



MAKING AID EFFECTIVE MEANS PROTECTING CIVIL SOCIETY

**CIDSE Recommendations* to the Fourth High Level Forum on Aid Effectiveness
Busan, November 2011**

Introduction

Since the Paris Declaration on Aid Effectiveness in 2005, the whole question of aid effectiveness has become a driving force in the overseas development sector. Over 100 countries now accept the 'Paris principles', together with the follow-up approaches and declarations, as the blueprint for improving the impact of Official Development Assistance (ODA). All development actors take cognisance of them, even if some civil society actors still critique their shortcomings and the inadequacy of implementation.

This on-going process has created an overarching approach to the delivery of what is termed 'high quality aid' – in other words, ODA that is country- owned, aligned with recipient country priorities and harmonised among donors, focused on the poorest people, predictable, untied, delivered through effective institutions, and focused on results rather than activities.

Civil society actors are increasingly involved in trying to influence what was initially a donor-led aid effectiveness process and will be active at the Fourth High Level Forum on Aid Effectiveness (HLF-4) in December 2011. They will work to ensure that ODA works to build the capacities of poor and marginalised people to realise their rights and achieve internationally agreed development goals, with the aim of not only delivering efficiency, but focusing on achieving sustainable impact and social change.¹

Working through the Open Forum for CSO Development Effectiveness, CSOs have made substantial progress, in a global process in which CSOs from more than 70 countries participated, on agreeing the principles and framework by which their development effectiveness can be strengthened, and by which they can be held accountable. CSOs have agreed the *Istanbul Principles*² and will present the *International Framework on CSO Development Effectiveness*³ at HLF-4 as evidence of their commitment to strengthen their own effectiveness as development actors.

There is a range of important issues that civil society wants to advance at HLF-4, including the promotion of rights-based approaches to development, increased focus on gender equality and decent work, strengthened commitments on aid reform and effective aid delivery, and the need for an

* Recommendations based on Trocaire's Policy Briefing [Making Aid Effective means Protecting Civil Society](#), August 2011.

¹ CIDSE, *Development Aid: Compensation for injustice or Instrument for Justice*, March 2008.

² http://www.cso-effectiveness.org/IMG/pdf/final_istanbul_cso_development_effectiveness_principles_footnote.pdf

³ http://www.cso-effectiveness.org/IMG/pdf/international_framework_open_forum.pdf

equitable international framework for development cooperation.⁴ For CIDSE – an international alliance of 16 catholic development agencies from Europe and North America - however, one issue increasingly stands out as critically important: **ensuring an enabling environment for the work of civil society actors against a backdrop of closing democratic space.**

1. Democratic space: vital for civil society’s contribution to development

Civil society organisations (CSOs) and activists worldwide contribute in unique and essential ways to development as innovative agents of change and social transformation.⁵ A diverse, strong and independent civil society sector is essential for the long-term, sustainable and just reduction of poverty. In particular, CSOs have an important role to play in ‘bringing the voices of the poor’ to influence government policies, and in holding governments and other powerful actors to account for their actions. It is for this reason that protection of the democratic space in which strong and independent civil society groups and actors operate is a critical objective for CIDSE.

At the third High Level Forum on Aid Effectiveness in Ghana (HLF-3), civil society secured formal recognition by donors and partner countries within the Paris process of its important role as an independent actor in development cooperation. The Accra Agenda for Action⁶ formally confirms the need for *an enabling environment for civil society* as a key element of aid and development effectiveness, and establishes development partners’ commitments to work with CSOs in creating and sustaining that environment. This explicit recognition of civil society was a welcome complement to the Paris Declaration.

