

Legal frameworks and political space for non-governmental organisations (NGOs)

Operating contexts are becoming increasingly difficult and challenging for civil society groups in many countries around the world. Yet even where restrictive legal frameworks are in place, important spaces for engagement exist. Researchers at INTRAC, the European Association of Development and Training Institutes (EADI) and the University of Portsmouth have explored these issues in two reports covering 12 countries. The [first report](#),¹ published in July 2013, looks at legal frameworks and political space for NGOs in Bangladesh, Ethiopia, Honduras, Kyrgyzstan, Serbia, and Uganda. [The second](#),² published in June 2014, covers Egypt, Kosovo, Myanmar, Peru, Rwanda, and Vietnam.



Protesters at Tahrir Square, Egypt, in 2011 | Oxfam Novib

Most significant findings

- ▶ Globally a strong rhetoric about enabling space for civil society exists. In some countries this discourse is trickling down to the national level, resulting in improvements in legislation.
- ▶ Good legal frameworks are crucial to creating an enabling operating environment, but these can be abused. The absence of a clear framework creates an insecure and unpredictable environment. Outdated and complex frameworks are liable to misuse and misinterpretation. Restrictive legislation curtails the functions and activities of NGOs.
- ▶ Although service delivery is accepted and often encouraged, work on more politically sensitive issues such as human rights (particularly lesbian, gay, bisexual and transgender rights), governance, advocacy, and ethnic or religious minority issues tends to be subject to greater legal or practical restrictions.
- ▶ A blurred line between political activism and the social justice work of many NGOs creates tensions with state authorities. Spaces for NGOs to participate in policy making exist in most countries, although this is often controlled. Engagement with local authorities at the sub-national level can offer an avenue for constructive and productive dialogue.
- ▶ A large or growing number of NGOs does not equate to a vibrant civil society; the quantity of NGOs can be at odds with the ability of civil society to fulfil key roles. A sound understanding of the history of civil society is crucial to assess the space for NGOs to operate.
- ▶ Aid withdrawal resulting from positive economic performance or post-crisis transition has a significant effect on many NGOs. External aid provides crucial support but can also be counter-productive if it creates dependency or crowds out local civil society organisations.
- ▶ Windows of opportunity exist even in restrictive environments, which can be used by international and local civil society organisations to nurture social progress and citizenship.

¹ R. Hayman, T. Lawo, A. Crack, T. Kontinen, J. Okitoi and B. Pratt (July 2013). [‘Legal frameworks and political space for non-governmental organisations \(NGOs\): An overview of six countries.’](#) EADI Policy Paper Series. Bonn, Germany: EADI.

Phase II Countries (2013-2014)

Egypt has a diverse civil society, which is evolving with new forms of engagement and activism. The recent constitutional transition and changes to regulatory framework mean NGOs are adopting a ‘wait and see’ attitude. The situation continues to change rapidly.

Kosovo has a supportive legal framework but there are discrepancies in implementation. Other challenges include human rights abuses, poor organisational capacity, and withdrawal of external aid. Closer engagement with the EU has catalysed some progress.

Myanmar has introduced legal reforms but the constitution and laws continue to restrict NGOs, especially those working in areas deemed politically sensitive. However, there is internal momentum for change and increasing support from international actors.

In **Peru**, restrictive legislation is in place. NGOs working on issues which do not favour the government face scrutiny. However, there is a strong local civil society and consultations on new rights for indigenous groups seem encouraging.

In **Rwanda**, the real operating context for NGOs is one of enforced collaboration with the government. Those working within these boundaries can act freely; those that do not face difficulties. Some spaces for civil society involvement in policy making have opened up. Space for human rights work is limited.

Vietnam lacks a clear legal framework, engendering an insecure and unpredictable operating environment. Human rights NGOs are not permitted but service delivery is encouraged. There is new legislation promoting participation in decision making.

Recommendations



Women from self-help group, Kyrgyzstan | Rod MacLeod, INTRAC

This research shows that donors and international NGOs can take positive and constructive steps to support civil society in complex and challenging political environments.

► Support civil society through lobbying and advocacy

- *Hold governments to account* over their legislation and matters affecting civil society through international and regional bodies.
- Encourage the *implementation or development of clear and supportive legal frameworks* and the creation of *independent ombudsman offices* to support civil society.
- *Acknowledge where credit is due* and facilitate constructive but critical engagement.
- *Pressure other donors* to change policies that are having negative effects on civil society.

► Support civil society through aid and programming

- *Explore different models* for supporting the development of an independent, sustainable and accountable local civil society such as networks, peer approaches and basket funds.
- Fund *civil society support programmes* that are planned and implemented in a participatory country-specific manner with local partners, and that respect and work with local government.
- Take a *long-term perspective* when aiding NGOs, avoid swamping NGOs with aid, and put in place robust exit and sustainability strategies to ease aid volatility.
- Build on *lessons learned* from other countries and contexts to avoid poor practice that is damaging for local civil society.

► Look for existing and emerging spaces for supporting civil society

- *Look beyond the NGOs located in capital cities.* Important opportunities for engagement may exist at the sub national level.
- Explore *niches for working constructively with local partners,* intermediaries and local platforms, as well as semi-organised or unorganised movements.
- Recognise *the limitations for nascent civil society,* including finding a balance between social service provision roles and advocacy roles, and respecting the security and safety of local activists and staff.

² R. Hayman, A. Crack, J. Okitoi and S. Lewis with B. Pratt, S. Bakri and R. Popplewell (June 2014). '[Legal frameworks and political space for non-governmental organisations \(NGOs\): An overview of six countries: Phase II.](#)' EADI Policy Paper Series. Bonn, Germany: EADI.

Phase I Countries (2012-2013)

At the time of research, the situation in the six countries was as follows:

Bangladesh has a massive, primarily service-oriented NGO sector. The legal framework is generally weak. Civil society space is constrained by political parties, suspicious of NGOs entering the political arena. NGOs working on human rights have been harassed.

Ethiopia has introduced new legislation which restricts foreign funding for NGOs, and has narrowed the space for human rights work. The new legislation has particularly affected international and large NGOs based in the capital; at the sub-national level there is more flexibility for local civil society to operate and constructive programmes exist.

In **Honduras**, the legal framework is supportive of participation in governance processes. However, civil society is highly polarized and freedom of expression is suppressed.

In **Kyrgyzstan** space for civil society has stabilised since the political crisis of 2010 (although the situation has changed more recently, with the introduction of more restrictive legislation). The new constitution respects the legal position and rights of NGOs. There has also been an increase in more locally-embedded CSOs. Challenges include reduced capacity as external aid declines and distrust within the sector.

For **Serbia**, EU accession requirements encouraged progress in creating a strong legal framework. However, human rights CSOs are becoming more vulnerable, with the government doing little to protect their freedom. Reductions in foreign funding are also creating problems.

In **Uganda**, NGOs are significant in service delivery and reconciliation work. The constitution assures rights for civil society action, but the legal and political environment has become more restrictive in recent years.