



National Assessment of the Enabling Environment of CSOs in Honduras

Participatory Evaluation of Civil Society Organizations

The national assessment of the enabling environment for Civil Society Organizations is a participatory process in which CSOs, academics, government representatives and other stakeholders participate in order to build a vision on the context in which civil society operates in ten dimensions developed by CIVICUS and ICNL.

Translated from Spanish

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Acknowledgments: We thank all civil society representatives and key stakeholders that have contributed to this evaluation.



Federation of Nongovernmental Organizations for the Development of Honduras (FOPRIDEH):

FOPRIDEH is an institution constituted by more than 69 private non-profit organizations, which have territorial coverage in all 18 departments of the country and work with different age groups: children, youth, adults and seniors. FOPRIDEH's main purpose is to promote and to contribute to the fair, equitable and sustainable development of Honduras; through the strengthening of its member organizations with work of national advocacy, intended to promote a progressive change in the quality of life of human beings, based on the values of ecological balance, respect for ethnic and cultural diversity and a peaceful and harmonious coexistence with nature.



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

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

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ABBREVIATIONS AND ACRONYMS

FOPRIDEH: Federation of Nongovernmental Organizations for the Development of Honduras

EENA: Enabling Environment National Assessment

CSOs: Civil Society Organizations

NGDO: Non-governmental Development Organization

OPDF: Private Financial Development Organization

SDHJGD: Secretariat of Human Rights, Justice, Interior and Decentralization

URSAC: Registry and Tracking Unit of Civil Associations

SEFIN: Secretary of Finance

DGCFA: Directorate General of Customs Control

DEI: Executive Directorate of Revenue

SW: Single Window

SEDIS: Secretary of Social Development and Inclusion

ST: Sales Tax

IT: Income Tax

TGR: General Treasury of the Republic

Introduction

Honduras has a varied and defined legal structure for the recognition of legal entities, organized for a particular social purpose or to satisfy those unmet needs of Honduran society. The objective is to contribute to the development of people and of the nation. Due to the changing democratic structure of the Government, it must be complemented by an organized society of people, who share the goal of human satisfaction and civic construction.

There is a universe of Civil Society Organizations (CSOs), classified according to its purpose and legal nature. There are 12,473 organizations recognized and registered by the State of Honduras, these are classified as local development associations, cultural associations, sports associations, ethnic associations, religious associations, various organizations (NGDOs), neighborhood committees, foundations, water administration boards, private financial organizations, trusts, incorporations of international organizations and networks of civil associations.

That is the reason why the Enabling Environment National Assessment (EENA), developed by CIVICUS and ICNL and implemented in partnership with FOPRIDEH, who act as observers of civil society organizations - whose aim is to analyze the attainment of rights of Civil Society Organizations on the continent.

This report presents us with an overview of ten assessment dimensions related to the Enabling Environment for CSOs in the country. This includes six mandatory dimensions, as well as four selected optional dimensions. In this report all ten dimensions will be analyzed, and pertains to all CSOs in the country: community organizations established under the Law of Boards and Community Organizations and development organizations regulated by the Private Financial Development Organizations Act.

As requested, each mandatory dimension must be defined according to the country context and the legal structure that regulates the rights and obligations of CSOs. In the same way, the optional dimensions were discussed, conceptualized and assigned a degree of importance and relevance within country context. Therefore, the separate dimensions are classified in a hierarchical fashion as follows: **Legal**, which conceptualizes

the operation and locates the legal institutions of the country; **Management**, which conceptualizes the access to public information, cooperation and coalition between CSOs and tax obligations; in **Organization**, formation and operation, human resources, access to resources and financing capacity are conceptualized and finally, **Communication** relates to the access and use of media and social media, transparency, accountability, relationships between government and CSOs and the capacity of CSOs to assemble.

To accomplish the above, a research protocol was first defined. To assess each dimension, **qualitative and quantitative** research methods were used.

A representative sample of respondents was used to capture the perception of CSOs and the classification of each dimension, according to the questions proposed in the EENA Research, in addition to questions, considered relevant to the national interest, which strengthened the research. These three sources of information were analyzed and formed the basis of a desktop report, considered as the legal basis to the rights and the environment for CSOs. The second focus group, composed by a sample of participants from different regions of the country, evaluated each dimension and shared their experiences of the regional realities and, finally, interviews were conducted of key stakeholders, as suggested in the outline of the evaluation.

Methodology

Methodological Concepts of the Evaluation

Following the Research Guide proposed by CIVICUS and ICNL, a local sample was selected in order to evaluate the national enabling environment for CSOs. The sample was composed by representatives from seven different types of civil society organizations, which are non-Governmental Organizations (NGOs), Boards of Trustees, Water Administration Boards, Citizen Transparency Commissions, Private Financial Development Organizations, Municipal Committees on Education and Agricultural Production Cooperatives; reflecting the territorial and municipal logic and the satisfaction of the people. Within these CSOs are the people, who drive them, learn how to advocate, manage, discuss, propose, plan

and conduct citizen oversight activities of state policies and legislation at the different levels of government.

The sample was selected by defining the CSOs to be surveyed for this evaluation as follows: ***those CSOs that act at the local, regional or national level; satisfying a collective need of people living on the territory where it operates as a society; representing its population and participation in - at a regional level - networks and thematic round tables.***

This definition stems from the EENA Research Guide, in which a combination of local, regional and national perceptions is prescribed, to study the leaders of these organizations within their environment and to identify the weaknesses, as to identify possible advocacy activities in order to achieve the objective of ***strengthening the participation of civil society organizations in the development of a country.***

Methodological Aspects of CSOs Focus Groups

Five types of organizations in the municipalities of Honduras can be distinguished:

- Community Organizations: Water Administration Boards and Boards of Trustees;
- Local civil society organizations working with age groups and vulnerable groups in philanthropic and development activities, divided into associations, foundations and all kinds of Non-Governmental Organizations (NGOs);
- Municipal Education Council COMDE;
- Citizen Commission on Transparency;
- Agricultural Production Cooperatives.

The subjects of education, health, production, water and social management for collective needs are covered by the above. These types of organizations are commonly found at the municipal level, recognized by law in described themes and how to address challenges, unmet social needs, government policies, legislation and municipal regulations.

These organizations are also actively involved in consultations, such as open town meetings or thematic round tables, organized by municipal authorities. This allows them to have access to public information and to

have an impact on the investment actions taken with the municipal budget in order to satisfy their needs.

In this sense of the recognition to participate in government spaces, and in some cases to be part of a delegation assigned to run municipal or national funds (for social projects), a legal personality of the organization is required, ensuring accountability of the delegated tasks to the State and society.

In order to apply the above described research methodologies, a sample representative of all types of citizens involved in these CSOs is necessary; such as women, youth, indigenous peoples, people with disabilities, people who represent children in CSOs, sexual diversity and the elders.

These are all involved in CSOs and normally, they also participate in networks and thematic round tables for regional development. This citizen engagement allows people to view issues from different perspectives and experiences, thus improving advocacy, which is needed in the relationship with the government at the different territorial levels.

Methodological aspects for Key Informants

As defined in the EENA Research Guide, interviews with key informants need to be conducted. Key informants include workers or managers of CSOs, academics researching civil society, journalists covering civil society issues, government officials working in direct contact with CSOs, policymakers, donors or others who have knowledge of CSOs and their environment at the national level.

A broad range of criteria was used for the selection of key informants, considered as primary sources of information, and for the rating of the different aspects of the proposed dimensions. Secondary sources of information was used for an analysis of the Honduran context, federations and other spaces organized by civil society, which gathers representatives of media, government, academia, international organizations and civil society organizations.

Methodological Aspects for the Composition of the Expert Advisory Panel (EAP)

A Panel of Experts, composed of individuals with experience on issues related to civil society, including its enabling environment and the local

context, had the tasks to advise on the selection of the optional dimensions and to review the Country Report and Advocacy Plan.

However, the research team decided to adapt the criteria mentioned in the EENA Research Guide for the establishment of the EAP - to a group of national experts, with experience in the separate dimensions of the environment of CSOs such as the Legal, Operation, Communication and Organization.

These four dimensions composing the environment of the CSOs guided the research, and assisted in defining the categories that EENA Research Guide prescribed.

Sample selection and validation by regions

In order to obtain the information required to assess the enabling environment for CSOs in Honduras, criteria for the validation and selection of the subjects respondents in the sample was set. Two secondary sources were used to obtain the contact information of these subjects: the Department of Registry and Monitoring of Civil Associations (URSAC) of the Secretary of State for Human Rights, Justice, Interior and Decentralization and the second from the following federations: The Civil Society Group (GSC) and the Federation of Non-Governmental Organizations for the Development of Honduras (FOPRIDEH), where CSOs participate, and delegates are registered by region of the country. This validated the sample selection of CSO representatives, who fall in the aforementioned categories and represent the population at the local and regional level.

As mentioned before, secondary sources of information were used for the analysis of the Honduran context, such as information from Federations and spaces organized by civil society, where key stakeholders representing media, government, academia, international organizations and civil society organizations gather.

We take into account the fact that the criteria for each sample are partially defined. For the sample of key informants, a subject is defined as follows:

1. Officials and employees of CSOs;
2. Academics researching civil society;
3. Journalists covering civil society issues;

4. Government officials working in closely with CSOs;
5. Promoters of policies and laws that affect civil society;
6. Donors and representatives of international organizations;
7. Public opinion makers of CSO.

The criteria for participants for the Focus Group Discussions were defined as follows:

1. Citizens
2. Participants or CSO delegates from the above mentioned categories, which participate in regional and national forums;
3. Participants or delegates of any of the demographic groups;
4. Residents of the selected region;
5. Representatives of CSOs and participants in advocacy towards the government.

It was deemed necessary to use multiple filters in combination with the respective criteria in the determination of the samples in the secondary sources. For the official records unit, the first filter was the division of the information by the five regions of the country, the classification of the ones that have had contact with communicators assigned by the Central Government and which bring together networks and thematic round tables – also by region. Additionally, a filter was used for CSOs registered within two periods of management, which correspond to four years, that remain valid to date. Also, another consideration was made regarding whether these CSOs form part of the CSO Federations.

From the records of the CSO Federations we collected information of delegates and representatives of CSOs that participated in Regional Forums, that have received training in political advocacy, that have experience in citizen oversight and social management and the promotion of best practices in access to information, that have knowledge of resource management of resources stemming from international organizations, have knowledge on municipal, budgetary human rights legislation and human resources for CSOs.

Taken into account these aspects, criteria and definitions, a group of 55 respondents for the survey was established, with a backup of 15 respondents, in case a responded needed to be replaced or removed. This backup served for both research methods, namely the focus groups discussions and interviews with key informants.

As noted previously, in terms of qualitative and quantitative research methods, quantitative measurements relate to the perception of the sample respondents on the enabling environment, as outlined by the EENA Research Guide. To do so, conceptual tables were used to group questions under the different dimensions. The EENA Assessment Matrix was used for the rating of and the qualification of aspects of the dimensions of formation of CSOs, operation of CSOs, access to resources, freedom of expression, government- CSOs relations and freedom of peaceful assembly.

Technical Chart

Tool 1: Citizens' rating cards for representatives of CSOs (Focus Group Discussions)

Name of the tool:	Citizens rating cards for representatives of CSO
Objectives:	<ol style="list-style-type: none"> 1. To gather the perception of representatives of CSOs on key aspects of the enabling environment, regarding the processes in the defined dimensions. 2. To give voice to the opinions of representatives of CSOs in Qualification System of the Enabling Environment National Assessments.
Aspects to be assessed with this tool:	<p>Legal:</p> <ul style="list-style-type: none"> • The legislation regarding the recognition of the legal personality • Local Regulations and Standards on the recognition of legal personality • Public policies on CSO participation <p>Management</p> <ul style="list-style-type: none"> • Access to public information • Cooperation between CSOs • Fiscal obligations <p>Organization</p> <ul style="list-style-type: none"> • Operation <ul style="list-style-type: none"> Formation of CSOs Structure of CSOs Human resources Access to resources and funding capacity Continuous capacitation of human resources <p>Communication</p> <ul style="list-style-type: none"> • Expression of CSOs <ul style="list-style-type: none"> Use of the media and social networks Capacity to assemble and convene Transparency and accountability Relations between the government and CSOs

Steps¹:	<ol style="list-style-type: none"> 1. Definition of data collection instruments 2. Planning of the information gathering 3. Pilot testing of the data collection instruments 4. Obtain the sample according to the sample framework used for the evaluation. 5. Implementation of the data collection instruments 6. Progress reports on the data collection from focus group discussions 7. Presence of local and regional organizations supporting the supervision of the fieldwork in their respective departments and municipalities 8. Analysis and preparation of the report 9. Presentation of the results at the Expert Advisory Panel meeting
Who employs the tools:	FOPRIDEH Team.
Target Population:	CSOs representatives selected as sample respondents

Technical Chart

Tool 2: Interviews to key informants

Name of the tool:	Semi-structured interview to key informants
Objectives:	<ol style="list-style-type: none"> 1. To identify the perception of the dimensions of the enabling environment for CSOs 2. To gather evidence on the enabling environment of CSOs by region
Aspects to be assessed with this tool:	<p>Formation of CSOs':</p> <ul style="list-style-type: none"> • Operation of CSOs' at a regional level • Access to resources from the government and international cooperation • Access to public information <p>Freedom of expression of CSOs</p> <ul style="list-style-type: none"> • Structure of CSOs at the regional level • Access to government-CSO relations • The use of media and social networks by CSOs <p>Legal compliance of CSOs</p> <ul style="list-style-type: none"> • Fiscal Aspects of CSOs at the regional level • Access to national records to maintain legal personality • Accountability and transparency of CSOs at the regional level
Steps²:	<ol style="list-style-type: none"> 1. Design of the guide and the interview protocol for interviews with key informants in the regions, for the investigation of the enabling environment of CSOs 2. Training on the use of the tool 3. Validation of the tool 4. Selection of 5 key informants based on the rigorous criteria, representativeness and accessibility

¹ Refers to the needed steps to implement the tool as part of the process, not the steps to apply the tool in general.

² Refers to the needed steps to implement the tool as part of the process, not the steps to apply the tool in general.

	<ul style="list-style-type: none"> 5. Application of the tool 6. Coding of the information obtained 7. Grouping, organization and analysis of information. 8. Preparation of the report 9. Presentation of the results at an Expert Advisory Panel meeting.
Who employs the tools:	FOPRIDEH Team.
Target population:	Key informants from the 5 regions in the country.

As defined above the research/evaluation used three important research methods:

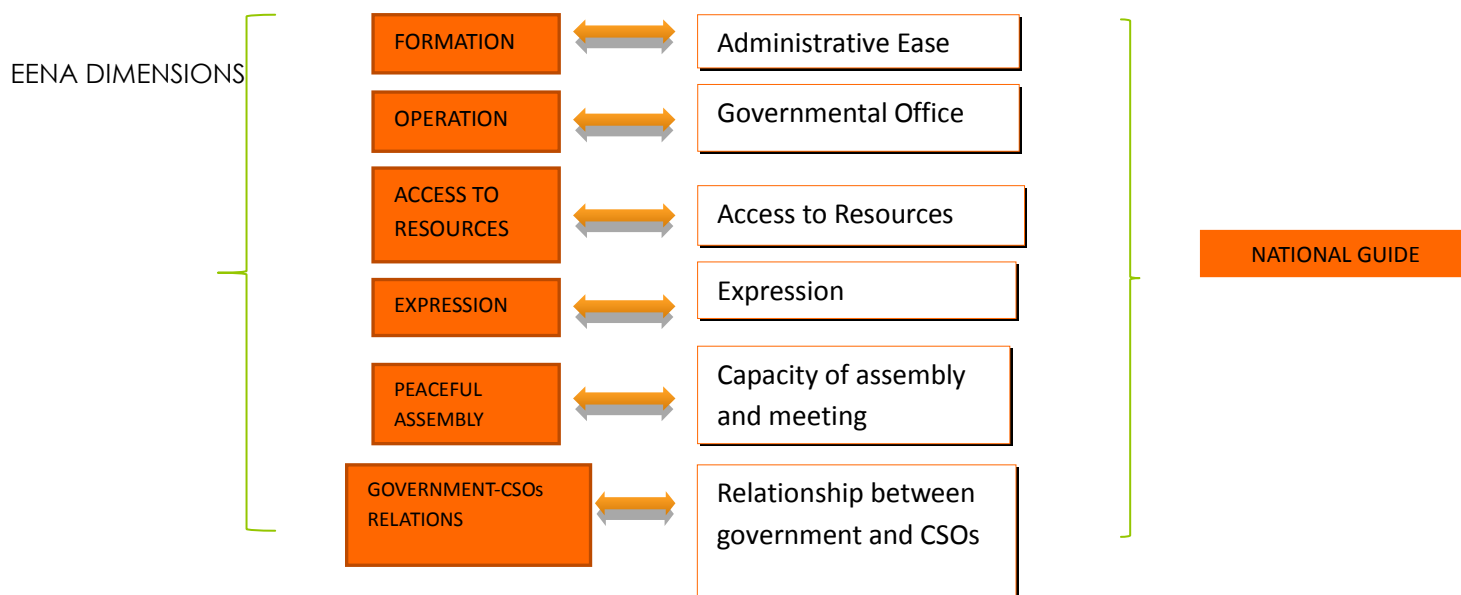
1. Desktop Research: Consisted of the collection of data through literature review and review of current regulations, covering the civil society sector in Honduras. This research method aimed mainly to answer factual questions.

2. Interviews with key informants: Interviews focused on how laws and regulations are applied in practice. Eight (8) interviews were conducted with public officials, legal officers, CSO representatives, CSOs legal analysts/advisors and academics.

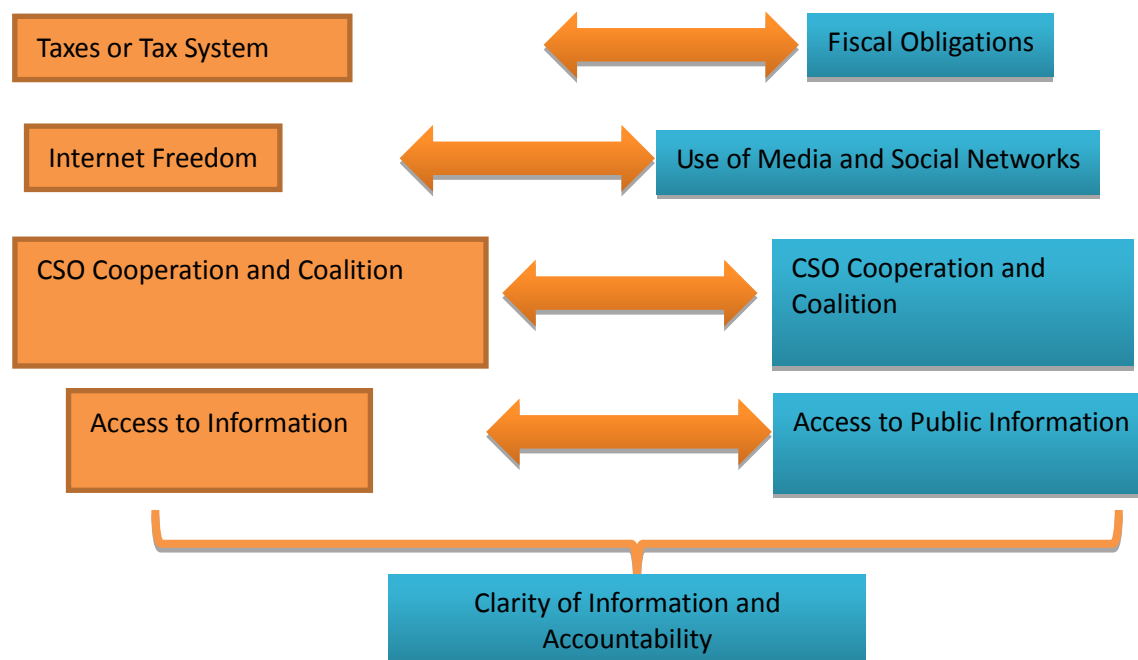
3. Focus Group Discussions (FGDs): three focus group discussions with representatives of CSOs were organized. The first FGD was a pilot test of the tools to be employed. The second and third FGD aimed at obtaining valuable information that enriched the research. The focus groups examined the different dimensions more in-depth and resulted in the gathering of perceptions on the situation of the civil society sector. Preliminary conclusions on the day-to-day operation of the CSOs were drawn. The focus groups were composed of at least 10 participants from different civil society organizations (Water Administration Boards, NGOs, Boards of Trustees, Citizen Commission on Transparency (CCT) and others). All dimensions were analyzed and examined by participants for about five hours with questions intended to generate discussion. The focus group discussions were organized as follows: February 15th in the city of Tegucigalpa, with a total of 12 participants representing four types of the selected organizations and the second session was held in the city of San Pedro Sula on February 20th, with 13 participants representing 4 types of organizations.

