BRIEFER

Localization and Civic Space

The Role of Civil Society Organizations in the Localization Agenda

Localization—giving local partners more control and ownership of development initiatives—is a priority for the international development community.[1] Local civil society organizations (CSOs) that can lead, design, and implement effective projects are indispensable to this agenda. This, in turn, is predicated on the existence of an enabling environment for civil society.

Restrictions on Civic Space Impact Localization

To participate in localization initiatives, CSOs must be able to accept foreign funding and work with international donors. Localization also requires that CSOs be able to form, operate, and sustain themselves. However, laws and practices in many countries restrict CSOs' ability to do so. Donors and other stakeholders must invest additional efforts to remove these barriers to enable CSOs around the world to fully engage in localization efforts.

BARRIERS TO RECEIVING FOREIGN FUNDING

International funding for local CSOs may be hampered by rules requiring prior government approval of foreign funding, as in Nepal, Bangladesh, Belarus, Niger, Uganda, and Jordan. In Niger, a 2022 decree requires CSOs in the development sector to obtain authorization for funds collected from both foreign and domestic sources for each "program or project" they conduct, which must align with government development priorities. Nepalese CSOs are subject to an overly bureaucratic process that requires them to obtain approval or input on every foreign-funded project from multiple government bodies at the federal, provincial, and local levels before they can

[1] For instance, USAID Administrator Samantha Power has committed to increasing the percentage of USAID funding to local partners from 6% to 25% in the next four years. By the end of the decade, 50% of USAID programming will "place local communities in the lead to either co-design a project, set priorities, drive implementation, or evaluate the impact" of USAID programs. In July 2021, the OECD Development Assistance Committee (DAC), a group of the world's major donor countries, adopted its first-ever policy instrument on civil society. The instrument recommends member countries to increase the availability and accessibility of direct, flexible, and predictable support to enable local CSOs' financial independence and ownership, and to ensure that local civil society actors are involved in decision making on the design, budget, and implementation of programming (OECD DAC, *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance*, Pillar II, Para. 4).

begin implementation.[2] Obtaining approval tends to be easier for projects focused on social services, while rights-based CSOs often face more difficulties. In Bangladesh, CSOs must register with the NGO Affairs Bureau (NGOAB) to be eligible to receive foreign funding and then seek approval for every foreign-funded project. CSOs report that NGOAB approves foreign funds for education- and health-focused projects more quickly than for projects involving issues deemed sensitive by the government. In Jordan, the government body that approves CSOs' foreign funding prioritized projects related to the pandemic in 2020, while postponing approval for other projects, forcing many organizations to curtail their work. Even if governments approve funding, navigating such approval processes can delay project implementation, while funding that is not approved must be canceled, affecting donors' ability to support CSO projects in a timely and reliable manner.

CSOs may be subject to onerous reporting or public notification rules for foreign funding. In Tunisia, where the president recently threatened to ban all foreign funding for CSOs, CSOs are currently required to publicly identify the source, value, and purpose of each donation, grant, or bequest from foreign bodies in a print media outlet and online within one month of receipt. This type of requirement is financially and logistically difficult for CSOs to meet and may dissuade some CSOs from accepting funding from foreign entities, limiting the pool of CSOs that can fully participate in localization efforts.

Some countries repress CSOs that receive foreign funding. In Egypt, for example, the so-called Foreign Funding Case (Case 173 of 2011) targeted local CSOs for receiving foreign funds "with the aim of destabilizing national security." CSOs such as the Cairo Institute for Human Rights Studies, the Nazra Center for Feminist Studies, and the Center for Egyptian Women's Legal Assistance, as well as their leaders, have been subject to asset freezes, travel bans, interrogation, and threats of prosecution. More than a decade after the case began, investigations against some CSOs have been dropped, but other CSOs and their leaders continue to face harassment and restrictions. This type of repression poses a challenge to localization, as international donors risk having their funding frozen and their local partners threatened with burdensome investigations or even prosecution.

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

Governments sometimes use anti-money laundering and countering the financing of terrorism (AML/CFT) measures to restrict CSOs' operations, for example by cancelling their legal status or freezing their bank accounts. In Nicaragua, for instance, more than 130 CSOs have had their legal status cancelled since late 2018 for alleged violations of

[2] While projects funded by major bilateral donors are subject to these requirements according to the law, some donors negotiate exemptions from it with the Government of Nepal.

the country's AML/CFT laws. In the Philippines, the bank accounts of the Rural Missionaries of the Philippines, which had served poor communities in the country for more than 50 years, have been frozen since late 2019 for "probable cause" of being "related to terrorism financing."

In more extreme cases, governments criminally prosecute CSO leaders for alleged AML/CFT violations. In 2020, for instance, the executive director of Chapter Four Uganda, which promotes civil liberties, was arrested for money laundering after the organization allegedly failed to declare the receipt of $340,000 in foreign funds, though the claim was without merit and his prosecution was eventually dropped. Meanwhile, Chapter Four Uganda was suspended for alleged failures to comply with financial reporting requirements under Uganda's NGO Act, a decision it is currently challenging in court.