The HLF-3 also brought a focus on CSOs’ roles – distinct from donors and partner governments - in different development contexts; formal recognition of the need to engage on the matter of how CSOs would relate to the Paris process; and a commitment to work with CSOs to create an enabling environment that would help them maximise their contributions to development. In the Accra Agenda for Action (AAA) donors, partner governments and CSOs agreed to work together to address CSO effectiveness⁷ called for higher levels of engagement and broad-based dialogue with CSOs, parliaments and other development actors by donors and developing country governments on development policy and practice⁸; and committed donor and developing country governments to enhance transparency and accountability to each other and to their citizens.⁹

Minimum Standards for an Enabling Environment

*The Siem Reap CSO Consensus on the International Framework for CSO Development Effectiveness*¹⁰, defines the enabling environment as: “the political and policy context created by governments, official donors and other development actors that affect the ways CSOs may carry out their work.” “Enabling standards” are a set of interrelated good practices by donors and governments – in the legal, regulatory, fiscal, informational, political, and cultural areas – that support the capacity of CSO development actors to engage in development

⁴ See CSOs’ common Key Messages and proposals towards HLF-4 at :http://www.cso-effectiveness.org/IMG/pdf/cso_asks_final.pdf

⁵ For a summary of the diverse CSO roles in development, see Annex 2, International framework for CSO Development Effectiveness: http://www.cso-effectiveness.org/IMG/pdf/international_framework_open_forum.pdf

⁶ See paragraph 20C of the Accra Agenda for Action: <http://siteresources.worldbank.org/ACCRAEXT/Resources/4700790-1217425866038/AAA-4-SEPTEMBER-FINAL-16h00.pdf>

⁷ *Ibid.*, 20C of the Accra Agenda for Action

⁸ *Ibid.*, paragraph 13

⁹ *Ibid.*, paragraph 24

¹⁰ http://www.cso-effectiveness.org/IMG/pdf/international_framework_open_forum.pdf

processes in a sustained and effective manner”.¹¹ The creation of such an environment is highly complex and involves the interplay of many domestic and international actors in the progressive realisation of human rights. The following fundamental principles and standards, however, should apply across all countries to guarantee fundamental rights and as pre-conditions for a robust and effective civil society:

- Freedom of association and assembly for men and women;
- Legal recognition facilitating the work of CSOs, including women’s rights organisations;
- The right to freedom of expression for men and women;
- Freedom of movement, mobility rights and the right to travel for men and women;
- The right to operate free of unwarranted state interference;
- The legal space to seek and secure necessary resources in support of legitimate roles in development.
- Public authorities, moreover, are required by international law to provide protection when the integrity of a civil society organization or lives of its staff and members are threatened.

2. A Pattern of Shrinking Democratic Space

Despite these commitments on the part of donors, and other international actors, there is growing evidence that the space for independent CSO work in many developing countries has been rapidly deteriorating over the past few years.¹² The multi-stakeholder Task Team on CSO Effectiveness, reporting to the OECD Working Party on Aid Effectiveness, has noted “a growing body of evidence to suggest an increasingly restrictive, rather than enabling environment for civil society, with reduced democratic, legal and financial support space for CSOs to varying degrees in both developing and donor countries around the world.”¹³

Globally there is evidence of more restrictive financial and regulatory frameworks that severely constrain CSO activities, often threatening their very existence (including right to entry, operation, expression, communication), the Task Team reported. The need for the 2010 resolution of the UN Human Rights Council on the rights to peaceful assembly and association, and designation of the first UN Special Rapporteur monitoring these rights, also attest to this ominous trend and underline the gravity of the situation. Moreover, addressing common concerns of limitations and restriction placed on CSOs in accessing resources for their work, the UN Special Rapporteur on Human Rights Defenders’ recent Commentary found it necessary to reassert the right of CSOs to funding as an inherent element of the right to freedom of association.

A recent Trócaire/CAFOD research on civil society space¹⁴ in Ethiopia, Malawi, Honduras and Cambodia, concludes that, increasingly, civil society space is being restricted – sometimes at national, sometimes at local level — to contain challenges to the use of power. The box below outlines some of the findings from this research in relation to the situation in Malawi. The findings of this research are backed by recently released research on the ‘disabling environment’ for CSOs in Africa by the African Civil Society Platform on principled Partnership (ACPPP) reports that 35 African governments (or 62% of the total) have either passed or are advancing legislation that restricts the activities, funding, and sometimes the very existence, of CSOs. The ACPPP concludes that CSOs across Africa are now

¹¹ *Ibid.*, p.20.

¹² See, for example, the reports : *Shrinking political Space of Civil Society Action*, ACT Alliance, Geneva, June 2011; and *Civil Society – The Clampdown is Real*, CIVICUS, South Africa, December 2010; *CSOs in situations of conflict*, CIVICUS, South Africa, April 2011. See also Trócaire horizon scanning report *Leading Edge 2020*.