4. National Consultation: two National Consultations were held on 6 April and 8 May 2016, in Tegucigalpa and in San Pedro Sula respectively. The objective of these multi-stakeholder dialogues was to present the results obtained through the three layers of data collection, to validate the research findings and to develop an advocacy plan. A total of 60 people – representatives of CSOs, of cooperation and others- participated in those two moments of validation.

The relation between the mandatory dimensions and optional dimensions at the national level



Relations between optional and national dimensions



Mandatory Dimensions

The mandatory dimensions are: **Legal, Management, Organization and Communication for the understanding of CSOs at the national level.** The variables **formation and operation** are within the **Legal dimension**; **access to resources** is within the dimension of **Management**; **peaceful assembly** within the dimension of **Organization**; and finally under the **Communication dimension** we can find the **relationship between CSOs and the government and expression.**

In accordance with the technical charts and the **qualitative and quantitative methodology**, the evaluation was done by an analysis of the perceptions of the respondents on the proposed discussion-generating questions (the perception questions in the EENA Research Guide), which defined the topics of discussion.

For the **Legal Dimension**, which includes the variables of formation and operation of CSOs, the existing regulation clearly states how CSOs are to be formed, including the requirements to grant an association legal personality, who can be a founding member of the association, the different types of organizations and different obligations in terms of registration and taxation.

The EENA Research Guide comprises an assessment matrix, which is a tool designed to assess the collected data within the different dimensions. Red, yellow or green flags are assigned to the collected data on the legal aspects, formation, operation, government-CSOs relations, its institutional interior and finally, the external and internal communication of CSOs.

Within the format outlined by the EENA Research Guide, the factual questions must be separated from the perception questions. The factual questions are answered by conducting desktop research and responses of CSO key stakeholders during the focus groups discussions. As mentioned before, these stakeholders were selected based on information obtained from the database of the Registration and Monitoring Unit of Civil Associations (URSAC). The results obtained in the data gathering process,

comparing the reality of the legal, management, communication and organization dimensions, is outlined in the following sections.

Formation

General Overview

Civil society in Honduras has its roots in the adoption of the Civil Code of 1908 where the creation of a separate legal entity for associations is recognized. Civil society was strengthened in the labor union movements in the 1950s, but did not begin to truly flourish until the 1980s and 1990s, when the concept of civil society in Honduras became part of popular social discourse. At the same time, with the increasing collaboration between several organizations with legal personality, civil society organizations started to work as networks or platforms without the need to obtain or register their actions; however, this type of alliances is recognized by local, regional and national authorities.

Civil society has progressed in its development, despite the tradition of public indifference and the refusal by some members of the government of the recognition of the contribution of civil society to the discussions of public policy. CSOs have managed to increase the space for citizen participation with the current government, at both - executive and legislative - levels. CSOs have grown in numbers, increased the scope of its activities and coordinated its efforts with international funding. Currently, there are many laws in force that provide for the participation of civil society in government functions, either as advisers, implementers, or service providers. For instance, the Framework Law of 2005 on the Integral Development of Youth in the Legislative Decree No.260-2005, integrates two spaces in the youth council where civil society is represented. Another example is the Framework Law on Public Policy on Social Matters and Poverty Reduction by Legislative Decree No.38-2011 (Government, 2014).

According to the database of the Registration and Monitoring Unit of Civil Associations (URSAC), there are 12,473 registered CSOs in Honduras (FOPRIDEH, 2015). These are categorized as follows:

Current URSAC Categories		Number
1	LOCAL DEVELOPMENT ASSOCIATIONS	3,947
2	CULTURAL ASSOCIATIONS	217
3	SPORT ASSOCIATIONS	34
4	ETHNIC ASSOCIATIONS	319
5	RELIGIOUS ASSOCIATIONS	2,034
6	VARIOUS ASSOCIATIONS	2,176
7	NEIGHBORHOOD COMMITTEES	91
8	FOUNDATIONS	627
9	WATER BOARDS	1,563
10	OPDF-PRIVATE FINANCIAL DEVELOPMENT ORGANISATIONS	15
11	BOARD OF TRUSTEES	1,305
12	LEGAL PERSONALITY GRANTED ABROAD-INCORPORATIONS	97
13	CIVIL SOCIETY NETWORKS	48
TOTAL		12,473

Civil society in the country is a powerful and active actor at the local and national level. CSOs undoubtedly favor participatory democracy and promote a genuine rule of law.

The right to freedom of association and assembly is recognized in **article 78** of the Constitution of the Republic of Honduras and by the Legislative Decree 131 dated January 11, 1982. Article 78 clearly states **"freedom of association and assembly is guaranteed, provided they are not contrary to public order and good customs"**. Article 79, additionally, provides that everyone has the right to meet peacefully with others. Other secondary legislation mandates the characteristics of acts contrary to public order, good customs and morals such as the Law of Civic Coexistence, Legislative Decree 226-2001 of the Penal Code, Legislative Decree 144-83.

The constitutional guarantee of the freedom of association is reflected in article 302 of the **Departmental and Municipal Regime** which provides that **"for community purposes, citizens have the right to freely associate in boards, to establish federations and confederations"**.

The laws and regulations that govern the formation of CSOs in Honduras are:

- The Civil Code;
- The Law and Special Rules for the Promotion of Non-Governmental Development Organizations – NGDOs;
- Municipalities Law and Regulations Board of Trustees and Community Partnerships Law;
- The Law on Private Financial Development Organizations;
- Regulations of the Water Administration Boards.

Analysis

As previously mentioned the right to freedom of association and assembly is guaranteed in the Constitution. Additionally, there are relevant international treaties that Honduras has ratified such as the **American Convention on Human Rights (1969) (article 15 and 16) and the International Covenant on Civil and Political Rights (1966) (articles 21 and 22 among others).**

The constitutional guarantee is materialized through secondary laws governing the formation of CSOs. The **Civil Code 1916** is one instrument, where **article 56** states that the following are considered as legal entities: the state and corporations, associations and foundations of public interest, recognized by law. Additionally, there are the associations of particular interest, applied to organizations that do not have a specific law that regulates it.

"There are many organizations that do not know the rules of the game. Indeed, we must respect the right of association but we lack a law that regulates them and that outlines the way forward. It is important to establish general norms or a framework law on civil society." (Interview with the Legal Counsel of the Secretariat of Human Rights, Justice, Interior and Decentralization (SDHJGD), 29/02/2016).

Besides the above, we have a set of laws that lack clarity. Currently, there are 5 types of civil society organizations that have a framework law governing them, namely Non-Governmental Development Organizations - NGDO, Water Administration Boards, Trusts and Private Financial Development Organizations -OPDF). The requirements for their formation vary according to their legal nature, which is an advantage for those organizations that do not have it, as public servants apply the Civil Code,

and it is at their discretion to establish requirements for obtaining legal status or to apply the framework law Non-Governmental Development Organizations (NGDO³).

For the formation of a CSO, there is no general required number of founding members. The NGDO Framework Law provides that the minimum number of founding members is 7, and this is usually taken as a general rule applicable to all types of CSOs.

As mentioned previously, the requirements vary according to the legal nature of the CSO. For a NGDO the requirements to obtain legal personality are rather complex as there are about 10 documentary requirements, which must all be authenticated by a notary, in compliance with the regulations dictated by the authorities of the Ministry of Human Rights, Justice, Interior and Decentralization.

Article 9 of the NGDO Framework Law mandates that the applicant organization must submit two printed copies and one document file on CD (compatible with Windows), of its Statutes, including the following information:

- Name or company name, address and indication whether an organization is subject to a definite or indefinite term;
- Object or purpose;
- Description of the initial capital goods, as well as the value or initial investment;
- The internal governance bodies (assembly, board of directors, audit or related) indicating in all cases the functions or powers and the frequency of meetings;
- Its procedures for audits and for the election of directors, management and the duration in the exercise of their functions;
- Specification of the legal representative;
- Mechanisms to ensure accountability and transparency in the decision-making processes, in compliance with the law;

³ ONGD: National or International Development Non-Governmental Organization. These could be foundations or associations of private character, apolitical in the partisan sense, non-profit and without predominantly union, labor-related, or religious objectives.

- The rights and duties of its members; forms of affiliation or categories, conditions and requirements of affiliation;
- In case the member is a legal person, indication of its representative before the existence of the NGDO, if it was later incorporated or a founder member;
- Liability regime, disciplinary measures and procedures for its implementation;
- Rules on dissolution, liquidation and destination of goods;
- Requirements and procedures to reform the statutes (Secretary of Human Rights, 2013)

Even though the Statutes are rules and regulations established by the organizations for internal governance, officials of the Ministry of Human Rights, Justice, Interior and Decentralization (SDHJGD) are often requesting amendments such as the establishment of a term for their internal governance body, which normally exists for a period of 1 to 3 years. This governance body is essential for any civil society organization and approved by the Board of Directors in the General Assembly, in accordance with its Statutes. Since this is not an obligation, it should not be a basis for a delay or refusal of the granting of legal personality.

One of the limitations in the formation of an NGDO, whether it is a foundation⁴ or an association⁵, is the requirement to complete all the formalities through a legal advisor. This increases the costs, as all documents must be authenticated by a public notary (Honduras, Law of the School of Law, article 3) (Honduras, Notarial Law). It becomes more complex for foundations as they must be accredited by a public notary and must have equity of no less than 50,000.00 LPS (equivalent to 2,194.00 USD). In addition to the above, they must publish the resolution of legal status in the Official Gazette. Although there is no legal obligation, it has been a custom and has become mandatory for NGDOs. Private Financial Development Organizations-OPDF must have a minimum net worth of one million lempiras (L.1, 000,000.0) (equivalent to 43,898.15 USD).

⁴ **Foundation:** a nonprofit grouping with an economic character, created by the will of one or more natural persons or legal entities for the realization of activities that contribute to the humanitarian development of the population and other goals defined by its founders.

⁵ **Association:** non-profit group democratically organized by natural or legal persons, and constituted in order to carry out activities that contribute to the humanitarian development of the population and other goals defined by its members.

"The most expeditious procedures are currently the boards of trustees, the resolution is ready in 2 or 3 days and they do not need a legal advisor in the process of its formation." (Interview with a key stakeholder of SDHJGD, 16/02/2016).

Procedures are generally long, cumbersome and expensive (see Annex 3). The following were identified as the most frequent problems when submitting the application form and documentation to obtain legal personality at the Secretary of Human Rights, Justice, Interior and Decentralization (responsible for the granting of legal personality):

- Incomplete documentation in the application, causing delays in the process of granting legal status;
- Instead of immediately notifying the legal advisor about the missing documentation, the public service officer transfers the unrevised file to the legal officer who determines whether the documentation is complete or not;
- 10 to 20 days can pass, from the submission date to the date of the notification to the legal advisor regarding the missing documents, hereby affecting the agility in the process. (Claudia Guadamuz/ ICNL, 2016)

By Executive Agreement No. 770-A-2003, the Civil Associations Registration and Monitoring Unit (URSAC) is responsible for the registration and monitoring of the activities of civil associations, including the verification of the compliance of the goals and objectives in the application with the legislation, under which they were created and authorized.

After obtaining legal personality, CSOs must constantly update their records, although they only register once. It is important to note that URSAC does not have sufficient staff to manage the registration and monitoring.

"Having enough staff for the registration is not the problem; the problem is that legal officers perform different functions, registration and supervision of CSOs. Six people are required for the registration process, but there are only four. The staff is divided between various functions to meet the needs of CSOs." (Interview with a key stakeholder of the Ministry of Human Rights, Justice, Interior and Decentralization, 10/02/2016).

Additionally, the interviewee pointed out that:

"The registration is only possible in Tegucigalpa, not all must be registered here at the URSAC, only the non-profit, granted by the Ministry of Human Rights, Justice, Interior and Decentralization (SDHJGD) and approved by the National Congress of

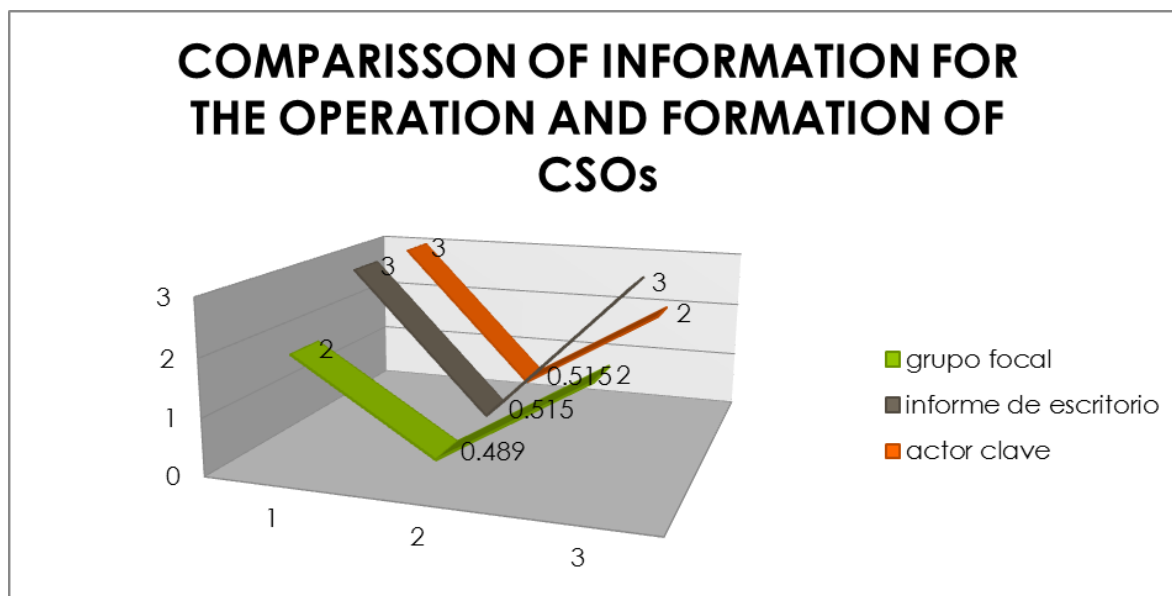
the Republic (Legislative Power). Official employees are working with three years' delay of work and the process takes from 50 to 60 business days. We have to take into account the backlog of work we are working with". (Interview with a key stakeholder of the Ministry of Human Rights, Justice, Interior and Decentralization, 10/02/2016).

It is evident that it is necessary to perform an analysis on the total cost for both participants (CSOs and URSAC). CSOs need to have a legal representative, even for the smallest process, incurring a fairly large expense. This affects the financial sustainability of the organization. More accessible mechanisms need to be created for them, to provide them with an expedited process. For instance, the possibility of requesting records and other documents online must be made available. An online system that allows an effective management of information will reduce time and costs for CSOs. Furthermore, there is a need to decentralize the Registration Office. Currently the registration can only be done in person at the Registry and Tracking Unit of Civil Associations (URSAC), located in the capital city of Honduras, Tegucigalpa.

The costs involved can be analyzed as follows: an updated proof of registration - a record often requested of CSOs by government agencies and financial institutions - must be requested at URSAC. For this procedure, the CSO must buy a form called TGR1 from the General Treasury of the Republic (Ministry of Finance), which costs LPS.200.00 (10.00 USD); an authenticated power of attorney for the legal representative which amounts to LPS. 521.00 (22.00 USD); and the fees related to the legal representative, which costs on average LPS. 350.00 (17.00 USD) per day. Only for this process CSOs must pay LPS. 1,260.00 (65.00 USD), excluding transport costs, accommodation and other expenses related to the lack of decentralized offices.

FOPRIDEH has been working along with SDHJGD and URSAC to develop an online system (<https://ursac.sdhjgd.gob.hn/>), which will allow CSOs to register online and to carry out procedures. Submitting documents online will decrease the costs, such as the ones listed above.

As can be verified in the EENA assessment matrix, the red flag is predominant in all evaluated aspects of the dimension of formation. A comparison of the information obtained in the three stages of data gathering is provided in the following chart.



Graph No.1 Comparison of three stages of information gathering (focal group discussions, key stakeholders and desktop report) on the formation of CSOs.

The three stages of information gathering showcases a non-enabling environment for the operation and formation of CSOs, despite the many laws that outline the requirements and conditions for obtaining legal personality (such as: the NGDO Act, Legislative Decree 32-2011; the Law on Water, under which the juridical personality to Water Administration Boards is granted, 006-2004 Agreement; the Law of Private Financial Development Organizations, Legislative Decree 229-2000 and the Law of Boards of Trustees and Community Partnerships, Legislative Decree 253-2013). The excessive bureaucracy increases the costs for CSOs, and creates inefficiency and opportunities for corruption within the government offices responsible for the processing and recognition of CSOs.

"If we want a legal record of the Board of Directors or another procedure and the application is not submitted by a legal counselor, we are offered these services right there in the recording unit and are asked to pay an unreported fee for the quick processing of the procedure" (focus group discussion of CSOs, 2/15/2015) .

The red tape generated by this bureaucracy has a direct impact on the access to resources. By failing to have all their documents in order, CSOs' chances to bid on national or international projects decrease substantially. It also hinders the capacity of CSOs to manage processes and interventions

to explain the problems affecting CSOs, decreasing its ability to make a change.

It is necessary to assess and modernize the procedures of these offices at the process level and to allow for other routes to obtain the recognition of legal personality, in order to ensure CSOs' legal stability within the State of Honduras.

Challenges and weaknesses

The legislation governing the formation of CSOs is widely dispersed, allowing public officials to use their discretion in the application process. In addition, there are gaps in the regulations, allowing unnecessary requirements, hereby putting the security of organizations at risk.

It is important to underline that there are five separate laws that regulate the formation of CSOs, namely: the NGDO Act, Legislative Decree 32-2011; the Law on Water, under which the juridical personality to Water Administration Boards is granted, 006-2004 Agreement; the Law of Private Financial Development Organizations, Legislative Decree 229-2000 and the Law of Boards of Trustees and Community Partnerships, Legislative Decree 253-2013 and the Civil Code, Decree 9 of 1908. Nevertheless, it is up to the discretion of four registration officers - for over 12,000 CSOs in the country - affecting the efficiency of the implementation of these laws. A reform to strengthen this office has been requested, as stated by a government officer:

"There are three registration officers that must perform multiple functions, which are necessary but affect the documents requested by CSOs. Therefore we require more staff to meet that demand". (Interview of a key stakeholder, 22/02/2016)

Note that the government officer never mentioned the possibility of using other means in order to reduce the burden of the work of monitoring and registering CSOs, such as an online system for registration and the fulfillment of the annual obligations of CSOs.

"Those of us in the north and west of the country, have to travel to the capital every year to present our annual reports and statements. This involves several days, and

additional expenses. Here in the north of the Caribbean there are CSOs that are from Mosquitia or Colon, they travel by air and when they get to the office are told that their documents are missing or are incorrect. There is no way to contact the office to verify what they want, they should have an internet platform to meet these requirements, thus reducing the cost related to paperwork". (Focus Group Discussion, 24/02/2016).

In conclusion, we see administrative inefficiency giving room for corruption. This affects the costs of procedures for CSOs due to the ambiguous application of legislation and the use of discretion by administrative officials. These officials have multiple functions and responsibilities and due to economic factors, the government does not make necessary modifications to improve these services. The characteristic red tape and bureaucracy continue to exist.

It is easier to register a company, as pointed out by an official of the Government Office:

"The registration of a company cannot be compared, companies are notarized and need one single registration and it is automatically public. It is easier... For CSOs it is more complicated because we do not have a clear process and we proceed according to administrative procedures law, which is lengthy and cumbersome." (Interview of a key stakeholder, 29/02/2016)

Among the challenges in this dimension are:

1. Revision, analysis and decision making of all existing laws governing the formation of CSOs (a Framework Law of Civil Society is required), where it is imminently necessary to unify procedures and clear requirements, and improving its accessibility to citizens.
2. To register online is a challenge that has already been initiated in Honduras. Its implementation must be ensured because the costs to CSOs would be reduced. It would also ensure transparency and expeditious processes for CSOs in the governmental office.
3. The decentralization of the office to obtain legal status and to register should be considered, as these formalities can only be completed in the capital city of Tegucigalpa.

Operation

General Overview

In order to have an enabling environment for civil society, it is necessary to have laws that enable the legal existence of CSOs (in which CSOs are not required to be legalized in order to exercise their rights). States must ensure that legal requirements do not prevent, delay or limit the creation or functioning of organizations (Inter-American Commission on Human Rights / Commission, 2015).

