



HOW TO PROTECT AND EXPAND AN ENABLING ENVIRONMENT **NEPAL**





INTRODUCTION

Over the past five years, Nepalese civil society organisations (CSOs) have witnessed a degree of expansion in their operational space. Nepalese CSOs feel that they can more easily participate in government decisions on development issues, and that their opinions are, to a greater extent than before, taken into consideration. However, obstacles remain. Political instability, absence of the rule of law, insufficient state accountability, and inadequate security and protection for human rights defenders threaten to undermine gains.

This document provides a summary of a report on the enabling environment in Nepal produced by the Informal Sector Service Centre (INSEC) with the support of DanChurchAid (DCA). Similar reports have been developed on the enabling environment in Kyrgyzstan, Zimbabwe, Malawi, Colombia, and Rwanda. Challenges to the operational environment of CSOs are a worldwide phenomenon.

DCA has 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 the study are based on the views of the Nepalese CSOs 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, which was adopted by the UN General Assembly in 1998. 28 CSO leaders who manage national level organisations answered

the survey. 12 focus group discussions were carried out among 129 persons belonging to different CSOs from diverse backgrounds. Each focus group discussion consisted of approximately 10 people. The focus group discussions were carried out across Nepal's 11 districts¹. The final process was a national consultation with 36 CSO representatives, where a compilation of findings from earlier processes was shared for input and feedback. CSOs working in various sectors were represented across all forms of engagement. The study was carried out in the period from July 2013 to September 2013.

CIVIL SOCIETY AND CIVIL SOCIETY POLICY FRAMEWORK IN NEPAL

Civil society advocates and activists are of the opinion that democratic space in Nepal has expanded in recent years.

92.3% of CSO leaders assessed the government strategy towards CSOs as supportive. CSO leaders reported positive trends in the right to participation and freedom of expression. The Interim Constitution of Nepal guarantees economic, social, and cultural rights, and various constitutional bodies and oversight mechanisms are in place to check government accountability and transparency.

However, poor law and order conditions were a cause for concern in some parts of the country. The prolonged political

transition from civil war to stability and democracy has had a negative impact on the functioning of public oversight bodies. Political parties are monopolising the democratic space, which has led to fragile and non-performing governance systems. The state has not yet met the need for law and order enforcement, which has encouraged impunity. Enforced strikes frequently called by political parties shut down the country for extended periods. These strikes are often violently enforced which disrupts law and order. For CSOs, especially human rights activists, this lack of law and order spells insecurity.



PHOTO: DCA NEPAL

1. Illam, Morang & Siraha of Eastern Development Region, Dolakha & Janakpur of Central Development Region, Kaski & Rupandehi of Western Development Region, Banke & Surkhet of Mid-Western Development Region and Kailali & Dadeldhura of Far-Western Development Region

NEPALESE CSO VIEWS ON DEVELOPMENTS IN THEIR ENABLING ENVIRONMENT

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

- The right to participate
- The right to freedom of assembly
- The right to freedom of association and expression, and the right to physical integrity
- 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

The majority of CSO leaders (64.5%) found government strategy towards CSOs relatively supportive in that it did not obstruct CSO activities. The same number of CSO leaders was of the opinion that the enabling environment is more supportive and inclusive than it was five years ago. 72% of respondents felt that they have been able to enhance their activities and impact by 50% over the past five years. These are positive trends.

The right to freedom of assembly

With regard to the right to freedom of assembly, most CSO leaders responded positively. 76% found it either very easy or quite easy to organize peaceful protest without fear of state reprisals. However, 24% of the respondents found it either difficult or very difficult to organize public protests or other forms of gatherings against government policy. While the state looks unfavourably on CSOs using public protests to draw attention to the government's non-compliance with international conventions, the state does not use pressure or force to prevent them from doing so.

The right to freedom of association, freedom of expression and the right to physical integrity

Although no legal restrictions were reported with regard to the right to freedom of association and the state has not threatened NGOs with closure, there remain reasons for concern. An overwhelming majority of CSO leaders (73%) feel unsafe when carrying out their work. This is particularly acute for CSOs that work on the protection and promotion of human rights. There is a perception that the state has not done enough to build an environment where human rights defenders can be secure, and this remains a de facto threat to the freedom of association. This lack of protection of human rights defenders has a negative effect on the ability of CSOs to protect the rights of people in general.

61.5% of CSO leaders reported having been occasionally subjected to public defamation by government authorities. For 19.2%, this experience was rare. This is largely because some government authorities see NGOs as exploiters, abusing social conditions for their continued existence.

The majority of NGO leaders (65.4%) said that it is quite easy for their organisations to have their opinions published in local or national newspapers. Over the last five years, CSOs have not experienced restrictions on their right to express their views publicly.

The right to unhindered access to and communication with non-governmental and inter-governmental organisations, and international bodies

CSOs frequently dialogue and coordinate with the government. 42.3% of CSO leaders reported that they participated in working groups established by the government, and that they are often invited to give feedback on state initiatives. 61.5% feel that their views are taken into consideration much more now than five years ago. However, despite positive trends in relation to CSOs' access to and communication with government structures, the involvement of CSOs in decision-making is inconsistent. 46.2% of the respondents said that the way in which the authorities engaged with CSOs varied depending on the size, work and influence of the CSO. The authorities were inclined to discourage those with limited budgets and resources, while accommodating those with reach and influence. Likewise, the CSOs' area of work also played a role in the state's response. The state views CSOs working with rights and with an advocacy or mobilization focus as potential threats and, therefore, is less likely to cooperate with these groups.