Even where CSOs are not directly sanctioned, banks sometimes restrict business relationships with them due to the unjustified perception of AML/CFT risk. In Latvia, CSOs continue to be classified as high-risk entities for money laundering, which hinders their ability to open and maintain bank accounts. In Latin America, more than half of CSOs surveyed in 2021 reported knowing of a CSO facing this type of exclusion from the formal banking system,[3] making it difficult for donors to provide them with funding. In Namibia, the Financial Intelligence Centre considers CSOs to pose a significant risk for money laundering and terrorism financing. As a result, banks impose stringent compliance requirements on them that many organizations struggle to meet. As CSOs require bank accounts to receive foreign donor funding, these barriers to accessing financial services can have a direct impact on localization efforts.

FOREIGN AGENT LAWS AND STIGMATIZATION

CSOs receiving foreign funds are often stigmatized and subject to smear campaigns, including through laws that require them to register as "foreign agents," implying that they are serving foreign interests. In Nicaragua, for instance, a 2020 law requires CSOs receiving foreign funds to register as "foreign agents" and notify the Ministry of the Interior prior to receiving or using the money. They must also report detailed information on their income, expenditures, and funders. By mid-2021, the government had already moved to revoke the legal status of 24 CSOs, including medical associations critical of its handling of the COVID-19 pandemic, for violating the regulations. Other organizations such as the Violeta B. Chamorro Foundation, which is dedicated to freedom of expression, chose to suspend their operations in direct response to the threats posed by the legislation. In late 2021, legislators in El Salvador presented a draft Law on Foreign Agents Registration that would not only require foreign-funded CSOs

[3] ICNL and Global NPO Coalition on FATF, *Mapping on Terrorism Financing Risk in Nonprofit Organizations in Member Countries of the Financial Action Task Force in Latin America: A Nonprofit Organization Regional Report* (January 2021): https://www.icnl.org/wp-content/uploads/FATF-Regional-Reports.pdf.

dedicated to democracy promotion to register and label their statements as representing the interests of their foreign supporters, but also would charge a 40% tax on funds received from foreign sources, which would greatly diminish the amount of donor funding reaching its intended target.

Even in countries that do not require their registration, foreign-funded CSOs are often portrayed by governments as being tools of foreign interference. Guidelines issued by Tanzania's government in 2020, for instance, state that NGOs' dependence on donor funding introduces a "negative agenda in the country's plans." In Zimbabwe, the government often demonizes CSOs that accept foreign funding—especially those that work in the democracy and governance sector—as agents of illegal regime change. These types of actions make it difficult for CSOs to gain the trust of the population and achieve the objectives of localization initiatives.

ADDRESSING THE NEEDS OF MARGINALIZED GROUPS

Laws and practices in some countries prevent CSOs from addressing the needs of certain marginalized communities. In Nigeria, legislation bans "gay clubs, societies, and organizations" as well as their "sustenance, processions and meetings." In 2021, Ghanian authorities forcibly closed LGBT+ Rights Ghana, the first LGBTI community center in Accra, days after European Union and Australian diplomats attended the center's opening. Subsequently, members of Ghana's national legislature introduced an extremely restrictive law that would impose a prison term of six to ten years for operating a CSO to "promote, facilitate, support, or sustain" LGBTI communities. In Morocco, the authorities use a vaguely worded law to refuse to accept the notification announcements of Amazigh (native Berber) and Sahrawi (Western Saharan) organizations. These restrictions pose a major obstacle to the ability of local organizations to focus on the needs of the most marginalized and to incorporate their voices into development projects, which is a major aim of the localization agenda.

BARRIERS TO OPERATION

In some countries, governments have broad powers to dissolve CSOs, which they use to keep CSOs from engaging in disfavored purposes or activities. In the Maldives, for instance, the government in 2019 dissolved the Maldivian Democracy Network (MDN), a human rights organization, for publishing a report criticizing educational practices that could lead to religious radicalization. In Morocco, the human rights organization Racines was dissolved after it hosted a talk show on the political situation in Morocco. Broad government powers to dissolve organizations threaten localization efforts as local partners could be closed arbitrarily and with little notice.

In other cases, governments restrict the issues CSOs can address. In Guatemala, CSOs that receive foreign funding are prohibited from undertaking "activities that alter public order." Ministerial guidelines on development issued by Uganda's government in 2021 require development projects and programs to be "in line" with the government's priorities. In Egypt, CSOs can only undertake activities "in the fields of societal development" that consider "the development plans of the state and needs of the community," while numerous activities—including "any political, partisan, or union activity" regulated by other laws, or anything that "violates the public order, public morals, national unity or national security" are expressly prohibited. In Jordan, CSOs are legally prohibited from engaging in political activities, though the term "political" is not defined. These types of vague and open-ended restrictions on CSOs' activities and purposes give governments wide latitude to restrict or interfere with the activities of CSOs, including those supported as part of donors' localization efforts.

Some countries make registration difficult, particularly for rights-based advocacy CSOs. As donor policies generally require them to work with registered organizations and registration is usually a prerequisite for CSOs to open bank accounts to receive funding, such issues limit the number of CSOs available to participate in localization efforts. In Cote d'Ivoire, registration fees are high, and the registration process is often slow. As a result, a CSO that promotes rights in the mining sector, for instance, has been waiting for its provisional registration since 2019. In Cameroon, on the other hand, the registration process is generally simple. However, CSOs working on governance, anti-corruption, and human rights may encounter delays or difficulties obtaining registration receipts or be denied registration arbitrarily.

Conclusion

While localization remains a worthy goal for the development community, it is important to be aware of existing legal and regulatory obstacles to engaging local CSOs in a more meaningful way. ICNL encourages donors to invest additional efforts to promote an enabling environment for civil society and localization.