In Honduras, CSOs - despite being powerful at the local and national level - face threats that limit their freedom of association and assembly, among others due to a much dispersed legal framework. These threats include: the inadequate implementation of the legal framework - either due to ignorance or due to the use of discretion by government officials -, the unawareness on the nature and characterization of CSOs and the existence of laws that are restrictive and limit the freedom of association.

Analysis

The current existing laws that govern the civil society sector mandates CSOs to use a legal representative when submitting information to the Ministry of Human Rights, Justice, Interior and Decentralization through the General Secretary and the Unit Registration and Monitoring of Civil Associations (URSAC). The focus groups expressed the following:

"When we need a legal record of the Board of Directors, which credits the elected members for the period of time defined in the Statutes (or any other formality) and the application is not submitted by a legal counselor, we are offered these services right there in the recording unit and are asked to pay an unreported fee for a quick process" (focus group discussion - CSOs, 15/2/2016).

The formalities that CSOs must complete in the above mentioned government offices are the following:

1. Registration of the Board: the following documents must be presented: the certificate of incorporation (related to the formation of the CSO);

establishing the founders, the selected form of governance according to its Statutes, its members and their respective identity cards.

2. Presentation of the annual activity reports and financial statements.
3. Proof of registration for annual operations.

According to Ministerial Agreement No. 770- A-2003 civil associations are required to submit annual reports on its activities, which should be sent to URSAC no later than the last day of February each year. These reports should include details of the activities of the association, its financial statements and balance sheet.

Additionally, CSOs should also approach:

- **The Mayor's Office** to request an Operating Permit, as established in the Tax Plan, article 73 of Legislative Decree 134-90. A business, commercial establishment or a non-profit, need to first obtain the operating permit and must renew it in the month of January each year in order to operate in the municipality of the Central District. Furthermore, CSOs must be current with payments as stipulated in article 132, which outlines that the Municipal Office will give a "*Tarjeta de Solvencia*" (solvency card) to those entities that have paid all their tax obligations. The validity of this solvency card is from July 1st to June 30th of the following year. The cost of requesting this card is lps.200 (equivalent to 8.77 USD).
- **The Executive Directorate of Revenue** to request a credit record as stated in article 33 of the Law of Financial Balance and Social Protection, as amended by Decree No.18-2003 and articles 50, 51, 56, 60 point b), 61, 62 and 63 of the Administrative Procedure Act.

As said previously, CSOs must report to the government. Additionally, CSOs are subject to inspections or government audits, in the following three situations:

1. If a CSO manages state funds. According to article 3 of the Organic Law of the Superior Court of Auditors, Legislative Decree No.14-2002, this institution - as the governing body of the control system - has the official duty to conduct a post-audit of used funds, goods and resources managed by state powers; decentralized institutions, including state or mixed banks, the National Commission on banking

and Insurance, municipalities and any other special body public or private that receives or manages public resources that come from internal or external sources. Besides the audit, they must also make all the information (i.e. reports, policies, programs and projects, budgets, etc.) public through transparency portals, media, internet, as stated in article 13 of the Law on Transparency and Access to Public Information of 2006;

2. The Registration Unit and Monitoring of Civil Societies (URSAC) can order audits of civil associations. These audits must be conducted by an auditing firm approved by the Ministry of Interior and Justice, which if needed, will seek support in the Superior Court of Auditors or the Income Executive Directorate.

In this regard, the key informants of the Office states that these audits are more likely based on complaints:

"We focus more on the complaints, however, if there is none, random inspections are conducted when changes in the financial reports are noticed. Twenty five CSOs are inspected quarterly (10 in urban areas and 15 in rural areas). For each inspection a legal counselor and a financial advisor are required. If a CSO does not abide by the law against terrorist financing and the URSAC Agreement 770, it is reported to the Banking and Insurance Commission. The audits can be considered moderate (Key stakeholder Interview, SDHJGD 02/10/2016).

Commentary: The Law against Terrorism Financing, Legislative Decree 252-2010 establishes in its chapter 13 that CSOs are required to comply with this legislation by providing the address and full name of its Board members. Additionally, if they receive donations that exceed two thousand dollars, they must register the donor, the date, the nature of the amount and must inform the Financial Intelligence Unit of the Banking and Insurance Commission.

3. The Executive Directorate of Revenue, now Secretary of Tax Administration, conducts inspections in order to give an opinion, which is not decisive in obtaining tax exemptions and/or benefits. Currently, as pointed out by officials of this office, they are not performing these inspections due to lack of funds. Moreover, the Directorate General conducts inspections to organizations requesting tax exemptions. (FOPRIDEH, 2015)

Dissolution, Cancellation and Mergers: According to chapter XIII of the Law against Terrorist Financing, Decree No. 241-2010, a number of mandatory

requirements are to be met for the formation of CSOs, such as the registration at URSAC, the provision of necessary information such as the address and full name of the Board members etc. Article 57 of the said law states that CSOs must keep track of the donations they receive. Donations exceeding \$2,000 must include the donor's name, date, nature and amount of the donation. Furthermore, article 58 and 59 indicate that CSOs must report the above mentioned donations to the Financial Intelligence Unit of the National Banking and Insurance Commission.

Article 60 provides for the suspension and dissolution of CSOs and non-profit organizations. Without prejudice to criminal proceedings, the competent authority may order the suspension or dissolution of associations or non-profit organization by administrative decision when the CSO encourages, promotes, organizes or engages in crimes of terrorism or its financing with full knowledge of the facts. Furthermore, article 61 establishes the sanctions for associations or nonprofit organizations, without prejudice to criminal sanctions, that may be incurred if participating in acts of terrorism or its financing. Associations or nonprofit organizations that do not comply with the provisions of this law can be punished with: 1. Imposition of fines: the amount is established by article 78 of the Act; 2. A ban on the activities of the associations or organizations for a maximum period of five days; 3. The dissolution of the association or nonprofit organization.

Undoubtedly this is a law that is not widely known by CSOs, although it is clear that if a CSO does not comply with the provisions of this law, it can be canceled or dissolved. At the same time, the application of this law is at the discretion of the public officer. For instance, to requests **bank account information** of organizations is not within URSAC's power. When establishing these obligations, the interpretation is far removed from the purpose of the law.

"With the Law against Terrorism Financing, a single fine can result in the dissolution of a CSO, as it concerns national security. And here the forced dissolution was established." (Key informant interview, SDHJGD 29/02/2016).

When asked if there have been cases of dissolutions, they added:

"There have been cases and these are in course in the Public Ministry (the body responsible for public prosecution) but the process has not been completed. When an organization receives donations over 2,000 USD and do not keep a register, we

are required to inform the Banking and Insurance Commission, the OSC is canceled and Board members suspended for 5 years". (Key informant interview, 10/02/2016)

The above contradicts the stated in the following paragraph:

"There have been unforced, voluntary dissolutions. The NGDO law provides for the suspension of the organization." (Key informant interview, SDHJGD, 10/02/2016)

"We cannot by an internal rule suspend an organization". (Key informant interview, SDHJGD, 29/02/2016)

The NGDO Act, which was passed in 2011, subscribes clear grounds for the cancellation, suspension and merger of CSOs. Article 39 states that an organization will be suspended or canceled in the following cases:

1. Should the number of its founding members decrease below seven (7);
2. Failure to submit the annual reports and financial statements to the Secretary for a period of 2 consecutive years;
3. When the NGDO legal representative makes, on behalf of the organization, acts (or omissions) recognized as crimes under national legislation.

Articles 40, 41, 42, 43 and 44 provide the administrative procedure for the suspension and cancellation of CSOs. In the above cases 2 and 3 the CSO will be suspended for a period of 90 days, during which they must rectify the mistake. If not corrected, the issuance of the resolution of cancellation will be issued.

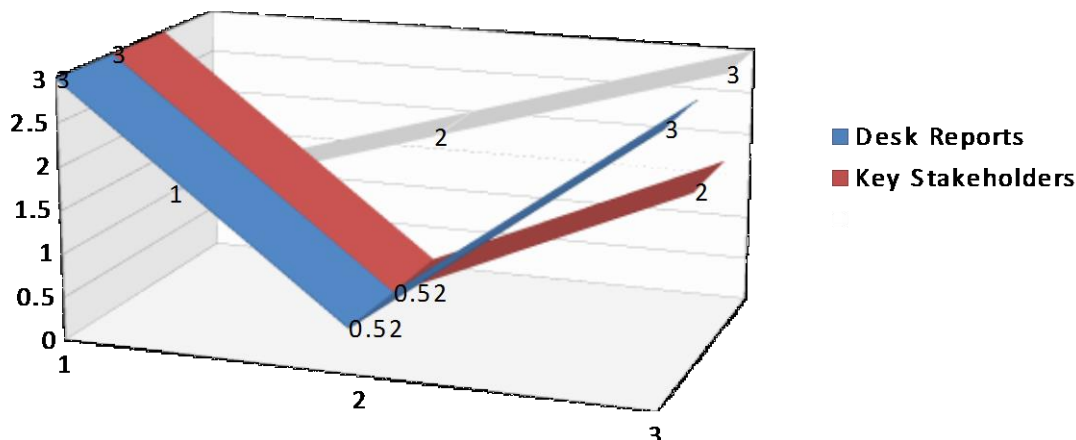
According to article 47 of the NGDO Act, non-governmental organizations (NGDOs) can merge and form a new organization. The General Assembly of each NGDO must issue their respective resolutions. Article 48 stipulates that foundations can also merge. According to article 9 of the Law on Private Financial Development Organizations (OPDFs), Legislative Decree 229-2000, the executive branch through the Ministry of Human Rights, Justice, Interior and Decentralization has the authority to cancel the legal status of the OPDF that violate the law, especially the laws against money laundering, terrorism and drug trafficking, in which case the resolution must have a plan to settle its liabilities. In a similar vein, item 8 of the Executive

Agreement 770 states that the President of the Republic can, directly or through the Secretary of State, SDHJGD, cancel the legal status of the civil associations when these do not comply with the provisions of special laws on this matter, and if, after investigations carried out by the Unit Registration and Monitoring of Civil Associations (URSAC), it is established that they do not meet the purposes for which they were created or authorized.

Taken into account the above, it is suggested that there is a restrictive and disenabling environment for the operation of CSOs. Although it appears to be an expedited process, it is evident that the use of discretion and the administrative red tape are still present. Government agencies are not in continuous communication and exchange information with each other; resulting in the duplication of functions and the addition of unnecessary requirements. This affects the sustainability and functioning of CSOs, as sometimes the same documents are presented to multiple government agencies, unnecessarily increasing costs.

The process of dissolution or cancellation of CSOs is not clear. The communication and exchange of information between government agencies should be made a priority, to avoid duplication of documentation and cancellation processes must be regulated for administrative ease.

Operation and Formation of CSOs



Graph No.2 Comparison of three layers of information gathering (focus group discussions, key informant interviews and desktop research) regarding the formation and operation of CSOs.

In the above graph the administrative inefficiency of giving legal status to CSOs is more clearly indicated. This inefficiency results in corruption and allows the use of discretion by public officials.

“If we want a legal record of the board of directors or other procedure and the application is not submitted by a legal counselor, we are offered these services right there in the recording unit and are asked to pay an unreported fee for a quick process” (focus group of CSOs, 15/02/2016)

To these issues the lack of political will to improve processes and the lack of human resources can be added. The government's vision becomes an obstacle for the institutional life of CSOs.

Weaknesses and Challenges

A wide range of regulations govern the operation of the organizations. These regulations tend to hinder, delay and limit the creation and operation of organizations. A study of 2015 has indicated that the main causes that hinder the free functioning of CSOs are:

- Scattered regulations governing the life cycle of CSOs. Inconsistency between several laws, decrees and administrative regulations;
- Redundant requirements demanded in multiple state entities or the request to change the legal personality when already granted;
- Ambiguous criteria and procedures for granting legal status, implemented with the use of discretion ;
- Disproportional and vague grounds to force the dissolution of organizations that are not governed by a special law, as is the case of NGDOs (Jocelyn Nieva and Claudia Guadamuz, October 10, 2015).

Government offices do not have the necessary resources to store the information and documents requested from CSOs. This represents a risk to organizations because anyone could access their file and use it for extortion. Furthermore, the formal requirements are redundant and

sometimes without legal substantiation, at times some requirements that are requested is at the discretion of the public official. Government authorities have not taken into account the high cost incurred by organizations to fulfill all the requirements.

It is clear that the regulatory frameworks in Honduras limit CSOs:

“Somehow it represents a limit; for foundations it is a more difficult and complicated process and it limits them, where there is a specific regulatory framework, the freedom of association is even more limited”. (Key informant interview SDHJGD, 16/02/2016)

Regarding the dissolution of CSOs, there is too much room for discretion, as only the law on NGDOs establishes clear rules on the dissolution of CSOs registered under that particular law. However, the Law against Terrorist Financing of 2012 includes very harsh measures: a CSO can be dissolved solely through the imposition of a fine. This is a very dangerous provision for the civil society sector.

The main challenge in the dimension of operation is the lack of a set of clear requirements. Government entities could use an integrated online system, to allow them to exchange information from one office to the other. Also, a simplification of processes and set criteria are necessary.

Unquestionably, it is necessary to revise the rules on the dissolution of CSOs since the current criteria do not reflect the reality of the country. These measures are obstructing the freedom of association and jeopardizing organizations as they can be shut down as a result of the fines to which they are subject to. While it is true that CSOs should be transparent in their processes, it is also clear that the government agencies must guarantee and ensure the safeguarding of information that organizations provide them.

As advocacy actions, CSOs must demand to repeal those requirements that are not framed in the law, such as the publication of the resolution of legal personality in the Official Gazette, the mandatory use of a legal representative and the notarization of all documents.

Access to Resources

General Overview

CSOs in Honduras have legal access to financial resources from contributions of its members and from national or international donations (which is to be reported to the Ministry of Human Rights, Justice, Interior and Decentralization), inheritances and legacies, resources generated by their investments, income from the services provided - necessary for their financial sustainability - which are taxed and reported to the State. Additionally, income can be generated from economic activities carried out as a means to achieve the CSO's goals.

If case of foundations that carry out the following activities: concerts, shows and performances, rounding up of invoices (adjustments to currencies at nominal value) in trade; by law are subject to audits to verify that these are self-sustainability operations (according to regulations of the special Law for Promotion, Agreement 65-2013 NGDO- article 36).

Redistribution of profit to individuals is legally forbidden for CSOs, as stated in article 37 paragraph 1 of the NGDO Framework Law, which states that surpluses cannot be distributed among the CSO's members, officers or employees of the society, as the purpose of NGDOs are not for profit.

In case of dissolution, forced or voluntary, the assets of the organization automatically become property of related institutions or organizations in accordance with the provisions of its Statutes (article 31 of the NGDO Act).

Analysis

CSOs in Honduras are not legally prevented from accessing governmental or private resources. But the government is very wary of CSOs accessing its resources.

However there are other ways to access resources, such as tenders from cooperating agencies which enable the sustainability of CSOs and are assessed as the main source of funding for CSOs in Honduras.

"CSOs participate in tenders from the USA government, World Bank, BCIE, internal and external international cooperation." (Interview with ey informant, CSO representative, 11/2/2016)

Government Funding

In the General Budget of the Republic of Honduras there are funds destined to the social programs of the Departments of State, Health, Education, Development and Social Inclusion. Also, funds are transferred to institutions for the promotion of democracy, the evaluation of social services and for people with disabilities

The National Plan and Country Vision of Honduras, in two of its principles, stress the importance of civil society through **citizen participation as a means to good governance**. The implementation of joint actions between public entities and society, through shared leadership and teamwork, boosts national development and set the conditions that determine CSO sustainability. **The public-private partnership principle** states that public-private partnerships will be established in order to facilitate community access to public services. The role played by civil society organizations in social development is very clear, they act as a connection and contribute to improved living conditions of the population that the state cannot reach.

Access to state funds is regulated in the regulations for the implementation of the Department Development Funds, published in the Official Gazette No.32.564, dated 11 July 2011. Article 2 determines that funds must be channeled through a deputy or public institution, while article 3 outlines the requirements, namely submitting the tax registration of the CSO, proof of registration in the Information Management System (SIAFI) of the Ministry of Finance, proof of feasibility and the availability of the office of Analysis of Finances and National Congress Budget with the authorized signatures of the president of the legislature, legal status of the beneficiary (which may be CSOs, businesses or churches), a copy of the identity card of the legal representative; an original letter and notarized copy of power of attorney if formalities are made through a legal representative, the original receipt in favor of the General Treasury of the Republic and a project profile.

As mentioned previously, access to government resources is almost impossible. It is necessary to have a political connection and there are a number of procedures and requirements that CSOs must meet, making larger CSOs the most likely candidates to access these resources, often excluding smaller CSOs with less structure and visibility.

"The access to state funding is very limited, a political connection is necessary".
(Interview with key informant, CSO representative, 11/2/2016)

"The Unit for Registration and Monitoring of Civil Associations (URSAC) does not provide projects to CSOs, it is not easy to have access to funds, I think for CSOs it is very difficult to have access to resources because of the long formalities. There are government projects, but these are limited, perhaps not legal limited but cultural. To provide funds to CSOs is also not a common practice of private companies.
(Interview with key informant, representative of SDHJGD, 1/02/2016)

International Funding

Honduras has experienced a new dynamic to obtain international financing, as it is affected by new legislation on money laundering and combating terrorism financing, among others. However, this affects the access to these funds, limiting international organizations to choose a CSO that meets the standards requested by the Government, often leading to the withdrawal or reduction of their efforts in the country.

"There are very restrictive policies, CSOs should have more freedom. The control should be a posteriori not a priori. These policies limit the access to resources, some limit and harm the country. With such restrictive measures imposed by the State, cooperation is decreasing, there is no flexibility". (Interview with key informant, SDHJGD representative, 01/02/2016)

Despite the above standards and/or requirements, the main source of funding for CSOs in Honduras is international funding. The standards are set by each donor or financing entity. The main requirements are listed as follows:

Areas of interest:

- a) Good Internal Governance;
- b) Financial Management;
- c) Accountability and Transparency;
- d) Relations and Communications;
- e) Quality and Services.

Compliance Standards:

1. Organizations are to be legally constituted and in compliance with the obligations established in the country;
2. Policies and internal practices of the organization;
3. Consolidated financial statements, presented and periodically audited;
4. Accounting system;
5. The organization has proof of Administrative and Tax Solvency, issued by regulators: DEI, URSAC, municipalities and others;
6. Regular evaluation and monitoring mechanisms for projects/ programs.

After an analysis of the requirements for CSOs, it can be concluded that there are barriers to the access to international funding. It is necessary to have legal personality (CSOs need to be formally registered), to comply with the Treasury, to have accounting monitoring systems, etc. It is important to note that there are small organizations that do not have sufficient resources to stay up-to-date with the requirements of both the state and international cooperation, hereby being a barrier for the access to these funds. (Ruth Varela / FOPRIDEH, 2015)

"These changes affect small organizations that do not have the ability to meet those requirements and it is difficult to obtain a legal status." (Interview with a key informant, academic, 20/2/2016)

CSOs using international cooperation funds must notify the government by the registration of the agreement at the Ministry of Human Rights, Justice, Interior and Decentralization. If the cooperating agency has an agreement with the Superior Court of Auditors, the CSO is subject to audits and government oversight (this is the case for institutions such as USAID, for instance). Although the supervision is minimal, CSOs must comply with the special laws mentioned above, related to financing.

Philanthropy

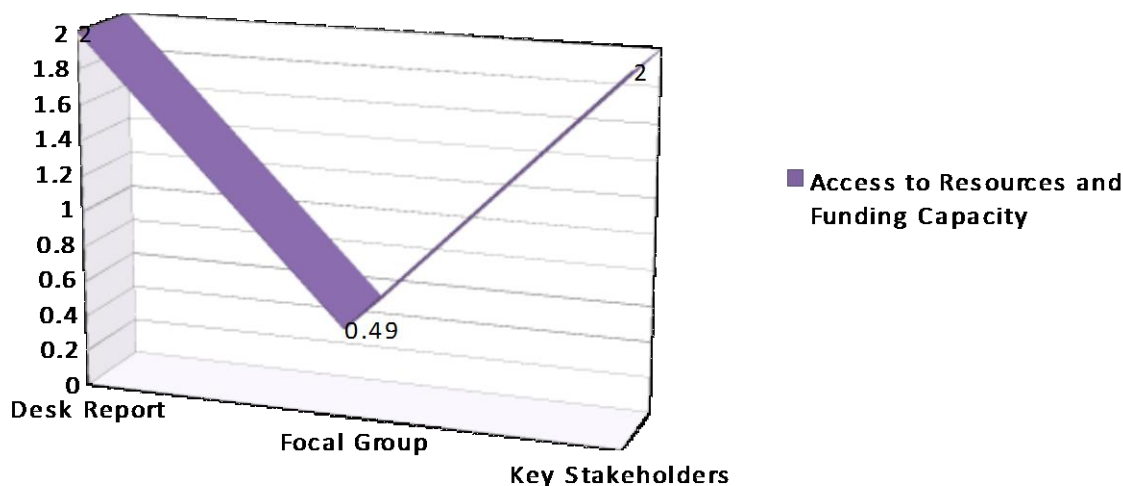
Philanthropic NGDOs have tax benefits – they are granted tax exemptions, as stipulated in the Tax Code Legislative Decree 22- 97 and the tax Equity law, Decree 51-2003. Article 59 states that NGDOs, DPOs and OPDF are exempt from paying income tax when their funds are allocated entirely to charity, health and education. Article 5 of the ISV Act, ISR, Decree 278-2013

derogates the exemption from income tax for DPOs, OPDF, foundations and community associations (except for NGDOs).

