfecto	Makati Business Club (MBC)	Executive Director
19.	Emy Santos	National Confederation of Cooperatives (NATCCO)	Group Head for Member Relations and Networking
20.	Corazon Siya	National Council of Social Development Foundation of the Philippines, Inc. (NCSD)	Board Member
21.	Randy Tuaño	Human Development Network	
22.	Onopre Haber	Coalition for Bicol Development (CBD)	Auditor
23.	Agnes Bolanos	Mindanao Coalition of Development NGO Networks (MINCODE)	Board Member
24.	Aldwin Empaces	Central Visayas Network of NGOs (CENVISNET)	Regional Coordinator
25.	Arthur Neame	Balay Mindanaw Foundation, Inc. (BMFI)	Representative
26.	Andrea Maria Patricia Sarenas	Mindanao Coalition of Development NGO Networks (MINCODE)	Chairperson
27.	Glenda Vader	Coalition for Bicol Development (CBD)	Vice Chairperson

28.	Satoshi Yasuda	Caucus of Development NGO Networks (CODE-NGO)	Intern
29.	Nilda Loresto	Philippine Business for Social Progress (PBSP)	M&E Coordinator
30.	Carlos Palileo	Securities and Exchange Commission (SEC)	Examiner II
31.	Lorena Kanoy	Department of Interior and Local Government (DILG)	PEO III
32.	Ted Aldwin Ong	Western Visayas Network of NGOs (WEVNET)	Executive Committee Member
33.	Lot Felizco	Christian Aid	Country Manager
34.	Edlyn Burgonio	ERDA Foundation	Communication & Social Marketing Manager
35.	Angelica Mallorca	Commission on Human Rights (CHR)	Administrator
36.	Ernesto Prieto	Alliance of Workers in the Informal Economy/Sector - National Anti-Poverty Commission – Workers in the Informal Sector Council	Council Member
37.	Marilyn Betis	Alliance of Workers in the Informal Economy/Sector - National Anti-Poverty Commission – Workers in the Informal Sector Council	Council Member
38.	Randy Oliva	Green Convergence	PR Promo Head
39.	Paulina Nayra	Eastern Visayas Network of NGOs and POs (EVNET)	Executive Director
40.	Marlon Manuel	Alternative Law Groups (ALG)	Executive Director
41.	Rene Clemente	ALG	Program Officer
42.	Sixto Donato Macasaet	Caucus of Development NGO Networks (CODE-NGO)	Executive Director
43.	Roselle Rasay	CODE-NGO	Deputy Executive Director
44.	Tanya Faye Zaldarriaga	CODE-NGO	Program Officer for Membership



45.	Celia De Jesus	CODE-NGO	Program Officer for Knowledge Development and Management
46.	Renee Karunungan	CODE-NGO	Program Officer for Advocacy
47.	Mikee Gubanco	CODE-NGO	Project Assistant