



PHOTO: DCA KYRGYZSTAN

INTRODUCTION

Civil society space in Kyrgyzstan is under pressure. Kyrgyz CSO leaders find it harder to organise peaceful social protests and public events that are critical of government policy, and struggle to gain insight into government policies and budgets. Kyrgyz human rights defenders and civil society activists fear for their personal security. In addition, CSOs in Kyrgyzstan have witnessed a number of legislative attempts to restrict their access to foreign funding over the past few years and to delegitimise their work as the work of “foreign agents”.

This document provides a summary of a report on the enabling environment for civil society in the Kyrgyz Republic carried out on behalf of the ‘Central Asia on the Move Platform’. The report was compiled with the support of Dan Church Aid (DCA) and Interchurch Organisation for Development Co-operation (ICCO). Similar reports have been developed - within DCA and ICCO’s international network,

Act Alliance - on Nepal, Zimbabwe, Malawi, Colombia, and Rwanda. Challenges to the enabling environment of CSOs are a worldwide phenomenon.

DCA and ICCO have engaged in this research because CSOs play a vital role in the democratic development of their societies and in holding governments to account for their human rights obligations. It has been recognized that a strong and vibrant civil society is a key component of sustainable and legitimate development. Without it, aid is less likely to achieve its objectives and people are more likely to suffer from policies that fail to consider their needs. This is not a new argument. Indeed, the world’s governments have made high-level commitments (e.g. at the Fourth High Level Forum on Aid Effectiveness in Busan) to enable a rights-based and participatory environment in which civil society can thrive. However, these commitments are yet to be achieved in full.

METHODOLOGY

The findings of this research are based on the views of the Kyrgyz CSO leaders on developments in their enabling environment, as expressed through both online questionnaire surveys and focus group discussions. The survey questions were designed with reference to the rights and responsibilities outlined in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights (including the right to development) and Fundamental Freedoms adopted by the UN General Assembly in 1998.

A total of 81 CSO leaders participated in the survey. 71.6% of those surveyed identified human rights as their main area of

activity. 19.8% of the organisations interviewed were rural-based. The remaining CSOs were primarily city-based with 30.9% operating in the capital, Bishkek. The results of the survey were triangulated with more detailed information obtained during focus group discussions (FGD). Overall, 10 FGDs were held in the cities of Bishkek and Osh and the seven oblasts of Kyrgyzstan. The minimum size of a focus group comprised five persons. The list of participants was prepared by the research team, but coordinated and approved by DCA, ICCO and partners.

CIVIL SOCIETY AND CIVIL SOCIETY POLICY FRAMEWORK IN KYRGYZSTAN

The legal framework that governs the activities of CSOs in Kyrgyzstan comprises the Constitution of the Kyrgyz Republic, the Civil Code of the Kyrgyz Republic, the Law on Non-Commercial organisations of 1.10.1999, the Law on State registration of Legal Entities with changes from 2007, the Tax Code of the Kyrgyz Republic, other legal and regulatory acts of the Kyrgyz Republic, as well as international treaties ratified or acceded to by Kyrgyzstan.

In Kyrgyzstan, non-governmental organisations can be created in various legal forms. The traditional forms are public associations and public foundations, as well as consumer cooperatives, religious bodies etc. The Law on Non-Commercial Organisations, however, does not define a “non-governmental organisation” and uses the broader term “non-profit organisation”, making it difficult to understand

the unique nature of NGOs. The afore-mentioned law establishes the right of NGOs to operate without establishing a legal entity and to free state registration. It also affords legal and natural persons the opportunity to jointly establish and participate in associations. However, in 2013, a bill was put forward proposing that CSOs receiving foreign funding or participating in so-called political activities “on behalf of foreign sources” should have the status as “foreign agents”. In fact, three NGO-discriminatory legislative initiatives were proposed in 2013: one by the State Security Agency and two by members of the Parliament. If the proposed bill had been passed, CSOs would have been confronted with the possibility of criminalization of almost all aspects of human rights defenders’ activities. However, these draft laws and amendments were rescinded.