While NGDOs get tax benefits, it is clear that the process for obtaining this benefit is very time consuming and costly. Many organizations do not go through the process due to the use of discretion of government officials. CSOs are allowed to receive funds from individual and corporate philanthropy, as is the case of “Techos Para El Mundo” (Ceilings for The World). However, it is not very common that CSOs receive donations from businesses as these often create their own foundations within the framework of **Corporate Responsibility, promoting the private sector in Honduras, through the Honduran Council of Private Enterprise (COHEP)**. Therefore it is necessary to clarify that tax incentives do not exist.

“It is not very common. Companies tend to create their own Corporate Responsibility Foundations.”(Key informant interview, academic, 20/2/2016)

Access to Resources and Funding Capacity



Graphic No.3 Comparison of three layers of information gathering (focus group discussions, key stakeholders and desktop review) on access to resources for CSOs.

It is important to highlight that the public funding as well as the international funding from bilateral and multilateral agencies is declining. It has become important for CSOs to use different strategies to access new resources, in a less troublesome way.

Weaknesses and Challenges

In recent years, one of the barriers to the full exercise of the right of freedom of association has been the lack of adequate regulations governing the civil society sector, in particular the lack of a clear law or policy on taxation. This new suggested law, applicable to the CSO sector, should be based on the constitutional principles of legality, proportionality, generality and equity, according to the economic capacity of the taxpayer, on which the tax system from the country should be based. This affects the access to resources and limits the financial sustainability of organizations. As evidenced in a social audit conducted by FOPRIDEH in 2015 of the Executive Directorate of Revenue (DEI) of the Ministry of Finance (MOF), there is a duplication of work - and the process of obtaining tax exemption takes more than a year - besides a lack of coordination among government entities involved in the formalities to obtain tax exemptions, declarations and donation waivers. This is often denied because the donations are not considered to match the purpose of the CSO who is the intended beneficiary of the donation. For example, a donation of ceramics is denied because the CSO's purpose is to develop environmental programs and to the tax authority, the donation is illegal without thinking that the sale can contribute to the sustainability of the CSO. As it is a donation, it does not cost anything to the state. (FOPRIDEH, 2015)

All of this increases the nonconformity of the organizations and pushes away international cooperation, because of the excessive control over CSOs.

"There are very strict policies, CSOs should be given a little freedom. Controls should be established after, not before because it limits the access to resources, there are policies that limit and harm the country and the cooperation being pushed away by these restrictive measures imposed by the state. There is no flexibility." (Interview with key informant, SDHJGD, 29/2/2016)

"I have heard that it is more difficult to obtain financing for the term and requirements. There are no longer donations for the country that are leaving." (Key Stakeholder SDHJGD, 28/01/2016)

"I think for organizations it is very difficult to have access to resources, the procedures to obtain resources are long. There are government projects, but these are limited, perhaps not legal limits but cultural. To provide funds to CSOs is not a

common practice of private companies." (Interview with key informant, representative of SDHJGD, 10/02/2016)

"International cooperation has declined because funds are already being diverted to Nicaragua, from my experience." (Interview with key informant, CSO legal adviser CSO, 11/02/2016)

CSOs in Honduras need to advocate for the creation of a clear legislation regarding the access to resources, with requirements that reflect the reality in Honduras. Differential tax policies are imminently necessary for the regulation of civil society, under the constitutional principles of legality, proportionality, generality and equity (according to the economic capacity of the taxpayer, on which the country's tax system should be based). This would require the government authorities and civil society to work together in a technical committee, to develop a common agenda that leads to the creation of these policies, which would ensure international cooperation in the country. Clear and transparent rules should aim to secure the access to government resources, which would in turn allow CSOs to make profit from its sustainable activities.



Expression

General Overview

As mentioned above, civil society is a powerful movement and is continuously changing at the national level. Participation of CSOs is critical to the sustainable development of the country. The freedom of expression is closely related to the freedom of association and the freedom of assembly, which allows CSOs to express and unify their efforts for the common good.

International treaties ratified by Honduras, and are related to the freedom of expression are: the First Optional Protocol on Civil and Political Rights of 1966, International Covenant on Economic, Social and Cultural Rights of 1966, International Covenant on Civil and Political Rights of 1966 and the American Convention on Human Rights of 1969.

Additionally the Constitution of the Republic, as the basis of all laws, covers the following principles:

- **Principle of Participative Democracy:** article 5 of the Constitution of the Republic states that the government must be based on the principle of participatory democracy. Achieving national integration will require the participation of all political sectors and the general public as part of this process.
- **Freedom of Expression:** article 72 of the Constitution of the Republic provides that people in Honduras are free to express and disseminate their thought by any means. Also, article 74 states that the right of expression cannot be restricted through indirect means.

The Law of Thought, published in July 1958, stipulates in its article 2 that the freedom of expression of thought and information are inviolable. Additionally, article 5 states that every inhabitant of the Republic can freely and without prior censorship, express their thoughts, give and receive information and discuss their views or those of others, through the written or spoken word or any other visual, graphical or oral means. The freedom of the press is regulated in article 7.

As shown above, there are constitutional guarantees for the freedom of expression. Any citizen or media can express themselves without any restriction. However, analyzing historical events of the country, **freedom of expression** is one of the main rights violated by the state, and has been a constant threat to CSOs that have been key in the struggle as leaders, fighters against corruption and injustice, defenders of human rights, indigenous peoples, the environment, among others.

In the coup d'état that occurred in 2009 (Commission of Truth and National Reconciliation, 2011), there were clear violations of the Constitution of Republic and human rights as they condemned (exile) without due process, the establishment of a curfew, restriction of the free circulation of citizens, the forceful closure of radio and television stations, the blocking of telephones, suspension of electricity service, restrictions to journalists, repression of rallies in favor of the constitutional president, and the detention of people close or related to the constitutional president. (C-Libre y Fundacion Democracia sin Fronteras, 2009).

After the coup d'état, there were many cases of CSO representatives that were subjected to threats, retaliation, intimidation and the criminalization of their work due to their belligerency. (Commission of Truth and National Reconciliation, 2011), (C-Libre y Fundacion Democracia sin Fronteras, 2009)

Analysis

Currently the freedom of expression, as mentioned above, is guaranteed in international treaties ratified by Honduras, the Constitution of the Republic and is also regulated in the Law of Thought.

However, there are other laws that regulate the content of public expression such as the framework Law of Telecommunications (CONATEL) which regulates, manages, promotes and democratizes the telecommunications sector. In addition there is the **Law of Classification of Public Documents Related to National Security and Defense**, which is assessed as a way to counter or limit the right to freedom of expression.

"It is possible to consider that in the LAW OF CLASSIFICATION OF PUBLIC DOCUMENTS RELATED TO THE SECURITY AND NATIONAL DEFENSE, in particular article 10, there is a case of prior censorship: "When it is expected that classified information will get to

the media, they will be notified of the nature of it and this must be respected." This article is contrary to the provisions of article 5 of the Law of Thought requiring that any inhabitant of the Republic may freely and without prior censorship express their thoughts, give and receive information and discuss their views or those of others, through the written or spoken word or any other visual, oral or graphical mean" (Interview with key informant, Institute of access to Public Information, 29/2/2016)

There are currently no bills that restrict the freedom of expression, however, as stated by the representative of the Institute for Access to Public Information (IAIP):

"There are no bills to restrict the right to freedom of expression. On the contrary, there are two draft laws pending in Congress, firstly studied by the IAIP, (Institute of Access to Public Information), corresponding to a Law on Protection of Personal Data and the General Archives Act, dated on March 2016." (Interview with key informant, IAIP, 28/2/2016)

"There are no laws, authorities are limiting us." (Interview with key informant, CSO legal counsel, 11/02/2016).

In Honduras there are no legal restrictions to the use of the internet. The reality has changed and it is no longer easy to suppress citizens' opinions.

"People have access to social networks and express themselves through them. Let us remember that the *Indignados* movement originated in social networks. The creation of the Mission of Support against Corruption and Impunity in Honduras (MACCIH) is the result of those marches. In different times, rulers managed to get reporters fired if they made uncomfortable press reports. Now you can criticize from a blog." (Interview with key informant, IAIP, 28/2/2016)

However, in the focus group discussions, participants indicated that access to social networks is limited:

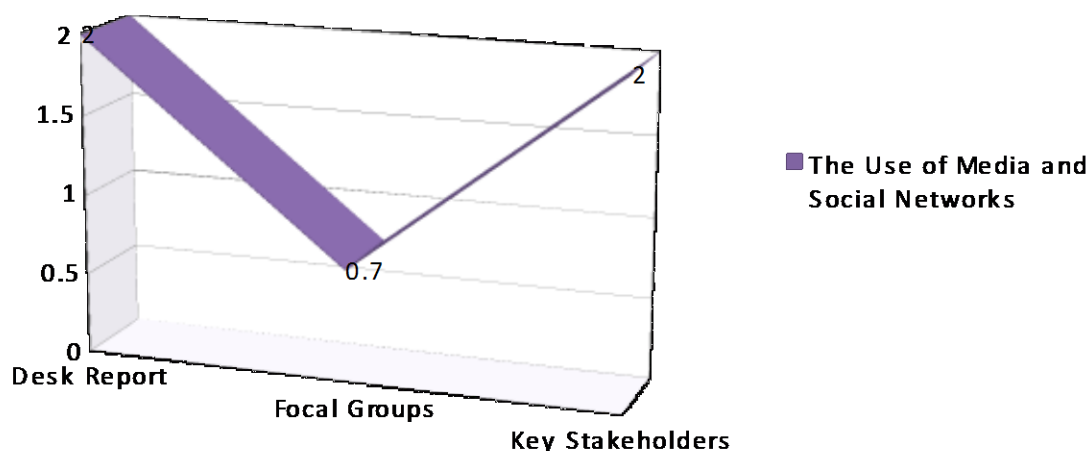
"They noted that their organizations' Facebook page has been blocked inexplicably." (Focus discussion group, 20/02/2016)

Despite historical events, CSOs are aware of their rights to freedom of expression and ratified at the level of the government.

"I see a very responsible civil society, thanks to them, the country is moving forward." (Interview with a key informant, 10/02/2016)

"People are more aware of their rights. They have noticed that their opinion counts and have witnessed that in other countries, public opinion has brought down several governments." (interview with a key informant, 28/02/2016)

The Use of Media and Social Networks



Graph No.3 Comparison of three layers of information gathering (focus group discussions, interviews with key informants and desktop review) on the freedom of expression of CSOs.

It is necessary to note that CSOs have to be careful when expressing themselves in the media and on social networks, they must carefully question attacking the government directly, as it could put them at risk. They could be subject to persecution and to the cancelation of their legal personality. As it happened during the coup d'états of 2009, CSO actors were subjected to torture, rape and constant monitoring, mainly representatives of CSOs that work on human rights, women, and LGBTI rights (Impunity Watch / CIPRODEH, 2015).

Weaknesses and Challenges

There are no legal restrictions to the right to freedom of expression, but in reality there are violations. There has been instances of media censorship as occurred in 2009. Furthermore, organizations are threatened and harassed with fines (pecuniary actions) in order to block their belligerence and to limit their ability to openly express their views, particularly those critical of government policies.

"There are political threats such as "if you say that, I will send you to the Income Executive Directorate (now Secretary of Tax Administration)." (Interview with key informant, legal adviser, 11/2/2016)

"If the government is discredited, they might remove the legal status of CSOs." (Focus group discussion, Tegucigalpa, 19/02/2016)

The legislation regulating the freedom of expression should be reviewed, in particular the Law on the Classification of Documents Related to Public Security and National Defense, since it contradicts the Law of Thought. In addition, governments should genuinely, in practice, guarantee the right to freedom of expression.

Peaceful Assembly

General Overview

The freedom of assembly and association is guaranteed in several international conventions and treaties ratified by Honduras, and is also guaranteed in the Constitution of the Republic, which states:

Freedom of Association and Assembly: article 78 of the Constitution clearly states that ***"the freedom of association and assembly is guaranteed provided they are not contrary to public order and good customs"***. Additionally, article 79 provides that everyone has the right to meet with others, peacefully.

This constitutional guarantee is further guaranteed in the **Departmental and Municipal Regime**. Article 302 of said Regime provides that ***for community purposes, citizens have the right to freely associate in Boards, to establish federations and confederations.***

There are no legal restrictions on the exercise of this right, (Police Act and Coexistence Legislative Decree No. 226-2001). However, there are legal requirements for the organization of peaceful meetings: local authorities must be notified, stating the reason, duration and place of the assembly. When the public order is disturbed and security of people is at risk, article 332 of the Revised Penal Code is applied, with a penalty of 9 to 12 years and fines ranging from LPS.10,000.00 to 200,000.00 (equivalent to 440 USD to 8,802 USD).

2009 was a difficult year for every citizen of the country. The oppression of civil organizations and citizens was notorious during the coup d'état to overthrow President Manuel Belaya Rosales. At that time, peaceful

gatherings of any kind were restricted (Commission of Truth and National reconciliation, 2011).

Analysis

Every citizen is guaranteed the right to peaceful assembly. In addition, there is a law that regulates this right. Authorities are enabled to take the necessary measures to protect the assemblies and demonstrations. When the safety of people is at risk, the police is authorized to dissolve the assembly or demonstration (articles 27, 28, 51, 52, 53 of the Police Act and Citizen Coexistence of No. 226-2001). To apply for a permit for an assembly, organizers must present a notification to the police and local authorities in the Municipal Department of Justice. The notification must define the place, time, organizations involved and the public route that will be followed. Authorities should respond to the request within ten days, after this period of time, they are considered as notified.

Restrictions to the freedom of assembly are also included in article 331 of the current Penal Code (144-83). A sentence of imprisonment of three months to one year or fines that go from three hundred to one thousand lempiras can be levied to the promoters or directors of demonstrations or assemblies that are held under the following conditions:

- When the group of people attending the meeting exceeds ten people;
- When the assembly is organized to commit offenses against public order;
- When despite being mandatory, authorities have not being informed or notified of the place and time of the assembly.

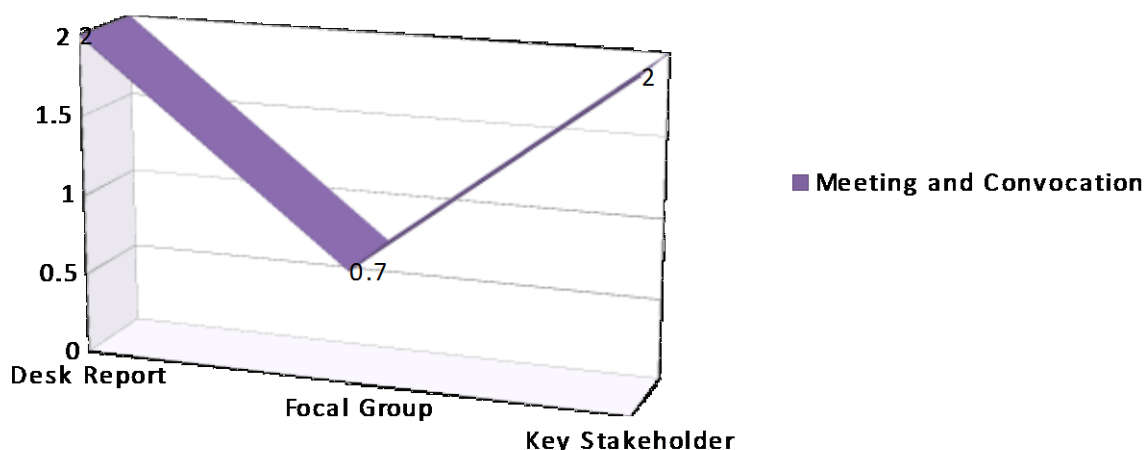
As mentioned above, if a group of people meet for a demonstration, a notification to the competent authorities is mandatory. However, participants of the focus group discussion, conducted in the north of Honduras, stated that besides legal restrictions, the country is in a situation of insecurity and citizens can no longer exercise their freedom of peaceful assembly, for example there are curfews in certain provinces and neighborhoods. This is confirmed by a report published in January 2016 in

the newspaper La Tribuna, placing San Pedro Sula as the second most violent city in the world. (Tribuna, 2016) (Cholusat.com/Noticias, 2016).

Currently, demonstrations and protests of citizens are criminalized by the excessive presence of the police and military to maintain public order. This causes discomfort within citizens, since these security forces are armed as if the assembly or protest is illegal and illegitimate activities of CSOs. (Cholusat.com/Noticias, 2016) (Free, 2015)

"If it is not described as a peaceful assembly, the police, the military police and armored vehicles will be there, it is prohibited to say that it is a protest." (Councillor of the Municipality of San Cruz de Yojoa Court Department, National Consultation 08/ 04/2016)

Meeting and Convocation



Graphic No.4 Comparison of three layers of information gathering (focus group discussions, key informant interviews and desktop review) on the peaceful assembly of CSOs.

Clearly, the capacity of CSOs to assemble, meet and gather is linked to the freedom of peaceful assembly. As stated above, there is a mandatory notification requirement for protests and demonstrations. In relation to a informative meeting, these aspects must be punctual, since one cannot risk the safety of people in a moment of disrespect of human, mainly the younger, since these are the most vulnerable according to statistics.

Weaknesses and Challenges

Within the legal framework that governs the freedom of peaceful assembly, there is a strong weakness in the **Penal Code** regarding to offenses, as it is up to the discretion of the official interpreting the law. Article 331 of the Penal Code, which prescribes prison sentences or a fine for organizers of a meeting of more than ten persons without a prior notification, is unreasonable as it clearly limits the freedom of association and assembly.

With this reference it is clear that CSO that lacks legal status is typified as an illegal organization.

Additionally, article 51 of the Police and Citizen Coexistence Act, Legislative Decree No.226-2001, mentions that authorities are permitted to take the necessary measures to protect assemblies and gatherings. It is necessary for the legislator to clarify what those measures are, because currently, it is rather through aggression, beatings, use of tear gas, water cannons, arrests of protestors etc.

The main challenge is for the state to full guarantee this right in full, without restrictions or limitations. CSOs must propose an improved legal framework that ensures and guarantees the freedom of assembly in full.

Government – CSOs' Relations

General Overview

In recent years, the world has turned to initiatives of accountability and transparency that aim to create open governments, with citizen participation and the civil society actions are the center of this new form of government. We see a civil society increasingly involved in social oversight in order to combat corruption within government agencies.

After the breakdown of the rule of law in 2009, the government had the task to regain international investments and to improve relations with CSOs. The current government has been open to dialogue many times, requesting

CSOs to validate public policy processes. In order for CSOs to participate in the validation of both programs and government policies, CSOs should be functioning and be informed of the public opinion. The CSO participation reinforces the need for the government to open spaces for discussion of government priorities as well as topics of public interest, as this will strengthen the governance within the Honduran State.

Analysis

In Honduras, there is no specific law that regulates the participation of CSOs in political processes. There are also no laws to restrict the nomination, the support or the raising of funds to support political candidates. However, as expressed in the Regulation of the Special Law for NGDO Development, in its article 2 paragraph B, NGDOs are considered as private and apolitical in the partisan sense. CSOs are also allowed to participate in public policy, advocacy campaigns and lobby activities.

CSOs are allowed to nominate candidates for public office. When we say CSOs are apolitical, people tend to think they should not perform these actions but it is actually referring to the partisan sense of politics. It is not customary in Honduras for CSOs to raise funds for candidates, as this is seen as a polarization of the organization and an attachment to a political party.

"They will lose their *raison d'être*, since they are apolitical." (Interview with key informant –URSAC, 28/01/2016)

The current government currently sees CSOs as partners, and it is necessary to have a constant dialogue between the government and CSOs and to maintain a professional relationship for the validation of their actions.