At the district level, officials occasionally engage with CSOs on common issues related to implementation, strategy, achievements and beneficiaries. However, their representatives mostly comprise junior staff members who are often ill-equipped to add value or take decisions. CSOs also criticised the reluctance of government authorities to coordinate with CSOs. Good coordination between CSOs and government authorities often depends on the specific attitudes towards CSOs in the particular government structure, and on the knowledge that particular government structure has of the CSO's mandate. CSOs believe that government authorities only coordinate with them in situations when the authorities' agenda is unlikely to be implemented without CSO support.

Corruption is also a problem when it comes to CSO access to government authorities. There is an unspoken expectation from the authorities of receiving payment for smooth facilitation of permission. Government officials often expect some remuneration for their presence at CSO events.

to take decisions on how to adapt to government budgets and policies.

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

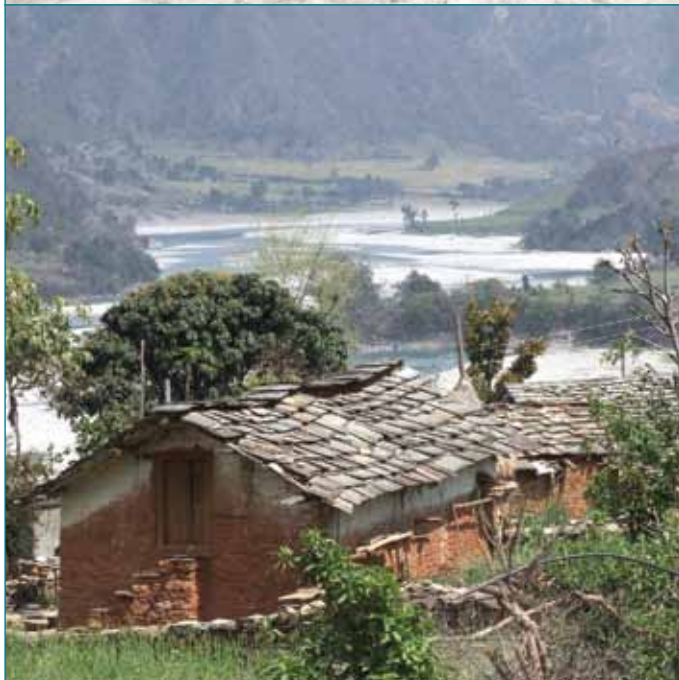
64% of CSO leaders find it either difficult or very difficult to access timely information about the government's budget and policy decisions. Personal relationships between CSOs and government departments play a role when it comes to receiving timely information. This creates instability within the CSO enabling environment, as it is difficult to predict or

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

A small majority of the respondents found it difficult to access foreign funding. The reason for this is donor practices rather than state restrictions. CSO leaders point to a lack of coordination between in-country donors in terms of focus areas, modes of operation and conditions of agreements. This results in some sectors receiving more funds to the exclusion of other key areas.



PHOTO: DCA NEPAL, MARIANNE LEMVIC



RECOMMENDATIONS

The following are the key recommendation developed by the Nepalese and international CSOs involved in this study.

Recommendations for the Government of Nepal

- Continue to further the involvement of and coordination with CSOs on developmental issues by, inter alia, amending the current Association Registration Act to respond to changed and current needs of CSOs;
- Nurture a culture among government staff that promotes the equal treatment of CSOs, regardless of their size, resources or influence. The government should also develop measures to institutionalize this practice;
- Establish a single window framework for CSO registration, approvals and implementation of programmes. Currently, there are a variety of procedures and departments, all of which have different systems in place. A unified mechanism would go a long way in mainstreaming CSO engagement with the state;
- Promote an environment of safety for all CSO staff and ensure effective mechanisms for their protection. This is especially critical for CSOs working on human rights issues;
- Develop an understanding among political parties of the role of CSOs in democratic and sustainable development;
- Institutionalize mechanisms for political parties to become more accountable to the state, as this would promote greater cooperation with CSOs;
- Accept visits from UN Special Rapporteurs, including the UN Special Rapporteurs on the rights to freedom of peaceful assembly and association, human rights defenders, and freedom of expression.

Key Recommendations to the EU and other international donors

- Engage actively in the EU CSO roadmap process and improve coordination with each other in terms of focus areas, modes of operation and conditions of agreements;
- Include a strong focus on the enabling environment for civil society when elaborating the Civil Society roadmap for Nepal. It is of key importance 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 EU CSO communication;

- Facilitate the necessary space and capacity so that a diverse array of civil society organisations, including those based outside Kathmandu, can engage with the delegations, ensuring that their input influence EU policies (from the grassroots to Brussels and back) and inform the political dialogue between the EU and the Nepalese government;
- Ensure that civil society in Nepal is meaningfully involved in the process of implementing, monitoring and revising the country roadmaps so that these roadmaps provide the framework for a structured, broad, and inclusive engagement with clear timeframes and adequate and accessible information;
- Put in place mechanisms for common engagement between CSOs, INGOs and donors with respect to their roles and function in Nepal. This can be facilitated by the Social Welfare Council for the purpose of both communication and coordination across the sector.

Key Recommendations to the UN

- The UN should monitor the enabling environment for civil society and the protection and security of human rights defenders in Nepal through the Universal Periodic Review, relevant treaty body mechanisms, and its special procedures.

SPACE FOR CIVIL SOCIETY

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Informal Sector Service Centre (INSEC)
Syuchatar, Kalanki, Kathmandu, Nepal
G.P.O. Box: 2726, Kathmandu
Nepal
Phone: +977-1-4278770
Fax: +977-1-4 270551
insec@insec.org.np
www.inseconline.org



DanChurchAid
Nørregade 15
1165 Copenhagen K
Denmark
Phone: +45 33 15 28 00
mail@dca.dk
www.danchurchaid.org