KYRGYZ CSO VIEWS ON DEVELOPMENTS IN THEIR ENABLING ENVIRONMENT

This section will give a status report of the enabling environment for Kyrgyz CSOs, in relation to the following rights:

- The right to participate
- The right to freedom of assembly
- The right to freedom of association
- The right to freedom of expression/the right to develop and discuss new ideas and advocate for their acceptance
- The right to unhindered access to and communication with non-governmental and inter-governmental organisations, and international bodies
- Access to information and the right to seek, obtain, receive and hold information
- The right to access resources for the purpose of protecting human rights, including the receipt of funds from abroad

The right to participate

CSOs were divided on the degree of access they have to government authorities and on their ability to participate in the formulation of development policies. 52.8% of respondents felt that their views were given less consideration by the government than was the case five years ago. Survey results showed that while 53.3% of the respondents found it difficult to work with and access government structures, a minority did not have a problem in this area. Only 14.5% of the respondents reported that they had worked together with the authorities in the past year to provide their views

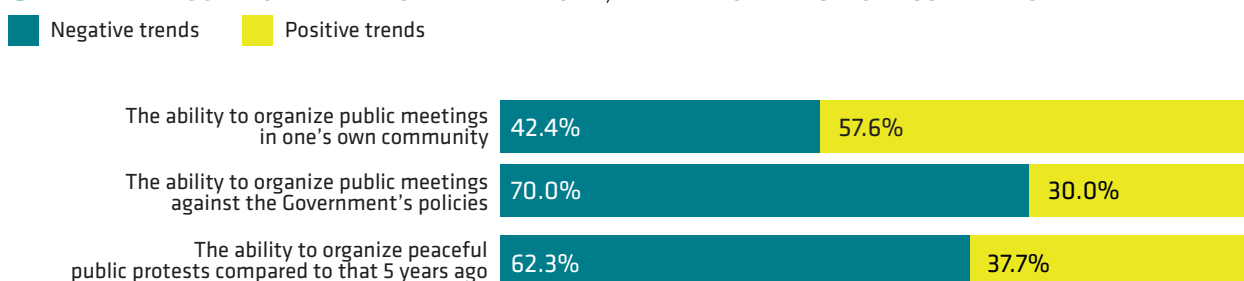
and recommendations on current development programs. According to the Kyrgyz CSOs that participated in this research, the government sought dialogue with only a small group of CSOs. The majority of the CSOs surveyed (85.5%) characterized the participation as “not meaningful” because they viewed the invitations by the government as token gestures to show that civil society had been consulted. While human rights organisations tended to experience more difficulties, even organisations co-operating with state agencies experienced barriers.

The right to freedom of assembly

A downward trend in the right to freedom of assembly was reported. The majority of CSOs (62.3%) believe that it has become more difficult to organise a peaceful protest than it was five years ago (see Chart 1). According to 70% of the CSOs surveyed, restrictions on the right to peaceful assembly are most common when protests are critical of government

policy. The respondents also reported that the police do not always act according to the law and prevent citizens from holding peaceful rallies. CSOs located in the capital, Bishkek, and in regional cities experienced the most obstacles. 42.4% also found it difficult to organise public meetings in their own communities (see Chart 1).