"Professional relationship, civil society knows they have a hand that can help them and the government sees them as an instrument to help people." (Interview with key informant, 10/02/2016)

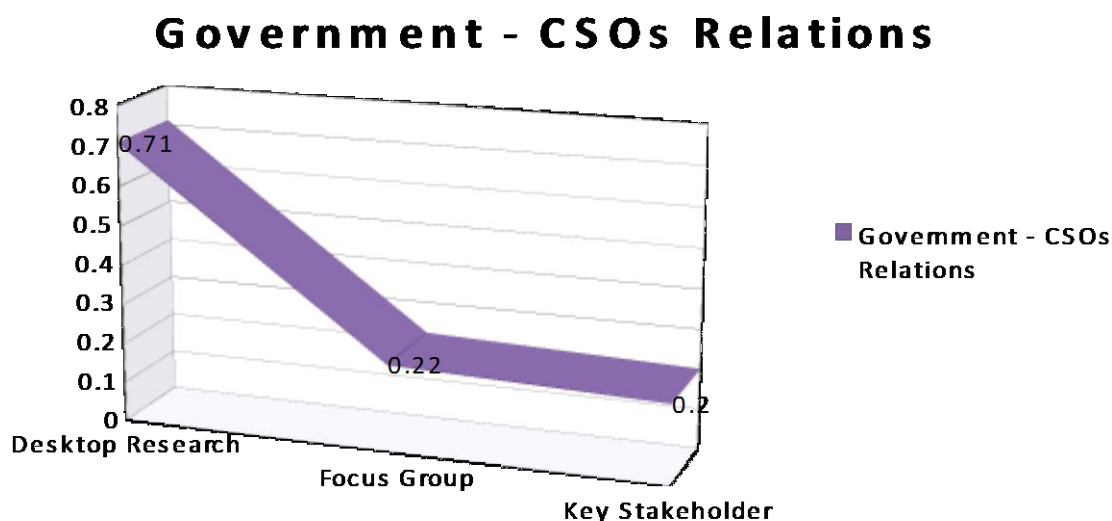
"Dialogue is ideal. Relations between these sectors are usually for cooperation, I think. But there are organizations that are very passionate about their personal ideas and this polarizes the sector." (Interview with key informant, 10/02/2016)

"As a government official, the relationship between the government and civil society is very important, for the dialogue and considering the work they do together." (Interview with key informant, 10/02/2016)

"To maintain a good relationship, CSOs should trust the government processes."
(interview with key informant, 10/02/2016)

The government considers that it is necessary to maintain a relationship with CSOs. They have created spaces for dialogue, where CSOs contribute on topics such as policy, transparency, access to public information, accountability and the improvement of the responsiveness of the government. Within the department of Development and Social Inclusion in the Secretary of State, a Unique System for the Evaluation of Programs and Social Projects (SUEPPS) was developed, which allows civil associations to carry out social oversight of the social policies, programs and projects.

"The relationship is necessary because CSOs reach minorities that the government cannot reach, whether the communication is clear depends on the intervention of CSOs, dialogue spaces exist, CSOs should use those spaces." (Interview with key informant, 29/02/2016)



Graphic No.5 Comparison of the three layers of information gathering (focus group discussions, key informants and desktop review) on government – CSOs relations.

In the media, the government recognizes the importance of maintaining a relationship with CSOs and creating spaces for dialogue with a mutually agreed agenda. But in reality, when civil society tries to address issues about red tape, respect for human rights, differential tax treatment and the

requirements for CSOs to have access to resources, the government ignores these requests and does not include these topics in the agenda. It focuses mainly on its interest, to validate its militaristic and authoritarian policies.

Weaknesses and Challenges

The greatest weakness in the dimension of the Government-CSO relation is the mistrust, on both sides. Although, it is true that the government in its public speech said to be open to dialogue and to the participation of CSOs in public policy processes and others, there is no guarantee that the opinions of CSOs are taken into account. That said, the relationship between the government and CSOs is not all negative. Since 2014, the government has initiated collaboration with CSOs through the Ministry of Human Rights, Justice, Interior and Decentralization in order to improve the implementation of legislation. Another encouraging aspect is the amnesty on recent fines and surcharges for the non-submission of technical and financial reports, valid until 31 July 2016 (168-2015, Legislative Decree, 2015).

The relationship between the government and CSOs is a bit broken. In past dialogues, between civil society and the government, it became evident that there is a mutual distrust. Public officials tend to see civil society as the enemy and do not trust them. When a public official distrusts CSOs, the credibility and work carried out by these organizations is affected.

In order to reduce these levels of distrust, CSOs must act according to the law and with sufficient transparency. Public officials and governmental entities must act according to the law, including by not demanding documentation that is not required in the regulations. They must fulfill their role and act in good faith. The tax benefits granted to CSOs, should be used for the organization's purpose, to have impact on society with their programs, projects, etc.

To improve and maintain a genuine line of communication, it is necessary to work on increasing the mutual trust. Also, the government must cease with the exaggerated and unnecessary controls of CSOs, which only limit the work of the organizations by violating their right to associate.

Optional Dimensions

Internet Freedom

General Overview

There is a National Telecommunications Commission (CONATEL) in the country, which administers radio, television, internet, mobile phones and others. It is the agency that licenses and regulates the internet access. Currently, access to the internet is provided through private companies, the same applies for mobile phone service. Free access to internet has been extended to municipalities: city halls request their IP address in order to have access to a free internet service in the 298 municipalities of the country. This service is called "INTERNET DEL PUEBLO" (Internet for the People). This service for municipalities is regulated in the reform of the Framework Law of CONATEL, December 2013.

Analysis

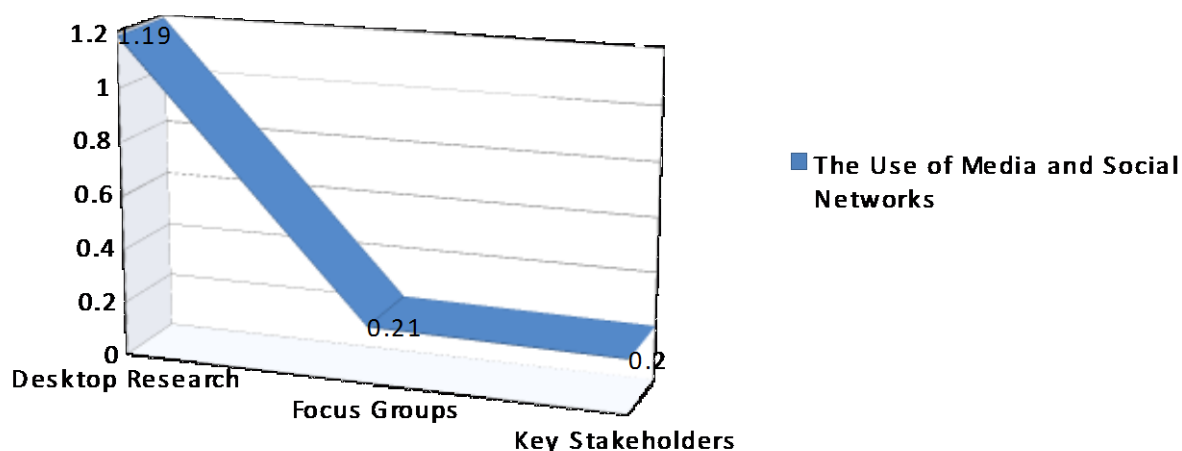
Despite being regulated by the state, and the service provided by private companies, there are plenty opportunities to access the internet and there is freedom of internet. CSOs use social media to express their opinions and views on topics of national interest and share their work, strengthening their accountability.

In Honduras, there are currently no restrictions on internet access. In the 2009 crisis (a coup d'état took place), the access to the Internet was limited.

"The latest political crisis of 2009 caused a state of siege, during which Internet access was limited for a few hours." (Interview with a key informant, IAIP, 29/2/2016).

Limitations of the access to the internet are mainly based on economic considerations. If an organization has internet access, they can freely express their views without censorship. However, when the state alleges that a story should not be published or discussed due to them considering it a national security issue, the CSO faces the risk of being investigated and sanctioned by the National Telecommunications Commission CONATEL.

The Use of Media and Social Networks



Graphic No.6 Comparison of three layers of information gathering (focus group discussions, key informant interviews and desktop review) on The Use of Media and Social Networks.

Weaknesses and Challenges

The main weaknesses regarding internet access, respond to economic considerations. This service is of utmost importance for all citizens, as it provides opportunities for communication and promotes changes in the country.

Civil Society Cooperation and Coalitions

General Overview

In Honduras, to unite efforts and to form networks is a common practice among CSOs. The current legislation does not limit nor restrict such actions. For instance, there are platforms on topics such as: environment, indigenous people, LGBTI, Human Rights and Justice, coalitions against impunity, among others. If the collective wishes to obtain legal status as a federation before the competent authorities, they must hold a general assembly - with members of the participant organizations and their respective record (authorizing them to participate in it), to become a separate legal entity.

National CSOs can also partner with foreign CSOs:

"They can partner up. Regarding this point, I consider that the NGO law was very idealistic; it is not strictly necessary for an international CSO to constitute here, as this partnership could be achieved through an agreement." (Interview with a key informant, 29/02/2016).

Currently, when starting a partnership with foreign organizations, CSOs must register and submit the agreement to the SDHJGD.

Analysis

According to the information gathered, the level of cooperation between CSOs is high. These partnerships can develop regional thematic networks and contribute to the creation of a joint force. Coalitions are very common (on topics such as human rights, environment, women's rights, transparency and accountability and advocacy on public policy and others).

The following platforms, federations and networks can be mentioned:

- the Civic Council of Popular and Indigenous Organizations of Honduras (COPIN),
www.plataformaagraria.hn/quienessomos/organizaciones-

[integrantes/item/copin-consejo-civico-de-organizaciones-populares-indigenas-de-honduras;](#)

- the Federation of Nongovernmental Organizations for the Development of Honduras (FOPRIDEH), www.foprیده.org;
- KUKULKAN, blog.kukuhn.blogspot.com; and
- The Alliance for Peace and Justice, www.facebook.com/alianzapazyjusticia.

The government considers that there is a good working relationship between CSOs:

"Yes, very good teamwork. The mere fact of forming federations gives the idea that there are even cooperation agreements with international organizations." (Interview with key informant, 29/02/2016)

"Civil society organizations do not form coalitions to receive funds, but mostly form them as strategic alliances." (Interview with key informant 29/02/2016)

For small organizations, it is very difficult to partner with international organizations, as they do not have sufficient capacity and do not meet the necessary requirements.

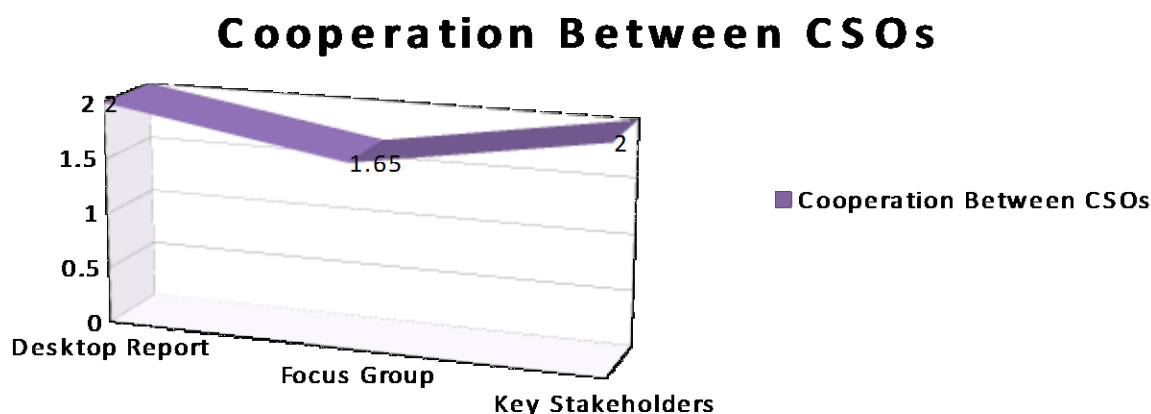
As explained by participants of the focus group discussion (CSOs) on February 11th, 2016:

"We have adopted a self-regulatory process, aware that we must comply with the requirements and regulations governing us, to achieve transparency and thus show that we do our job well."

The self-regulation of CSOs mentioned above, is a process that developed by FOPRIDEH. The aim of the self-regulation is to improve performance standards - according to international practice - to ensure compliance with current standards in the country and to achieve an efficient coordination between CSOs, the government, donors and the beneficiary population.

This FOPRIDEH self-regulation system was created after the cancellation of more than 5,000 CSOs by the Ministry of Human Rights, Justice, Interior and Decentralization, based on the non-submission of annual reports, financial statements and balance sheets of CSOs. Issues of transparency and questions regarding the effectiveness of the investments made with the

resources by these CSOs were raised. The lack of trust, rigidity and demands of the state, also contributed to this action. (Ruth Varela / FOPRIDEH, 2015)



Graphic No.7 Comparison of three layers of information gathering (focus group discussions, interviews with key informants and desktop review) on the cooperation between CSOs.

Cooperation between CSOs is considered as a means to generate strength and survival of CSOs in a hostile environment, which encourages and creates inter-institutional networks and thematic tables, mainly on issues of vulnerable groups and transparency. In order to develop efficient processes for intervention, a deep understanding of the problem is necessary, as not to affect the financial sustainability of CSOs.

Weaknesses and Challenges

One of the main reasons why CSOs create coalitions and join networks is to join forces and to create a common agenda. But the main challenge for CSOs in this dimension is to have an impact and to improve the enabling environment in which they operate in the country, so it is necessary:

- To have a clear diagnosis of the problems;
- To generate a viable technical proposal (CSOs);
- To develop a mapping of those sectors that can act as partners (to identify which actors will be involved);

- To position causes (and to make the causes visible), participation of public officials is necessary;
- To develop capacity to conduct dialogues (choice of strategies, points of communication, advocacy tools, to find support of the international community);
- To demand public officials to do their job.

Taxation

General Overview

In recent years, one of the barriers to the full exercise of the freedom of association has been the lack of adequate regulations governing the civil society sector. Above all, there is a lack of a clear policy or law, on taxation, applicable to the CSO sector based on the constitutional principles of legality, proportionality, generality and equity according to the economic capacity of the taxpayer.

An analysis by FOPRIDEH on the current tax system for CSOs has been conducted in 2015. The following taxes are relevant for CSOs and are discussed below:

- Income tax, solidarity contribution;
- Sales tax;
- Waivers and Franchises;
- Population rate Security;
- Net Asset Tax.

1. **Income tax, solidarity contribution and net asset tax**

Regulations in force:

- ✓ The Tax Equity Law, Legislative Decree no. 51-2003 published on April 10, 2003: article 49 states that NGDOs, DPOs and OPDF will be exempt from paying income tax - hereinafter when their funds are allocated entirely to charity, health and education.
- ✓ Legislative Decree no. 52-2004 of 26 May 2004, published in the Official Gazette on July 9, 2004 clarifies the interpretation of the former law. The term "income" should be understood as net income, and the OPDFs and OPDs are considered nonprofit charities, exempt from income tax when surpluses are capitalized or when their funds are allocated to charity, health and education.

- ✓ Legislative Decree no. 278-2013, which contains the Law of Planning of Public Finance, Control of Exemptions and Anti evasion Measures, published in the Official Gazette on December 30, 2013: article 5 repeals all income tax exemptions. However, in paragraph 12 of that same Article 5, of the aforementioned, exceptions from the repeal, the exemptions established by the NGDO Act.
- ✓ The above related Legislative Decree provides that the income tax exemption is limited to non-profit activities and at the same time establishes that the Executive Directorate of Revenue (DEI) is the entity that will determine which activities qualify as non-profit.
- ✓ The Regulation to the Legislative Decree No. 278-2013, Executive Agreement No. 462-014, published in the Official Gazette on July 21, 2014, determines what is understood by non-profit activity. Additionally, article 9, numeral 12 of this regulation provides that the DEI will in a period of 10 days decide if an activity qualifies as non-profit. This period starts from the moment the file is sent by the Directorate- General of Customs (DGCFA). The regulations also state that the advice of the DEI is not binding under article 24 of Decree 278-2013.

2. Sales tax (related to local purchases)

The regulations in force are the following:

- ✓ The second paragraph of article 1 of Legislative Decree No. 278-2013, abolished all sales tax exemptions of NGDOs, regardless of the activity they perform.
- ✓ Article 2, paragraph 21 of the aforementioned decree, states that the following is exempted from the above repeal: donations to the NGDOs that serve to address priority health needs, food, education and job creation.
- ✓ The Regulation of the Legislative Decree No. 278-2014, states in its article 5, paragraph 21, that in order to effect the exemption, an agreement to establish the origin of the funds, donor identification

and donee, and the destination of the donated funds will be required. These requirements shall not apply to donations from abroad, which are governed by the Customs Law.

3. Customs formalities

Regulations in Force:

- ✓ Article 1 of Legislative Decree No. 278-2013 repealing all exemptions or customs duties.
- ✓ Notwithstanding the above, article 2, paragraph 21 of the above mentioned decree states that the following is exempted from the above repeal: donations to the NGDOs that serve to address priority health needs, food, education and job creation.
- ✓ The Regulations of Legislative Decree No. 278-2014, states in its article 5, paragraph 21, in order to effect the exemption, an agreement establishing the origin of the funds, donor and donee identification and the destination of the donated funds is to be required. **These requirements shall not apply to donations from abroad, which are governed by the Customs Law.**

4. Population Security Rate

Regulations in force:

Article 9, paragraph 17 of Legislative Decree No.105-2011, dated June 24, 2011, amended by Legislative Decree No. 166-11, establishes that NGDOs are entitled to the exemption from the population security Rate (Lilian Lopez/FOPRIDEH, 2015).

Analysis

A new draft Tax Code, proposed by the Government, is currently being developed and discussed. This draft Tax Code concerns a tax adjustment and not a tax reform, since a reform would involve a complete overhaul of the legal and tax collection system.

Experts who reviewed the draft Tax Code and private organizations agree that the proposed draft Code is a clear violation of fundamental rights, such as the right to defense, to a due process of the tax administration, petition and presumption of innocence which are constitutional guarantees (Social Forum of External Debt and Development of Honduras, 2016, Honduran Council of Private Enterprises COHEP, 2016, American Institute of Fiscal Studies, 2016).

Additionally, the current proposed Code gives too much room for discretion, as it empowers the Executive Power to suspend the application of taxes in full or partially although this an attribution of the sovereign National Congress.

For CSOs, the draft Tax Code is not very encouraging as it violates constitutional guarantees such as those mentioned above. Undoubtedly the proposed tax adjustment requires taxpayers to pay, without the right to influence the decision on how income from taxes is spent.

In addition, CSOs are greatly affected since they, due to a lack of a separate tax law, are treated as commercial enterprises. Many CSOs are threatened with closure due to their inability to comply with paying fines for errors in their tax returns (aimed at commercial enterprises for taxes on income, sales, safety rate, among others).

Should the new draft Tax Code be approved, the CSO sector would be completely unprotected, as it gives room for discretion on the part of public officials of the Tax Administration and the Ministry of Finance, especially regarding the determination of taxes and the approval of exemptions. In addition, they are given a long period of time to respond to inquiries by tax payers, not considering this when they apply deadlines for tax returns.

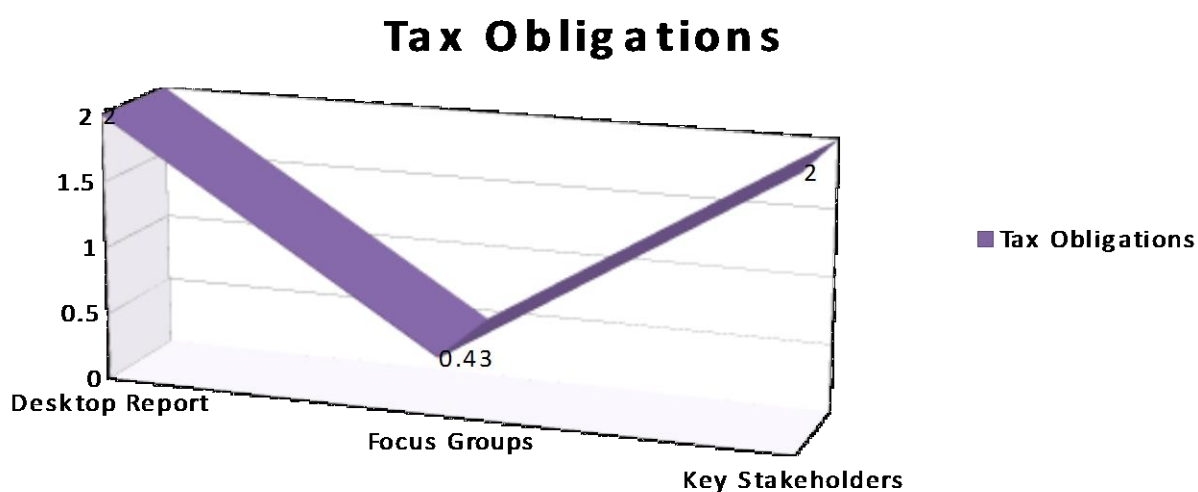
Corrections on tax returns can only be made once by the taxpayer. However, tax authorities can request corrections as often as deemed necessary. Additionally, maintaining accounting records, books, etc, for 10 years, as required, comes with corresponding costs for CSOs.

In conclusion, the draft Tax Code should be aimed at strengthening the guarantees and legal certainty of taxpayers, to promote the unification of criteria in the administrative action (simplification of processes), to enable the use of new technologies and to modernize taxation procedures.

As is well known, the dispersed laws on taxation gives room for discretion, limiting organizations in obtaining tax exemptions and other tax benefits. The tax system is designed for commercial companies, an adequate and differential treatment for the civil society sector is completely lacking. Additionally, there are many limitations related to the use of discretion of public officials and little homologation of criteria in relation to the regulations applied to the sector.

Key informants and participants in the focus groups discussions have indicated that taxes are often used as measures of repression against CSOs, mainly through the application of fines with exaggerated amounts and harassment by the tax agency. There have been cases of CSOs that are threatened by closure due to fines exceeding Lps. 800,000.00 (equivalent to \$ 33,521). Tax authorities argue that these fines have been applied since the concerned CSOs have not submitted the relevant reports or incorrect reports.

It is clear that these repressive measures, and the taxation regime, affect the financial sustainability of CSOs. In addition, there is a misconception on the part of public officials on the meaning of "non-profit": organizations are limited to generate funds solely for the implementation of their programs and projects. Because of these misconceptions, CSOs are often treated – in their taxation - as commercial enterprises. The current government is determined to recover all the tax arrears, at all costs.



Graphic No.8 Comparison of the three layers of information gathering (focus group discussions, key informant interviews and desktop review) on tax obligations of CSOs.

Indirect taxes and the update of the tax authority, affects the institutionality of CSOs, in a decreasing enabling environment. In addition, there is the use of discretion in the tax collection and the highly bureaucratic and costly process to obtain tax exemptions, which has created a situation in which most CSOs do not apply for tax exemptions.

Therefore tax obligations are hidden costs within the services for the participating population.

Weaknesses and Challenges

The tax and fiscal system is an area of tension between the government and CSOs, as a new draft Tax Code has been defined and proposed, while only few CSOs still seek their tax exemptions. The tax system, which is indirect, causes the provision of services by CSOs to be onerous. On the other hand, the draft Tax Code diminishes CSOs' rights of presumption of innocence and the right to petition the government, hereby restricting their operations. The logic behind being a taxpayer has changed: in case of non-payment, the entity becomes delinquent to the tax authorities and with this new draft Tax Code, the collector, investigator and judge are entitled to determine the guilt of the taxpayer.

There are no clear and consistent rules in accordance with the constitutional principles, governing the civil society sector in tax matters. The legislation gives room to the use of discretion, as there are no clear requirements or homologous criteria used by the government agencies involved.

The Secretary of Finance, Revenue Office (with the new Tax Code, it is renamed as the Tax Administration), is in charge of fiscal and tax matters and a Single Window was established, which acts as a filter and assists organizations. In addition, the required documents requested for obtaining tax exemption and other procedures (such as resolutions of legal status, proof of registration, board, etc.) are issued by the Ministry of Human Rights, Justice, Interior and Decentralization through its dependencies: the General

Secretariat and the Registration and Monitoring Unit of Civil Associations. In practice, there are at least 5 public institutions involved, each with its own system of recording information. There is no integration of information, which is a regretful as this would harmonize efforts, reducing the cost for CSOs in obtaining such documents. There is a need for the development and adoption of a differentiated tax regime for the civil society sector, as to be regulated properly and to avoid being treated as commercial enterprises, with clear procedures that reflect their nature as non-profit organizations.

Public institutions should have a harmonized information system to reduce costs and to make the time-consuming and cumbersome processes more efficient.

Access to Information

General Overview

The right of access to information is closely linked to the freedom of expression. Currently, Honduras has a Law on Transparency and Access to Public Information, Legislative Decree 170-2006, which requires all institutions that manage or receive public funds, to make their management more transparent. This Transparency Act also sets the limits or restrictions on access to information, namely article 16 on the restriction of the access to information. The exercise of the right of access to public information is restricted:

- 1) When required by the Constitution, laws, treaties, or in case it is declared as reserved subject to the provisions of articles 17 and 18 of the same Act;
- 2) The information is recognized as classified or confidential information in accordance with article 3, paragraphs 7 and 9 of the Law on Access to Public Information, all applying to institutions and private sector companies, which are not covered by the obligations set out in the Transparency Act and special laws; and 4) the right of access to public information will not be invoked in any case to require the identification of journalistic sources within public sector bodies, nor the information to support investigations and journalistic information that has been duly published and works in the archives of the media companies. It should also be noted the content of the Act, regarding restrictions on access to information related to security and national defense matters.

Article 3 of the Law for the Classification of Public Documents related to National Security and Defense, Legislative Decree 418-2013, outlines the information that is considered as jeopardizing national security and defense, which is classified as confidential. Article 4 provides that this information is confidential, secret and top-secret.

Analysis

The regulations of the Law on Transparency and Access to Public Information provide that the request for access to public information must be submitted in writing or by electronic means, clearly indicating the specific details of the information requested. This provision does not authorize the applicant to copy all or a part of a database. The right of access to public information requires no demonstrated legitimate interest or reasons motivating the request, except in the case of personal data. The applicant is responsible for the use, management and dissemination of information to which he or she has access.

The application must be submitted to the Public Information Officer in charge of the institutions of the executive, legislative, judicial powers or city governments, or, where applicable, the person in charge of the obligated institution or its departmental or local delegates. According to a report by the Institute of Access to public Information (IAIP), out of 4,278 applications, 4,058 were granted and 93 refused. In relation to the 59 appeals to the denial of information requested, 25 were under study and 25 were resolved and granted and only 9 were rejected as inadmissible. (Publica, 2010)

Institutions have the duty to deliver simple and accessible information to the applicant regarding the steps and procedures to be followed, the competent authorities or bodies, how to fill out the required forms, the units to which you can turn for guidance or to present a complaint about the service, about the functions or powers of a person or entity, etc.

Any request for information must be satisfied within a period not exceeding ten (10) business days. The period may be extended for another ten (10) days to mediate circumstances that make it difficult to gather the required information. All the formalities for the submission of an application for access to public information will be free of charge. If the entity providing the information incurred costs for the reproduction of the documentation that was requested, it is authorized to collect only to cover the costs generated.

According to the Institute of Access to public Information (IAIP) the appeal process for a denial of an information request is as follows: The applicant who, by resolution of the institution, has been denied his request for access

to information, is communicated of reason of the denial: the absence of the requested documents, has not been resolved within the time and manner established by law or provided with incomplete information. The applicant can, in writing or electronically, by himself or through a representative, appeal to the decision or the absence of a decision, before the concerned institute, within ten (10) business days following the date of the notification of the decision. The applicant may request in its letter, the application of sanctions, contained in the Act, to public or private servants who acted contrary to the law.

The concerned institute will require of the obligated institution that issued the denial, to render all antecedents, within three (3) working days. If the legal deadline for the delivery of information was not met, the obligated institution will be required to immediately deliver the requested information. In both cases, warning the institution that if they do not comply, they will resort to the sanctions provided in the Act is advisable. The ten (10) days deadline will be interrupted, to include the time granted to the institutions for the remission of the antecedents described above.

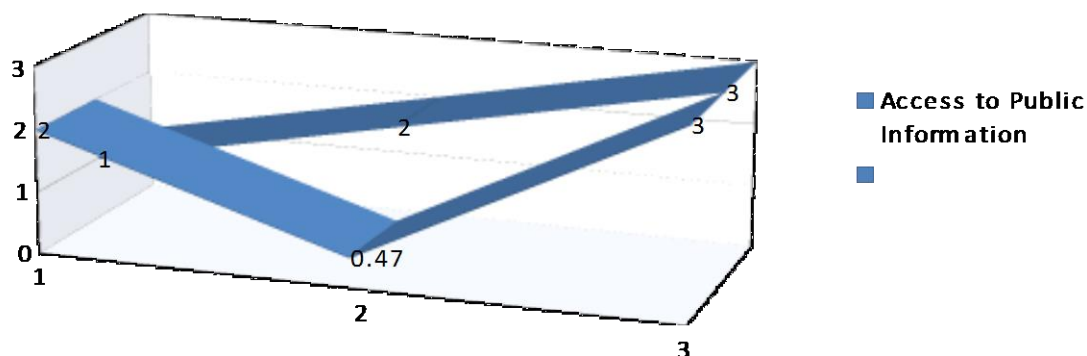
The Institute is competent to hear, process and resolve the appeals of the refusal of the delivery of public information, presented in accordance with the provisions of the Act and Regulations. Only a constitutional complaint under the Law on Constitutional Justice can be used against the resolution of the Institute.

However, focus groups discussions and key CSOs' informants have indicated that public institutions do not always provide the information requested, and it depends on the entity that made the request.

"It depends on where the information is requested. Well, the DEI is very difficult to provide us with information, each institution has different criteria." (Interview with key informant, CSO, 11/2/2016)

"With regard to accessibility to public servants, it must be emphasized that it is a subjective question. Essentially, every public servant should hear the comments and suggestions of citizens. However, as expressed it is a matter subject to the idiosyncrasies of each public servant." (Interview with key informant, IAIP 28/02/2016)

Access to Public Information



Graphic No.9 Comparison of the three layers of information gathering (focus group discussions, key informant interviews and desktop review) on the access to public information by CSOs.

Weaknesses and Challenges

Regarding this dimension, it can be concluded that CSOs have a continuous responsibility to promote a culture of transparency and accountability at all levels of government and different institutions. Despite having a law that guarantees the access to information, the procedures to request information represent in practice a constant struggle with public officials. Additionally, laws exist with provisions contrary to the right of access to information promoted by the Government as is for example the use of indirect taxes, aimed at public safety.

Conclusion

At the national level, Honduras has an active civil society with a wide range of different organizations according to their legal nature; these include community organizations, NGOs, foundations, associations, OPDFs, Municipal Organizations, Cultural, Sports, etc.

These CSOs play a major role in the development of the country as they work on those social issues that the government has failed to resolve, and on the promotion of citizen participation at all levels. They also promote a culture of peace, human rights, violence prevention, environmental protection and service to vulnerable groups in the country.

Despite being active, civil society operates in an environment that is not the most enabling. The legal framework governing the formation and operation of CSOs is dispersed and allows for administrative discretion. Gaps exist in these laws that are not clarified in the regulations, which in practice allow public officials to demand unnecessary requirements and which puts the security of the organizations at risk.

The public institution responsible for the registration of CSOs is inefficient in handling the high number of OSC registration applications, mainly due to the lack of human resources and appropriate technology. This increases the cost of the creation and operation of CSOs.

In addition, one of the major factors limiting the full exercise of freedom of association and which is causing the closure of many CSOs in the country, is the lack of clear rules or laws in tax matters, applicable to the CSO sector, and based on the constitutional principles of legality, proportionality, generality and equity according to the economic capacity of the taxpayer.

As mentioned in the report, it is necessary to join efforts with the government through dialogue, in order to standardize and clarify the formalities and to improve the enabling environment of CSOs. General legal and tax laws are necessary to promote the civil society sector.

CSOs need to speak out and take a stand urgently regarding the new draft Tax Code, which is considered as a clear violation of fundamental rights

such as the right to defense, the right to a due processes at the tax administration, to petition the government, the presumption of innocence, which are all constitutional guarantees. Besides, any legal proposals should be aimed at strengthening the guarantees of taxpayers and the legal certainty, the promotion of the unification of criteria in administrative action (simplification of processes), the promotion of the use of new technologies and the modernization of tax procedures.

Within this context, this report analyzed the separate dimensions with the following findings:

Mandatory Dimensions:

A comparison of the three layers of information gathering - desktop review, focus group discussions and key informant interviews – for the mandatory dimensions (**formation, operation, access to resources, relations with the government, expression and peaceful assembly**) has led to the following findings: although the desktop review describes a rather favorable environment for CSOs regarding the legal and regulatory framework and the legal recognition of CSOs in the mandatory dimensions, a different reality became evident in the interviews with key informants and focus group discussions. Both sources of information agreed that there is a different set of standards and a variety of legal instruments applied to CSOs that also affect the processes implemented by public authorities.

Despite CSOs having a clear vision, mission and objectives, public officials (at the Registrar's Office) use their discretion to apply these legal instruments and try to fit these CSOs in the categories defined in these regulations.

A possible cause is that there are five laws that regulate CSOs, namely the NGDO Act, Legislative Decree 32-2011; the Water Act, to grant legal status to the Water Administration Boards, Agreement 006-2004; the Law on Private Financial Development Organizations, Legislative Decree 229-2000; the Law on the Boards of Trustees and Community Associations, Legislative Decree 253-2013, and The Civil Code. These laws contribute to the level of bureaucracy (administrative red tape), and allows public registrars to use administrative discretion, requesting more evidence or changes in the articles of association to the founding members of CSOs, dilating their planning processes, therefore affecting possible opportunities of obtaining resources for their programs and projects.

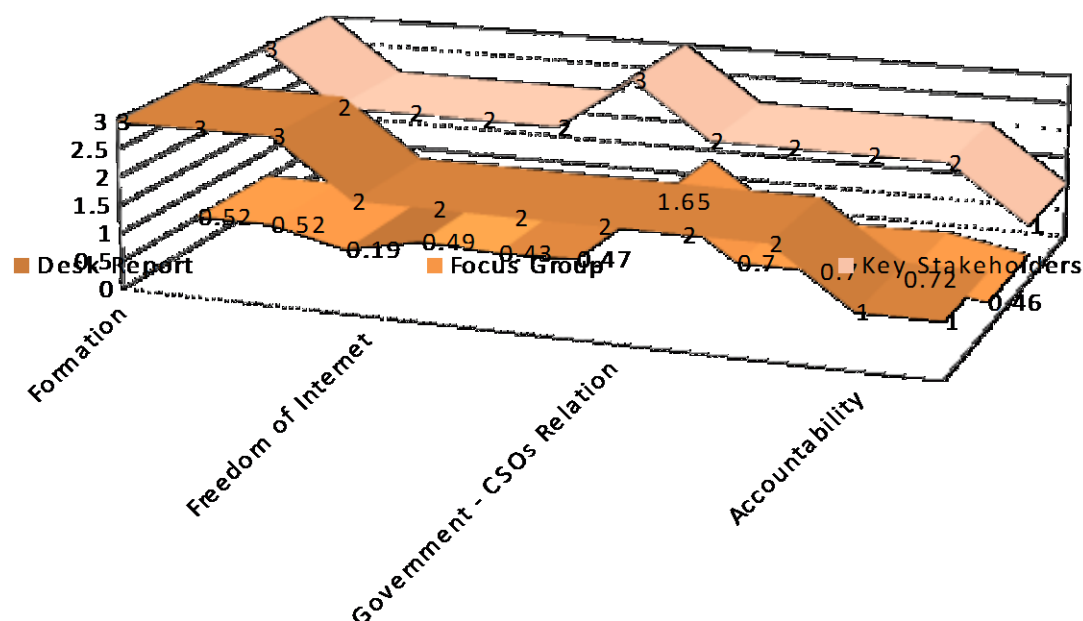
There is dissatisfaction regarding the formation and operation of CSOs, for the reasons described in the preceding paragraph. The above described bureaucracy also affects the costs of registration. The five legislative decrees classify the objectives of CSOs and determine the administrative procedure for registration. The URSAC is understaffed and has more than four functions, therefore URSAC staff has a large number of activities to undertake, besides the registration of CSOs.

Regarding the dimension of access to resources, it was expressed that in general, the resources for civil society is decreasing. There is no decentralization and the government directs its resources to certain public services or donations already established in the General Budget of the Republic. Very little is known regarding the cooperation with international agencies - bilateral or multilateral - as well as cooperation with foreign government agencies. There is little knowledge on the access to resources and the government considers that this should be regulated and information recorded. However, according to CSOs, this type of monitoring is more geared towards fiscal control. When there are international agreements or cooperation, the Registration Unit is to be notified as a technicality. This oversight does not involve an evaluation due to the poor institutional capacity and the shortage of human resources.

In the below graph, the dimensions and variables (determined by FOPRIDEH based on the EENA Research Guide) can be valued. There are differences between the research findings stemming from the desktop review and those obtained from the information out of the focus group discussions and key informant interviews. After comparing the three sources of information, it can be concluded that the many laws that regulate the formation and operation of CSOs create confusion, which first and foremost affects the CSOs, their formation and the establishment of objectives. Additionally, it causes administrative inefficiencies and delays, in both internal and external processes of CSOs. Participants in the focus group discussions expressed the following:

"If we want a legal record of the Board of Directors or other procedures and the application is not submitted by a legal counselor, we are offered these services right there in the recording unit and are asked to pay an unreported fee for a quick process" (focus group of CSOs, 15/02/2016) .

Comparison of Collected Information



Graphic No.10 Comparison of the three layers of information gathering (focus group discussions, key informant interviews and desktop review) on all analyzed mandatory dimensions.

It is important to note that there are five separate laws related to the formation and operation of CSOs. However, the use of the discretion of the three registration officials for more than 12,000 CSOs affects the efficiency of the implementation of these laws, as stated by a Director, who requested a reform to strengthen this department:

"There are three registration officials, but each one has multiple functions, which are necessary, but this affects the necessary formalities by CSOs, therefore we require more staff to meet the demand." (interview with key informant, 22/02/2016)

At no time the government office speaks of, or considers, the option of using other means, such as an online system to facilitate the process of monitoring and recording of CSOs. As mentioned in the following statement:

"Those of us in the North and West sides of the country, have to travel to the capital every year to present the annual reports and statements. It involves several days of expenses. Here in the north of the Caribbean there are CSOs that are from Mosquitia or Colon, who travel by air and when they get to the office, are told that

they are missing documents or the documents are incorrect. There is no way to contact the office to verify what they want, they should have an internet platform to see these requirements, thus reducing the cost of paperwork" (Focus Group 24/02/2016).

Representatives from the North and the West of the country expressed the following during the National Consultation:

'CSO representatives from Tegucigalpa assess everything as a green flag in their responses, because they have the URSAC and public institutions there in the capital, while us from the countryside want these facilities as well. It is more difficult for us to go, it is a waste of time.' (National Consultation, CSO Representative from Colinas municipality of Santa Barbara, 08/04/2016)

In conclusion, there is administrative inefficiency that leaves space open for corruption and increases the internal costs for CSOs. The multiple laws and the dispersion of these laws and its regulations give room to the use of discretion by the administration. Officials have multiple functions and because of economic factors, there is no intention to improve these services and, therefore, the red tape and high level of bureaucracy continues.

In the dimension of **Access to Resources**, the access of CSOs to government programs and resources is analyzed: discretion is also used in the access of CSOs to these programs. However, there are other resources that CSOs can access: international resources from cooperating agencies, which enables the financial sustainability of CSOs. During the information gathering sessions, CSO representatives have stated that requirements for international funding are complex and CSOs have not much opportunities because of the low technical and administrative capacity of CSOs.

"For CSOs to partake in tenders, they must have connections within the government to be taken into account." (National Consultation, CSO Representative from Colinas municipality of Santa Barbara, 08/04/2016)

The organization of **Peaceful Assemblies** is a common practice within the institutional framework of CSOs and in the follow-up with the CSOs' beneficiaries. These gatherings and meetings are organized in accordance with the established legislation. However, the repression that exists in the country represents a risk for CSOs and their beneficiaries, for example:

"To have a teachers' meeting, one must say it is a peaceful assembly, because if the authority believes it is a strike, they will bring the armored cars." (National

Consultation, CSO Representative from the municipality of Santa Cruz de Yojoa department of Cortes, 08/04/2016)

This relationship also influences the **Communication with the Government**, with the government requesting the validation of implemented public policy processes. This requires that CSOs are formed, operating and express their public opinion. The assessment and opinion of CSOs are necessary for the government, although CSOs require the necessary space that allows them to express their needs, challenges, their positive or negative opinions about government policies without repression.

Optional Dimensions:

The optional dimensions are Internet Freedom, Taxation, Access to Information and CSO Cooperation and Coalition. The views of key informants and participants of the focus group discussions show the deterioration of each dimension, as shown in Graph No. 11 of this report. Each dimension has specific laws and regulations, affected by the use of the discretion of public authorities. As a result, the environment for CSOs is affected and becomes disabling, often resulting in the closure of organizations.