CHART 1: REGULATORY AND LEGAL FRAMEWORK, THE LAW ON PEACEFUL ASSEMBLIES

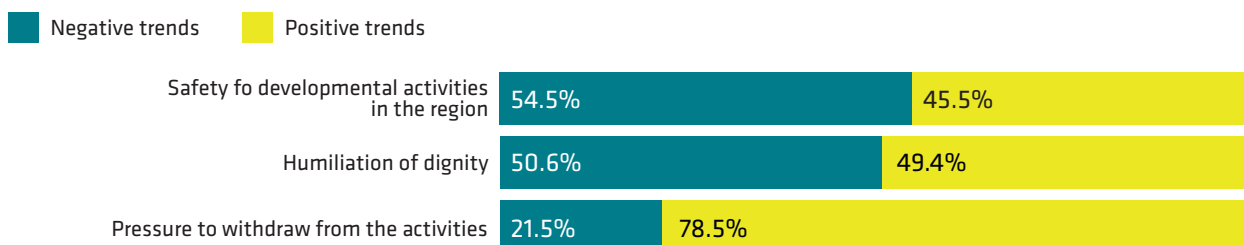


The right to physical integrity and freedom of association

The right to physical integrity and freedom of association is also under threat in Kyrgyzstan. Most of the survey participants (54.5%) responded that they did not feel safe or had doubts about their security while pursuing their NGO activities in a given region of the country (see Chart 2). Among those who felt the most insecure were organisations

working on rights protection, citizens' interest promotion, gender issues, as well as those organising various advocacy campaigns and actions. Human rights CSOs were the most affected: they reported receiving threats not only aimed at limiting their activities, but also targeting their family members.

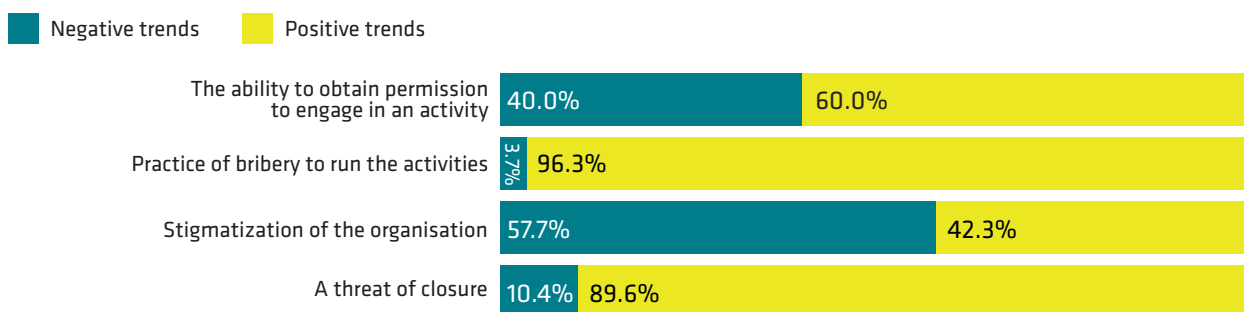
CHART 2: FREEDOM OF ASSOCIATION AND ASSEMBLY



More than half of the respondents (50.6%) experienced, to varying degrees, instances of humiliation and violation of their human dignity. Organisations working with LGBTI rights were most likely to face stigmatization (see Chart 3). More than half of the respondents (57.7%) believed that CSOs risk

stigmatisation if they protect the rights of sexual or religious minorities. LGBTI organisations also faced discrimination and stigmatisation from fellow CSOs. The negative perception of LGBTI persons has become much more pronounced over the past two or three years in the country.

CHART 3: THE RIGHT TO FUNCTION FREELY AND WITHOUT UNWARRANTED STATE INTRUSION



In addition to the aborted legislative attempts mentioned in the previous chapter to restrain civil society, 40% of CSOs reported unreasonable obstructions when they tried to obtain permission to engage in an activity. 21.5% of respondents experienced pressure to desist from their activities (see Chart

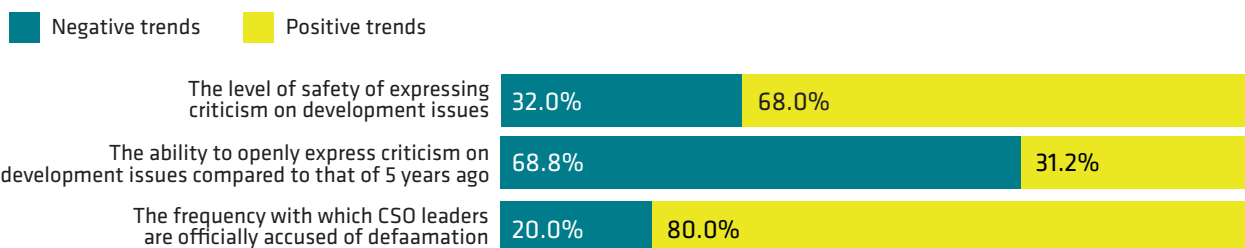
2). Analysis of the survey forms revealed that organisations that did face closure were located in Bishkek (3 organisations) and in rural areas (1) and were engaged in activities that focused on human rights, advocacy, education, health, and small and medium business development.

The right to freedom of expression

The results of the survey revealed a downward trend in freedom of expression. As Chart 4 demonstrates, more than two-thirds (68.8%) of the survey participants feel their freedom of speech is more restricted than it was five years ago. These results relate to the fact that there have been political attempts, through legislation, to circumscribe NGOs' ability to criticise the government. However, 68%

of the participants believe they still have opportunity to publicly engage in political dissent without fear of reprisals. Nonetheless, at least 32% of the respondents expressed the concern that their criticism might result in sanctions against them. 20% have been subjected to accusations, which they believe are related to their criticism of or statements on government policy in the media.

CHART 4: FREEDOM OF EXPRESSION



On the other hand, CSOs have relatively easy access to the media as affirmed by 82% of the respondents. Despite the ease of access to the media, just a third of the respondents (35%) had the actual opportunity to express their views on

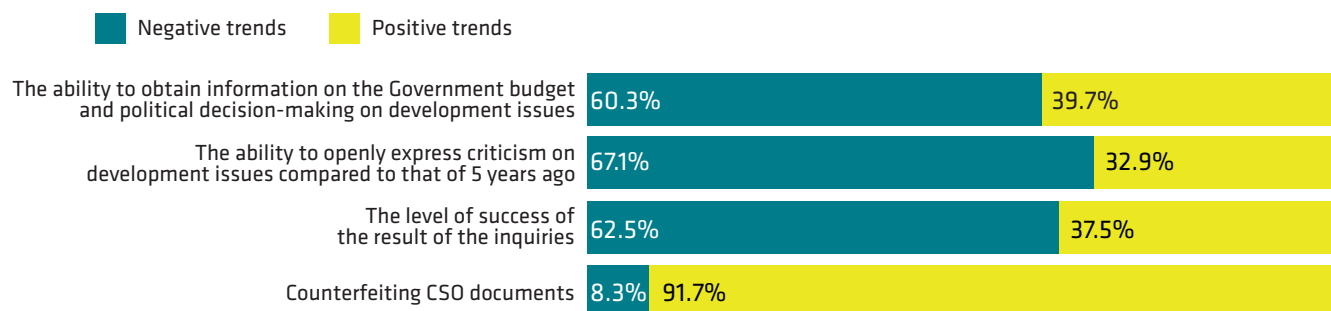
development issues, either in the local or national mass media. The survey also demonstrated high levels of access to the internet (92.5%).

Access to Information and the Right to Seek, Obtain, Receive and Hold Information

Negative trends were also noted in relation to access to information with 60.3% of the respondents finding it difficult to access information on government budgets and policy decisions on development issues. Moreover, 67.1% of

the survey participants noted that it was significantly easier to get this information five years ago. 62.5% reported a lack of success in getting formal responses to their enquiries.

CHART 5: THE RIGHT TO SEEK AND DISSEMINATE INFORMATION



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The right to access resources for the purpose of protecting human rights, including the receipt of funds from abroad

Kyrgyz CSOs reported a decline in their levels of funding. They felt that this situation was further exacerbated by the uneven distribution of scarce resources, and maintained that only a select few receive funds while smaller CSOs struggle to get a share.