The level of **access to information** is decreasing due to the lack of an institutional culture of transparency and accountability. In addition, there are administrative delays, mainly in the central offices, the regional and local offices tend to comply with the laws, given that they are evaluated by the Institute of Access to Public Information.

Internet freedom has more to do with the economic conditions of citizens, than with their rights. If the internet service is not paid monthly, then there is no access. Public internet is available, but the traffic is high on public internet and therefore slower. The freedom of expression online is not regulated in Honduras, as is the case in some other countries.

Organizations can express their views and share information about local activities through social networks. However, considering the condition of the country, the expression on social networks and in public spaces tends to decrease as a result of a strategy of social militarization – the National Security Policy where security agencies of the government, under the aegis of the military body, suppress all information or expression that threatens

national security). This affects the respect for human rights and therefore CSOs that work on human rights.



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Anexes

Advocacy Plan

This plan proposes the next steps to face the challenges outlined in this report (an initial basis for advocacy plan), as discussed with organizations in the two National Consultations. The suggestions of the participants are provided in this matrix.

DIMENSION	OBJECTIVE	ACTIVITY	PURPOSE
FORMATION	To develop and harmonize laws on the formation of CSOs.	<ul style="list-style-type: none"> To review existing regulations and eliminate government discretion. To evaluate the functions and processes for the formation of CSOs. To train CSOs in terms of the relevant laws, to improve the performance of their obligations. 	<ul style="list-style-type: none"> To develop a proposal for the reform or to promote a general law for CSOs to facilitate the formation process.
OPERATION	To evaluate the performance of the Unit of Registration and Monitoring of Civil Associations (URSAC).	<ul style="list-style-type: none"> To coordinate with government agencies an assessment of the support provided by the federations of CSOs. Implement the assessments. opening of one Northwest regional office. Create a virtual platform for the registration process and operation formalities of CSOs. Preparation of administrative 	<ul style="list-style-type: none"> To establish clear and concise guidelines to eliminate government discretion

		procedures manuals for CSOs	
ACCESS TO RESOURCES	To promote access to information on financial resources	<ul style="list-style-type: none"> • To review the elements and requirements to participate in the selection process of services provided by CSOs. • To review the processes to access international resources and from government platforms. • To develop a website with information on the available financial resources (government and international cooperation) • The preparation of newsletters and newspapers. 	<ul style="list-style-type: none"> • Transparency in the management of the investment of resources.
EXPRESSION	To encourage the use of media by communities	<ul style="list-style-type: none"> • To review the processes of legalization of community radios to provide information about services of CSOs. • To strengthen CSOs to be transparent about their activities in the communities. 	<ul style="list-style-type: none"> • To ease restrictions and regulations on media
PEACEFUL ASSEMBLY	To encourage meetings and gatherings of the members and participants of CSOs without restrictions.	<ul style="list-style-type: none"> • To modify the law and regulations restricting peaceful assembly 	<ul style="list-style-type: none"> • To promote the exercise of the right to peaceful assembly and to create spaces for assemblies.
INTERNET FREEDOM	To encourage the use of social networks for the free expression of CSOs	<ul style="list-style-type: none"> • To review the processes of internet access through the municipalities of the country in CONATEL. • To develop capabilities for the use of media and social networks. 	<ul style="list-style-type: none"> • Complementary collaboration between CSOs.

GOVERNMENT-CSOs RELATIONS	To promote partnership and dialogue between the government and the CSOs.	<ul style="list-style-type: none"> • To establish common agendas to face problems affecting the population and CSOs. • To open up spaces for participation. • To promote political will to act. 	<ul style="list-style-type: none"> • Building trust for the collective benefit.
CIVIL SOCIETY COOPERATION AND COALITION	Strengthen the cooperation between and practice of CSOs	<ul style="list-style-type: none"> • To develop a CSOs database. • To create alliances, coalitions, networks and other forms of collaboration between CSOs. • The signing of agreements of mutual improvement. 	<ul style="list-style-type: none"> • To establish practices of cooperation and solidarity in the sector.
TAXATION	To incentivize existing legislation and CSOs' tax relief projects.	<ul style="list-style-type: none"> • To review national, departmental and municipal laws that tax CSOs. • To review the tax obligations that use discretion against CSOs. • Decentralization and administrative ease for fiscal procedures of CSOs. 	<ul style="list-style-type: none"> • To promote a differentiated tax regime for the sector.
ACCESS TO INFORMATION	To promote a culture of transparency and accountability.	<ul style="list-style-type: none"> • To generate public accountability processes. • To develop citizen capacities for the use of platforms to access information. • To establish transparency portals, to train Citizen Transparency Commissions in communication. 	<ul style="list-style-type: none"> • Access to public information.

Assessment Matrix

EENA Assessment Matrix			
Mandatory Dimensions			
<i>Dimension #1: Formation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What legal instruments (laws, regulations, decrees, etc.) currently govern(s) the formation of Civil Society Organizations (CSOs) ⁶ ?	Few enabling legal instruments; clear, non-overlapping regulatory regimes	Several legal instruments; some overlap, lack of clarity in regulatory regimes	Many legal instruments; unclear, overlapping regulatory regimes
2. Who is legally permitted to serve as a CSO founder? Who is excluded from serving as a founder?	Minimal eligibility requirements (e.g., residency of founders)	Extensive eligibility requirements (e.g. residency and citizenship of founders)	Extremely burdensome eligibility requirements (e.g. citizenship and clean criminal record or license/occupation of founders)
3. What minimum number of individuals is required to form a CSO? What are the requirements of membership?	Fewer than 5 minimum members; minimal eligibility requirements	5-10 minimum members; extensive eligibility requirements	More than 10 minimum members; extremely burdensome eligibility requirements

⁶ A Civil Society Organization (CSO) is defined, for the purposes of this assessment, as a formalized group of individuals that are independent of government and do not function as for-profit businesses. Owing to the fact that different legal frameworks govern their formation, CSOs in this assessment do not include trade unions, political parties, or communities of worship.

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	Extensive registration procedures	Extremely burdensome registration procedures
5. Is there a minimum capitalization requirement to register a CSO?	No minimum capitalization requirement (except for a reasonable requirement for foundations)	Nominal minimum capitalization requirement for most CSOs and/or burdensome capitalization requirement for foundations	Burdensome minimum capitalization requirement for associations and/or foundations
6. What are the specific grounds for rejecting a CSO's application for registration/incorporation? Are such grounds sufficiently detailed?	Minimal, clearly defined grounds for rejecting a CSO's application	Numerous, somewhat unclear grounds for rejecting a CSO's application	Extensive, vague grounds for rejecting a CSO's application (excessive discretion accorded to registrar)
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	No restrictions on CSO's purpose	Requirement that CSOs adhere to purposes stated in the law	Restrictions on CSO's purpose; prohibition of certain purposes

democracy-promotion, for example) forbidden from forming?			
8. Can registration decisions be appealed? If so, how frequently are registration decisions appealed? What are the results?	Clear, available means for unbiased appeal	Somewhat unclear or unavailable means for appeal; biased review (appeal is to the registrar or other implicated official)	No means for appeal
9. What documentation is required for a CSO's incorporation/registration?	Minimal documentary requirements (such as basic contact information and bylaws)	Extensive documentary requirements (e.g., minutes of founders' meeting, ministerial certification, detailed statement of purpose/activities)	Extremely burdensome documentary requirements (contact information for all board/members/staff/participants, workplans, statement of assets)
10. Are CSOs required to regularly renew their registration?	No renewal required	Renewal required every few years	Renewal required annually
11. What registration fees are required?	No or nominal registration fees	Nominal registration fees; comparable with private sector registration fees	Burdensome registration fees; excessive compared to private sector registrations fees
12. What is the approximate cost to register a CSO, and how long does the	Nominal registration costs; clear deadlines in the law; less than 30 days	Burdensome registration costs; unclear deadlines for the registrar; 30-90	Prohibitive registration costs; unclear or no deadlines for the registrar; more than 90 days

process typically take?		days	
13. How many CSOs are currently registered?	10,424 registered CSOs. Relation with the population: 0.0764 CSOs per 1,000 inhabitants		
14. Are there draft laws or regulations that, if adopted, would restrict or, alternatively, ease the formation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the formation of CSOs	Pending legislation/regulations that may restrict the formation of CSOs	Pending legislation/regulations that will severely restrict the formation of CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is the entity responsible for registering CSOs sufficiently funded and staffed?	Yes	Some lack of capacity/resources	Unable to fulfill mandate
2. Is registration easily accessible? E.g., are there sufficient locations/centers around the state for registering CSOs, or is the process all done electronically?	Yes	Registration difficult to access for many CSOs	Registration accessible to only a few CSOs
3. What non-legal and/or	No non-legal or non-	Some non-legal	Prohibitive non-legal and/or non-

non-governmental barriers, such as slow or ineffective bureaucracies, inability to access funds, or difficulty buying/leasing property, affect the formation of CSOs?	governmental barriers to formation	and/or non-governmental barriers to formation, such as unreasonable bureaucratic delays that make it significantly more difficult to form a CSO	governmental barriers to formation, such as banks refusing to work with CSOs, that create a significant barrier to entry
4. To what extent is there a perception of excessive discretion, favoritism (political, ethnic, religious, etc.), and/or corruption in the registration process?	None	Some perceived unfairness (discretion, favoritism, corruption)	Widespread perceived unfairness (discretion, favoritism, corruption)
<i>Dimension #2: Operation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What law(s) directly govern(s) the operation of CSOs? Do any other laws affect or influence the operation of CSOs?	Few enabling laws; clear, non-overlapping regulatory regimes	Several laws; some overlap, lack of clarity in regulatory regimes	Many laws; unclear, overlapping regulatory regimes
2. Are CSOs required to notify the government of any meetings? If so, of each meeting or	No/minimal required notification (i.e. only in case of changes in the board of directors or	Some notification requirements beyond the minimal ones	CSOs required to notify the government of all meetings, elections, election results

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?	legal representatives of the CSO)		
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 reporting appropriate to CSO's size	Multiple and/or extensive annual reports required	Extremely burdensome, frequent reporting required
4. Are CSOs required to periodically report to the government for any other reasons? What reasons and how often?	No/minimal other reporting	Some other reporting required	Extremely burdensome, frequent other reporting required
5. Are CSOs subject to government audits or inspections? How often, and what types?	Annual audits; small CSOs exempt	Annual audits regardless of size; risk of unwarranted inspection	Frequent and/or politically- motivated audits, unwarranted inspections
6. What types of information are CSOs	No/minimal other disclosure required	Some other disclosures required (e.g., salaries	Extensive other disclosures required (e.g., names of all

required to publicly disclose?	(e.g., use of public resources)	of lead officials)	members)
7. What administrative requirements affect the operation of CSOs?	Minimal, clear administrative requirements, such as basic documentation of the CSO and a contact person	Several, somewhat unclear administrative requirements, such as certifications from multiple sources	Many, unclear administrative requirements making it prohibitively difficult to abide by the rules
8. Are CSOs mandated to align their activities with governmental priorities as defined in national development plans?	No alignment required	Some alignment required (e.g. for certain types of CSOs)	Full alignment required; and/or non-alignment is penalized
9. On what grounds is the government legally permitted to terminate or dissolve a CSO? Is there an opportunity to appeal this decision?	Very limited grounds for termination/dissolution; sufficient opportunity to unbiased appeal	Many, somewhat unclear grounds for termination/dissolution; limited availability of unbiased appeal	Extensive, vague grounds for termination/dissolution; no means for unbiased appeal
10. On what grounds can a CSO be voluntarily dissolved?	No limitation on voluntary dissolution	Some limitation on voluntary dissolution	Voluntary dissolution prohibited
11. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease –	Pending legislation/regulations that will significantly ease the operation of CSOs	Pending legislation/regulations that may restrict the operation of CSOs	Pending legislation/regulations that will severely restrict the operation of CSOs

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.			
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What level of oversight does the government have over CSOs? Extensive, moderate, or light?	Light, e.g. required annual reporting with rare, justifiable additional oversight	Moderate, e.g. frequent reporting requirements, permits for certain activities, and/or frequent inspection or auditing	Extensive, excessive reporting and permission requirements and near-constant oversight;
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?	Helpful administrative requirements (e.g., reasonable documentation related to claiming tax benefits)	Administrative requirements somewhat impede CSO's operation (e.g., requests for additional information once the legally required reports are submitted; slow bureaucracy holds up CSO activities etc.) and/or more than 20% of total staff time devoted to compliance.	Administrative requirements severely impede CSO's operation (e.g. detailed reports on CSO events required for the government; frequent audits on a range of regulations - labor, tax, social security etc.); and/or more than 50% of staff time devoted to compliance.

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?	No non-legal grounds for termination/dissolution	Non-legal grounds, such as policy directives, sometimes used to terminate/dissolve CSOs	Non-legal grounds, such as action without any stated justification, frequently used to terminate/dissolve CSOs
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?	No history of harassment	Some history of harassment	Frequent harassment
<i>Dimension #3: Access to Resources</i>			
<i>a. General questions about the funding environment</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Which financial resources do CSOs have legal access to: State funds? Earned income?	No limitation on funding	Some limitations on funding (e.g., legal requirements related to certain income types or volumes of	Burdensome limitations on funding (e.g., key funding sources of CSOs are inaccessible)

Donations? Foreign donor funding? Other?		income)	
2. What legal barriers hinder access to each of these potential sources of funding?	No legal barriers to funding	Some legal barriers to funding (e.g., must register to receive foreign funding; must establish a company to generate any earned income;)	Burdensome legal barriers to funding (e.g. may not receive foreign funding; may not engage in economic activities)
3. Do laws and/or regulations prohibit CSOs from distributing profits or otherwise providing inappropriate private benefit to officers, directors, or other insiders?	Clear prohibition on profit distribution, private benefit	Somewhat unclear regulation of profit distribution, private benefit	Vague regulation of profit distribution, private benefit
4. Upon dissolution or termination, what happens to a CSO's assets? What laws and/or regulations affect distribution of assets upon dissolution?	Few, clear enabling laws on CSO assets after termination/dissolution	Multiple or unclear laws on CSO assets after termination/dissolution; some space for governmental discretion on use of assets	Nonexistent or vague laws on CSO assets after termination/dissolution; ample space for governmental discretion on use of assets
5. Are there draft laws or regulations that, if	Pending legislation/regulations	Pending legislation/regulations	Pending legislation/regulations that will severely restrict CSOs'

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.	that will significantly ease CSOs' access to resources	that may restrict CSOs' access to resources	access to resources
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What non-legal and/or non-governmental barriers hinder access to each of the potential sources of funding for a CSO?	No non-legal or non-governmental barriers to funding	Some non-legal and/or non-governmental barriers, such as an under-developed banking system, lack of CSO fundraising capacity	Burdensome non-legal and/or non-governmental barriers, such as financial transaction restrictions, lack of CSO fundraising capacity
2. How reliable is a CSO's access to legally permissible funds? And how freely available are these funds?	Reliable, available funds	Unreliable, somewhat unavailable funds	Extremely unreliable, limited availability of funds
3. How much does a CSO's financial sustainability	Not at all (as long as CSO complies with reasonable	Somewhat (e.g., government can exercise discretion in	Entirely (e.g., government has control over key resources of CSOs; and/or resources are

depend on government oversight and approval?	regulations)	approving or influencing access to certain sources for CSOs)	prohibited)
4. How effectively does the legal and policy framework support the mobilization of local resources?	Effectively, e.g., the government takes measures to encourage local philanthropy	Somewhat effectively, e.g., the laws allow donations but do not incentivize them	Not at all effectively, laws hinder philanthropy or it is otherwise not possible to practice philanthropy
5. Does government and donor funding support the full range of CSO programming and activities, including e.g., innovation, core funding, policy development and advocacy?	Yes, such funds are generally available	Limited availability of such funds (e.g., only from a couple of donors or for a few types of CSOs)	Such funds do not exist or are restricted to a very small group of CSOs
6. What type of source of funding are CSOs most dependent on?	A variety of funding sources	Few/not sustainable funding sources	One or no funding source
7. What is the perceived reliability of different sources of funding? (or what source of funding is	A variety of reliable funding sources	A few reliable funding sources	No reliable funding sources

more reliable for CSOs)			
8. Are you seeing any recent changes in the funding environment at the national level? What are the impacts of any changes on CSOs?	Funding environment is improving or already enabling and likely to remain so	Funding environment deteriorating and/or at risk of significantly deteriorating	Funding environment significantly deteriorating
b. Government funding			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Is government funding currently available for CSOs? If so, is it available for any type of CSO or are there special types of CSOs that are supported by the government?	Government funding generally available	Government funding somewhat available (e.g., from certain departments for certain types of CSOs)	Practically no government funding available
2. In what form and at what levels is government funding available? E.g. are grants, subsidies, institutional (core) support provided at the central level and/or at the local	A variety of government funding options at both central and local levels	Limited government funding options; good practice examples exist but not widespread; either central or local level lags behind	One or no form of government funding at any level

level? Is there a special funding mechanism (e.g. a fund) for CSO support? Are there examples of contracting with the government by CSOs?			
3. What are the laws, rules and policies currently governing government grants and subsidies of CSOs?	Few, clear enabling laws/rules/policies governing government funding, including those ensuring transparency in awarding grants or contracts to CSOs	Multiple, somewhat unclear laws/rules/policies governing government funding; general procurement rules applied to CSOs	Many and/or vague laws/policies governing government funding; too restrictive or no specific rules for awarding public funds to CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. To what extent is the legal framework conducive to government funding of CSOs? What are specific legal and non-legal barriers to increased, more efficient or more transparent government support?	Legal framework is conducive to government funding; no significant legal or non-legal barriers to transparent government support	Legal framework somewhat conducive to government funding; some legal and/or non-legal barriers to transparent government support (e.g., a law that allows funding of CSOs but no clear implementation mechanisms; or: calls	Burdensome legal framework for government funding; prohibitive legal and non-legal barriers to transparent government support (e.g., unreasonably strict criteria for CSOs to be eligible for support; highly discretionary decision-making)

		for proposals do not respond to CSO priorities)	
2. Is the dispersal of government funds seen as predictable, transparent, easily understandable and impartial?	Generally yes	Dispersal of government funds is seen as somewhat unpredictable, opaque, confusing and/or biased	Dispersal of government funds is seen as extremely unpredictable, opaque, confusing and/or biased
3. Has government support decreased or increased within the past years? What is expected in the following years?	Government support steady or increasing; expected to continue increasing	Government support not increased recently; not expected to increase	Government support decreasing; expected to continue decreasing (or practically non-existent)
<i>c. International funding</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Are there different standards/requirements for accessing foreign sources of funding versus domestic sources of funding?	No additional criteria/requirements for foreign funding	Some additional criteria/requirements for foreign funding (e.g., separate registration requirement)	Burdensome additional criteria/requirements for foreign funding (e.g., need to align activities to government plans)
2. What are legal barriers to accessing and using foreign resources by a CSO, if any? E.g. is there government	No legal barriers to foreign funding	Some legal barriers to foreign funding (e.g., notification requirement)	Burdensome legal barriers to foreign funding (e.g., permission and onerous reporting requirements)

notification and/or oversight required to acquire foreign funding? Are there additional reporting requirements when using 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	Few bilateral/multilateral agreements regarding foreign funding	No or restrictive bilateral or multilateral agreements regarding foreign funding
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What non-legal barriers to receiving foreign funds exist in practice?	No non-legal barriers to foreign funds	Some non-legal barriers to foreign funds (e.g. complex application and reporting processes)	Prohibitive non-legal barriers to foreign funds (e.g. complex application and reporting processes; dramatic decrease in donor funding)
2. Has the overall state of governance and rule	Overall governance and rule of law	Overall governance and rule of law a risk	Overall governance and rule of law prohibitive for donors

of law in the country affected donor's contribution to CSOs? If so, how?	encourages donors	for donors	
d. Philanthropy			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What are the laws and/or regulations specifically addressing philanthropy?	Few, clear laws/regulations encourage philanthropy	Multiple, somewhat unclear laws/regulations regarding philanthropy	Many and/or vague laws/regulations regarding philanthropy
2. Are tax exemptions available to those who engage in philanthropy?	Tax exemptions easily available	Limited tax exemptions available	No tax exemptions available
3. Are CSOs permitted to be the recipients of both corporate and individual philanthropy?	Yes, under reasonable criteria (e.g., charitable purposes)	Some unreasonable or unfavorable restrictions on CSOs as recipients of corporate and/or individual philanthropy (e.g. must provide a report to every single donor)	Burdensome restrictions on CSOs as recipients of corporate and/or individual philanthropy (e.g., annual re-registration as charity to be eligible)
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Does the legal and regulatory framework encourage philanthropy? If so, how? If not, how?	Yes -- basic laws are in place to provide tax benefits for donations, options to create foundations and	Somewhat -- e.g., donations and volunteering are allowed but there are no incentives or the	No -- prohibition (in law or in practice) of donations and/or volunteering (e.g., lack of legislation resulting in a de facto prohibition)

	endowments, volunteering	procedures are burdensome or unclear	
2. Is there a philanthropic tradition? What encourages it? What discourages it?	Yes	Somewhat	No
3. Do CSOs regularly fundraise from the domestic public or corporations? Do CSOs have fundraising capacity? Or capacity to diversify their funding?	Yes - e.g., there are established practices or well-known examples of domestic fundraising, and an increasing level of CSO income is from domestic philanthropic sources	Somewhat – e.g., there is growing awareness of the importance of domestic fundraising, some “pioneering” organizations and successful programs to build such capacity of CSOs	No – e.g., the vast majority of CSOs are not allowed to conduct, or neglect to conduct domestic fundraising
4. Do individuals regularly donate to CSOs?	Yes – e.g., people regularly donate to a variety of CSOs or there is at least a broad segment of CSOs that receive such donations (e.g. humanitarian, children's etc.)	Somewhat – e.g., there is a growing trend in donations to CSOs, e.g., with a focus on more “popular” causes	No – regular donations are insignificant in the income of most CSOs
5. Do corporations regularly donate to	Yes – e.g., companies regularly donate in	Somewhat – e.g., there is at least a	No – company donations are insignificant in the income of most