Kyrgyz CSOs get most of their funding from foreign and international organisations. However, the decline in funding has made maintaining a sustainable financial position for Kyrgyz CSOs a cause for concern. The reasons can be attributed to a reduction in the number of donor programs available, stringent project requirements for accessing funds,

and not least, the introduction of anti-democratic legislative initiatives over the past five years, especially in 2013. All of these elements contribute towards limiting CSOs' ability to get support from abroad.

As far as UN funds are concerned, CSOs are of the opinion that, while internal financial and administrative requirements have increased, institutional support has diminished, making it increasingly harder for smaller CSOs to access financing. Kyrgyz CSOs believe that there is a need for donors to be more transparent in the disbursement of grants and the monitoring of implementation.



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RECOMMENDATIONS

The following section contains recommendations for the government of the Kyrgyz Republic, international donors and the UN on actions that should be taken to improve the enabling environment for Kyrgyz NGOs.

Key Recommendations for the Government of the Kyrgyz Republic

- Ensure respect for the UN Declaration on Human Rights Defenders in legislation and practice, and refrain from adopting legislation that is not in compliance with international standards and Kyrgyzstan's treaty obligations, such as those under the International Covenant on Civil and Political Rights (ICCPR). Discontinue the practice of copying and duplicating the laws of other countries that restrict and discriminate against civil society institutions;
- Introduce changes and amendments to the Law of the Kyrgyz Republic "On Peaceful Assemblies", in accordance with the recommendations of the Venice Commission, namely, a change in the name of the law to "On freedom of assembly" and the introduction of the term "public events" in the conceptual apparatus of the above Law;
- Ensure that State authorities, the local self-government and Internal Affairs authorities respect the right of citizens to peacefully assemble in keeping with the government's international human rights obligations;
- Ensure the effective protection of CSOs under threat;
- Establish a regular communication platform between CSOs and the Government to discuss development policy and socio-economic issues, including a diversity of CSOs;
- Develop a wide range of anti-discriminatory legislation, in close cooperation with organisations representing the interests of LGBTI citizens, which include provisions for non-discrimination based on sexual orientation or gender identity;
- Enact amendments to the Tax Code and other relevant laws to facilitate an enabling environment for CSOs in Kyrgyzstan;
- Receive visits from UN Special Rapporteurs, including the UN Special Rapporteur on the rights to freedom of association and peaceful assembly.

Key Recommendations to the EU

- Include a strong focus on the enabling environment for civil society when elaborating the Civil Society roadmap for Kyrgyzstan. It is imperative that the CSO roadmap addresses the conditions needed to secure an enabling environment de jure and de facto, in line with the understanding of an enabling environment set out in the CSO communication;
- Ensure that civil society is involved in the process of preparing the country roadmaps so that these roadmaps provide the framework for a structured, broad, and inclusive engagement with civil society. The CSO roadmap process should have clear in-country calendars and clear information on the process and follow-up;
- Facilitate the necessary space and capacity so that a diverse array of civil society organisations can engage with the delegation, ensuring that their inputs influence EU policies (from the grassroots to Brussels and back) and inform the political dialogue between the EU and the government.

Key Recommendations to the UN

- Monitor developments in the enabling environment for civil society and human rights defenders in Kyrgyzstan through the Universal Periodic Mechanism, relevant treaty bodies, Special Procedures, etc.

Key Recommendations to Kyrgyz Civil Society Organisations

- Ensure good governance from within, in particular, strengthening mechanisms for own transparency and accountability;
- Monitor and respond to unconstitutional initiatives that restrict civil society space;
- Identify and strengthen strategies for protection;
- Strengthen networking, co-operation and co-ordination on issues of the enabling environment across a broad range of civil society organisations involved in the different sectors.

SPACE FOR
CIVIL
SOCIETY

HOW TO PROTECT
AND EXPAND AN
ENABLING ENVIRONMENT
KYRGYZSTAN



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