CSOs?	various forms (money, in-kind, expertise) to a variety of CSOs	group of companies that introduced giving programs	CSOs
<i>Dimension #4: Expression</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws affect a CSO's ability to freely express their opinions? What rights are guaranteed under the existing legal framework, including the constitution, with respect to expression, including access to the Internet?	No/minimal restrictions on CSOs' expression, restrictions in conformity with international norms	Some restrictions on CSOs' expression	Stifling restrictions on CSOs' expression; clear violation of international norms
2. Which international treaties have been ratified that affect the ability to publicly express oneself? What treaties have been ratified that affect the right to access the Internet?	All relevant treaties have been ratified (UDHR, ICCPR, regional HR treaties)	All or most relevant treaties are or will be ratified in the near future	Few or no relevant treaties have been ratified or are likely to be ratified in the near future
3. What laws and/or regulations regulate the content of expression? What	Few, clear laws place minimally regulate expression in conformity with	Multiple and/or somewhat unclear laws regulate expression	Many and/or vague laws stifle expression

restrictions are placed on this content (i.e., restrictions for national security, “fighting words”, commercial speech, obscenity)?	international norms		
4. Are there time, place and manner restrictions placed on expression?	No/minimal time, place and manner restrictions	Some time, place and manner restrictions	Burdensome/stifling time place and manner restrictions
5. What legal barriers, if any, hinder a CSO's ability to openly express its opinions, particularly on matters critical of government policies?	No/minimal legal barriers to CSOs' expression	Some legal barriers to CSOs' expression	Prohibitive/stifling barriers to CSOs' expression
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs' freedom of expression? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the expression of CSOs	Pending legislation/regulations that may restrict the expression of CSOs	Pending legislation/regulations that will severely restrict the expression of CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag

1. What non-legal barriers hinder a CSO's ability to openly express its opinions?	No non-legal barriers to expression	Some non-legal barriers to expression (e.g. limited number of independent media outlets that will give space to CSO voices)	Prohibitive/stifling non-legal barriers to expression (e.g., fully government controlled news and internet media)
2. Is open criticism of government policies and practices tolerated? What, historically, has been the reaction of the government to such open criticism?	Public criticism is tolerated	Public criticism is condemned by the government and/or occasionally retaliated	Public criticism is prohibited by the government and if it happens, it is promptly retaliated
3. Are individuals and CSOs aware of their rights with respect to expression? Does the political culture openly support these rights? Or are they actively suppressed regardless of legal protections?	Individuals and CSOs are aware of their rights; political culture supports free expression	Many individuals and CSOs are aware of their rights; political culture frowns on free expression	Few individuals and CSOs are aware of their rights; political culture hinders free expression
<i>Dimension #5: Peaceful Assembly</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws address the rights to peaceful assembly, including domestic	Few, clear enabling laws governing assemblies; all relevant treaties have been	Multiple, somewhat unclear laws governing assembly; some relevant treaties	Many, vague laws governing assembly; many relevant treaties have not been signed or ratified

legislation/regulations and international treaties to which the country is a signatory?	signed and ratified	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; limitations in conformity with international norms	Some limitations on who can assemble; limitations may be unreasonable, vague or allow for government discretion	Prohibitive limitations on who can assemble (e.g. groups promoting certain issues or affiliations are not allowed to assemble); clear violation of international norms
3. Are individuals or CSOs planning a strike/protest required to seek permission or notify the government in advance of the strike/protest?	No permission or advance notice required, except reasonable advance notice to local authorities e.g., if the protest would block traffic or security is requested; however, spontaneous assemblies allowed	Advance notice always required and/or should be provided to multiple authorities; spontaneous assembly not allowed	Permission required
4. Are there limits on the time, place and manner that individuals or groups can assemble, strike, protest or otherwise publicly (and peacefully) express	No/minimal limits on time, place and manner of assembly	Some limits on time, place and manner of assembly; limitations are unreasonable, vague or allow for government discretion	Prohibitive limits on time, place and manner of assembly

their views?			
5. How are aggressive/violent demonstrators dealt with in the law and in practice?	Violence is avoided and contained; security response is proportionate	Violence is not well contained; security response is not strictly proportionate	Violence is escalated; security response is disproportionate
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – individuals and/or CSOs right to peacefully assemble? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will (significantly) ease the right to peaceful assembly	Pending legislation/regulations that may restrict assemblies	Pending legislation/regulations that will severely restrict assemblies
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is there a history of government-led violence or aggression against peaceful demonstrators, activists and/or strikers?	No history of violence or aggression	Some history of violence or aggression	Frequent instances of violence or aggression
2. In practice, are groups who gather to openly criticize the	Criticism and protest are tolerated	Criticism and protest are condemned	Criticism and protest are met with reprisals

government through protest, strike or other form of peaceful demonstration tolerated?			
Optional Dimensions			
<i>Dimension #6: Internet Freedom</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws, if any, protect internet freedom? What legal restrictions are placed on the ability to access the World Wide Web?	Few, clear laws protect internet freedom; no restrictions on the ability to access the internet	Multiple, somewhat unclear laws governing access to the internet; some restrictions on internet access	Many, vague laws governing internet access; severe restrictions on internet access
2. Are there technical barriers (e.g. centralised infrastructure, state-run monopolies, state control of fibre optic cables and copper wires) to internet access?	No technical barriers to internet access	Some technical barriers to internet access	Prohibitive technical barriers to internet access
3. Are there technical barriers (e.g. centralised infrastructure, state-run monopolies, state control of fibre optic	No technical barriers to mobile phone access	Some technical barriers to mobile phone access	Prohibitive technical barriers to mobile phone access

cables and copper wires) to mobile phone access?			
4. Does the state place limits on internet content by blocking access to information on the World Wide Web concerning social and political issues?	No/minimal content is blocked by the state (e.g., child pornography, other explicitly criminal content)	Some content is blocked by the state (moral or politically objectionable content is sometimes blocked)	State severely limits access to content on the internet (dissent or non-traditional social practice is mostly blocked)
5. In times of political crisis, has there been a shutdown of the internet or mobile phone access?	Internet and mobile phone access have never been shut down by the state	The state has threatened or attempted to shut down Internet and mobile phone access; shut down has been limited to some sites	Internet and mobile phone access have been shut down by the state once or more times
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – internet freedom? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will (significantly) ease internet freedom	Pending legislation/regulations that may restrict internet freedom	Pending legislation/regulations that will severely restrict internet freedom
Perception Questions	Green Flag	Yellow Flag	Red Flag

1. In practice, what level of Internet freedom is tolerated in the country?	High level of internet freedom is tolerated	Some internet freedom is tolerated	Internet freedom is severely limited
2. Is internet - email, social media tools - used as a common tool by CSOs and citizens for advocacy and mobilization purposes?	Internet commonly used for advocacy and mobilization	Internet occasionally used for advocacy and mobilization	Internet rarely used for advocacy and mobilization
<i>Dimension #7: Government-CSO Relations</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. To what extent are CSOs permitted to engage in the political (electoral) process? E.g., are they permitted to nominate candidates for public office? Support or oppose political parties/candidates? Fundraise for political parties/candidates? If so, under which conditions?	CSOs generally permitted to engage in political process; few, clear enabling laws governing CSOs and the political process, which establish reasonable limitations (e.g., CSO may not be eligible for tax benefits if engages in the political process; must disclose funding provided to a political party)	CSOs are generally allowed to engage in the political process but there are multiple and/or unclear laws governing CSOs and the political process that allow for government discretion	CSOs prohibited from engaging in the political process; or total lack of legislation / many, vague laws governing CSOs and the political process resulting in a de facto prohibition
2. To what extent are	CSOs allowed to	CSOs are partially	CSOs, or a significant segment of

CSOs allowed to participate in public policy activities? Are they allowed to advocate (campaign) and lobby for legislation? If so, under which conditions?	participate in public policy activities; advocacy and lobbying are permitted with no/minimal restrictions (e.g., CSO must disclose its lobbying efforts)	allowed to participate in public policy activities; vague laws allow for government discretion; there are some unreasonable restrictions on advocacy and lobbying activities (e.g., must obtain government permission to organize an event)	CSOs, are forbidden from participating in public policy activities, including advocacy and lobbying
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	Limited legal/institutional opportunities for CSOs to participate in decision-making processes (e.g. only one department organizes such forums; only CSOs with a large membership are allowed to participate in such forums etc.)	No or insignificant legal/institutional opportunities for CSOs to participate in decision-making processes
4. To what extent are there compacts, liaison officers, committees, or other similar	At least one well-functioning mechanism available to promote	At least one mechanism to promote cooperation and communication	No mechanisms available to promote cooperation and communication between government and civil society

mechanisms to promote cooperation and communication between government and civil society?	cooperation and communication between government and civil society	between government and civil society is being considered, or exists with some challenges in its implementation	
5. Are there draft laws or regulations that, if adopted, would inhibit – or, alternatively, ease – government-CSO relations? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will (significantly) ease the government-CSO relations	Pending legislation/regulations that may restrict government-CSO relations	Pending legislation/regulations that will severely restrict government-CSO relations
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. In general, what is the nature of the relationship between the Government and CSOs? Contentious? Harmonious? Somewhere in the middle?	Harmonious or “live and let live” relationship between government and CSOs	Somewhat contentious relationship between government and CSOs	Antagonistic relationship between government and CSOs
2. Is there regular communication between CSOs and the	There is regular, productive communication	There is limited, often ineffective communication	There is minimal, ineffective communication between CSOs and government

Government? How can the quality of the dialogue between the Government and CSOs be characterized?	between CSOs and government	between CSOs and government	
3. Are the opinions of CSOs taken into account when drafting legislation, or more generally, anywhere in the legislative process?	Relevant CSOs opinions are routinely taken into account	CSOs opinions are sometimes taken into account	CSOs opinions are rarely or never taken into account
4. Are there timely consultations with civil society organisations in order for them to impact government decisions?	Yes	Sometimes	Rarely or never
5. Is there full transparency and accountability for development priorities, strategies, plans and actions by government?	Yes, or there is a participatory process in place to develop such transparency and accountability	There is some transparency and accountability (e.g., certain departments publish data)	There is little or no transparency and accountability
6. Do CSOs have a mechanism to dispute or appeal certain government decisions at the central or local	Yes, several such mechanisms exist and at least one has proven successful	CSOs have limited mechanisms for appeal; these mechanisms are not reliable and CSOs are	CSOs have no mechanisms for appeal, or in practice such mechanisms have never produced any results

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?		usually unsuccessful	
7. Does the Government view CSOs as partners and allies in their own work, or as potential threats to their agenda?	CSOs are viewed by government as partners	CSOs are sometimes viewed by government as partners and sometimes as a threat, or largely ignored	CSOs are generally viewed by government as a threat
8. Are CSOs capable of participating in a broad range of public policy initiatives and activities, or are they restricted by non-legal barriers to a narrow range of circumscribed activities?	No/minimal non-legal barriers to CSOs public policy participation (e.g., government denounces CSOs but does not prevent them from participating)	Some non-legal barriers to CSO public policy participation depending on the type of activity or policy issue involved (e.g., participation mechanisms only exist in a few "less sensitive" areas, such as humanitarian aid or child welfare; and/or	Severe non-legal barriers to CSO public policy participation (e.g., raiding CSO premises, harassment or incarceration of CSO leaders and members; CSOs lacking basic capacity to participate)

		CSOs are not well organized to participate)	
9. Have there been any significant changes in relations between civil society and the government in your country in the last two years? If so, please describe these.	Relations between civil society and government have improved in the last two years	Relations between civil society and government have deteriorated somewhat in the last two years	Relations between civil society and government have deteriorated significantly in the last two years
10. Have any global events or processes in the past two years affected state-civil society relations at the national level? If so, how? (i.e. The Aid effectiveness debate, etc.)	Global events / processes affected state-civil society relations in a positive way (e.g. government involved CSOs in planning for development)	Global events/processes have not affected state-civil society relationship; or have had a controversial effect (e.g. a restrictive draft law that was successfully rebuked)	Global events or processes had an adverse effect on state-civil society relations (e.g., a restrictive law on foreign funding was adopted as part of an international counter-terrorism initiative)
11. What conditions do you feel need to be in place to allow for a good and effective relationship between state and civil society?	1. Political will, mutual trust and respect. 2. Clear spaces for participation, where CSOs have a voice. 3. Influential pluralist and democratic policies.		
Dimension #8: CSO Cooperation and Coalition			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Do(es) the law(s)	Few, clear enabling	Law inhibits coalitions	Law forbids coalitions directly or

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?	laws facilitate coalitions; or law is silent on coalitions without presenting obstacles to their formation	(e.g., participation opportunities are only open for individual CSOs, not coalitions);	indirectly (e.g., legal entities may not form an association; mandatory registration of groupings etc.); or enforces coalitions (e.g. prescribes a nation-wide CSO umbrella body with mandatory membership)
2. Are domestic CSOs legally able to partner with foreign CSOs, and vice versa? If not, what are the conditions for cooperation? What level of government oversight/notification is required, if any, for such alliances?	International partnerships are allowed or facilitated	Some restrictions on international partnerships (e.g., government notification required)	Burdensome restrictions on international partnerships (e.g., government permission or presence required)
3. Are coalitions, platforms or similar voluntary groups of CSOs, common? Are such coalitions often found working together for a common agenda?	Coalitions are widespread and mostly effective	Coalitions are rare and sometimes ineffective	Coalitions are rare and/or usually ineffective

4. Have CSOs adopted any means of voluntary self-regulation? ⁷ If so, please describe this shortly.	CSOs have adopted clear, enabling, and effective means of voluntary self-regulation; or those are now being developed through an inclusive, participatory process	CSO self-regulation is not voluntary (e.g., undertaken to fulfill government expectations) and/or effective (e.g. principles were adopted but are not complied with)	No voluntary CSO self-regulation
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSO 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.	Pending legislation/regulations that will significantly ease cooperation and coalition-building	Pending legislation/regulations that may restrict cooperation and coalition-building	Pending legislation/regulations that will severely restrict cooperation and coalition-building
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What is the nature of the relationship between and among CSOs? Are they able	CSOs are generally cooperative; some sectors show a good model that others aim	There are some examples of cooperation, but it is generally a challenge;	CSO cooperation is rare; there are factors that severely restrict cooperation (e.g., security, government harassment); and/or

⁷ Here self-regulation generally refers to the Istanbul Principles: <http://www.cso-effectiveness.org/istanbul-principles,067>. Please specify any other form of self-regulation that you may include.

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?	to follow	well-organized sectors are isolated from the rest of the organizations	there are deep divisions in the sector that prevent it from cooperation
<i>Dimension #9: Taxation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What taxes are imposed on the income of CSOs? Do they affect their earned income, grants, investments, or purchased goods and services?	Few, clear enabling tax laws that provide exemptions on non-economic income of CSOs (e.g., grants, donations, membership fees are not taxed)	Multiple, somewhat unclear tax laws; non-economic income may be taxed - regulations allow for government discretion in determining taxable income	Many, vague tax laws and regulations; all CSO income is taxed regardless of its source or purpose
2. Are CSOs subject to VAT and customs taxes?	No; or under clear and reasonable criteria (e.g. generally subject to customs taxes but charitable donations are exempt)	Yes; regulations are unclear, allowing for government discretion	CSOs are subject to prohibitive taxation (e.g. must pay VAT on a grant that is not an allowable expense for the donor)
3. Are CSOs subject to local taxes, fees or charges, in addition to federal taxes? Are any	CSOs are generally tax exempt, or are eligible to receive tax exemptions (e.g.	CSOs face some taxation in addition to federal taxes; any criteria or procedures	CSOs face prohibitive local taxation

other level of taxes imposed (regional or state taxes, for example)?	based on charitable activities)	for exemptions are not clear and allow for discretion	
4. What are the tax and regulatory requirements on CSOs that engage in economic activities?	Few, clear tax laws/regulations enabling CSOs to engage in economic activities through partial exemptions	Multiple, somewhat unclear tax laws/regulations on CSO economic activities; economic activities are generally taxed with minimal exemption	CSOs may not engage in economic activities; or there are many, vague tax laws/regulations on CSO economic activities
5. Are tax exemptions granted to all CSOs? Are only certain categories of CSOs granted tax exemptions?	Exemptions are available to all CSOs or to those with a public benefit (charitable) purpose; there are clear criteria and procedures for acquiring tax exemptions	Exemptions are available on a select basis to CSOs (e.g. yes for humanitarian organizations but not for human rights CSOs); criteria and procedures for receiving exemptions are unclear / discretionary	Tax exemptions are not available or available only to a very limited number of CSOs (e.g., international organizations only); exemptions fully based on government discretion
6. Are there draft laws or regulations that, if adopted, would affect the taxation of CSOs? If so, please summarize the content of the key	Pending legislation/regulations that will significantly ease CSOs' tax burdens	Pending legislation/regulations that may increase CSOs' tax burdens	Pending legislation/regulations that will severely increase CSOs' tax burdens

provisions and in what stage of the legislative process it currently stands.			
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Have taxes been used by the state as a form of repression of CSOs practices? If yes, how so?	No	Sometimes / arguably	Yes, regularly
2. Is CSOs financial sustainability affected by taxes, duties and/or fees? Does tax legislation facilitate or impede CSOs in achieving sustainability in their finances?	CSO financial sustainability is enhanced by tax legislation, e.g. by exempting economic activities related to the CSO's mission	Tax legislation has an ambiguous effect on CSO sustainability depending on the type of CSO or government discretion	Tax legislation has a stifling effect on CSO sustainability, e.g., by prohibiting economic activities or levying prohibitive taxes or duties on core activities
3. To what extent are the tax laws/ regulations enforced? Are taxes regularly paid? What is the capacity of the government to enforce tax payments?	There is an affordable and accessible system to pay taxes that is enforced by the government	Government struggles to enforce tax laws/regulations and payments; paying taxes is a cumbersome and costly process	Government has little capacity to enforce tax laws/regulations and payments; avoiding taxes is the norm
<i>Dimension #10: Access to Information</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws and/or regulations govern or	Few, clear enabling laws govern CSO	Multiple, somewhat unclear laws govern	Many, vague laws govern CSO access to information; laws fail to

affect a CSO's access to information? Do they vary based on the type of information being sought?	access to information	CSO access to information	establish a clear right of citizens to access information
2. Is there an appeal process for information? Has it been denied?	There is a fair and effective appeal process	There is limited opportunity for fair and effective appeal	There is no opportunity for fair or effective appeal
3. To what extent are government officials themselves accessible to the public? What opportunities exist for the public, including CSOs, to meet with government officials about their personal or organizational interests and needs?	Government officials are generally accessible	Some opportunities exist for public to access government officials	Minimal opportunities for public to access government officials
4. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs' access to information? If so, please summarize the content of the key provisions and in what	Pending legislation/regulations that will significantly ease access to information	Pending legislation/regulations that may restrict access to information	Pending legislation/regulations that will severely restrict access to information

stage of the legislative process it currently stands.			
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is the process of obtaining government information transparent, smooth, sufficiently easy to navigate, and based on the rule of law, or is it difficult, seemingly arbitrary, slow, and mired in bureaucratic red tape?	Process for obtaining information is transparent, smooth, easy and based on the rule of law	Process for obtaining information is unclear; includes some governmental discretion and/or includes multiple burdensome steps	Process for obtaining information is arbitrary, slow and mired in red tape