¹³ For further details, see « key Messages for the Fourth High level Forum on Aid Effectiveness » by the Task team on CSO Development Effectiveness and Enabling Environment, Working party on Aid Effectiveness, Cluster A at: http://www.cso-effectiveness.org/IMG/pdf/final_key_messages_from_the_task_team.pdf

¹⁴ Ethiopia Civil Society Scoping Study, joint CAFOD/Trócaire Research on Civil Society Space

facing “the greatest crisis” they have faced since the wave of independence on the continent some 50 years ago, with an emerging practice of governments using an aggressive combination of multiple pieces of legislation, policies and political tools to restrict civil space.¹⁵

This restriction of civil society space is deeply damaging to the countries in which it happens. It is dangerous for CSO activists working for sustainable human development, including CIDSE Member Organisations (MOs) and their partners in turn. Moreover, it is directly at odds with the EU and fellow EU Member States policies of supporting democracy and good governance, and working with and through CSOs in development.

The EU Structure Dialogue Concluding paper (May 2011)¹⁶ cites among CSOs’ key roles as actors of social change in development: mobilization and organisation of grass-root communities for social, economic and political development; development education, awareness raising and social empowerment; monitoring of governments and donors; service delivery and development programming; building coalitions and networks; mobilization and leverage of EU resources; involvement in the governance agenda; advocacy; promotion of democratic ownership; involvement in the human rights agenda; provision of humanitarian assistance. Besides, CSOs can bring a distinct added value on the basis of their nature as self governing and voluntary organizations through: their rights-based approach to development; their outreach capacity to the most marginalized and their ability to empower them; their capacity to react rapidly and flexibly; their links of local needs with global issues and the power to promote and trigger social innovation.

The EU has also been active asserting and ensuring the protection of human rights defenders¹⁷, who are often on the receiving end of the more harmful and violent manifestations of shrinking civil society space. CIDSE members strongly support EU’s view that such roles and activities represent the value added of civil society in action for development.

3. How Civil Society Space links with the Aid Effectiveness Agenda

Certain elements of the aid effectiveness agenda are intrinsically linked with this issue of closing civil society space and need to be highlighted, especially where these may inadvertently exacerbate already challenging contexts.

In an extremely worrying development for the aid effectiveness agenda, the ACPPPP’s research across Africa has identified the misuse of the Paris Declaration principles – and, indeed, the International Framework for CSO Development Effectiveness – to restrict civil space in the name of alignment, harmonisation and accountability. The result is a growing threat to CSO diversity, risk-taking and innovation as a result of donor harmonisation and country-level alignment within partner countries. This situation, moreover, is further compounded by emerging challenges and threats in the reduced role envisaged by a number of OECD donors for ‘home-country NGOs’ in development partnerships (agenda setting, programmes, policy advocacy, etc); and evidence of reduced donor interest in, and funding of, certain complex or ‘slow burn’ CSO activities, such as empowerment for rights, governance, advocacy, development education, etc.¹⁸

¹⁵ See *Civil Society, Aid and the Disabling Environment: Motivation and impact of the disabling environment on development work in Africa*, Africa CSO Platform on Principled Partnership (ACPPP); Kenya, June 2011.

¹⁶ “Structured Dialogue for an Efficient Partnership in development, Concluding Paper”, May 2011, https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/e/ea/FINAL_CONCLUDING_PAPER.pdf

¹⁷ See “Ensuring Protection – European Union Guidelines on Human Rights Defenders”, <http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf>

¹⁸ For example, see the White paper on Irish Aid (2006) and Irish Aid Civil Society Policy (2008)

The ACPPP argues from its findings that “what began as a genuine call for mutual accountability and harmonisation of development effort between donors, governments and CSOs has turned into a wave of legislation and policies targeting organisations [CSOs] that do not appear to conform to government choices” (2011: 5). The ACPPP contends that by focusing on those aid effectiveness results that derive from the Paris Declaration and not paying close attention to progressing Accra Agenda for Action commitments, “donors are increasingly putting CSOs on the firing line of governments, and providing a justification for CSO control” (*ibid.*: 28).

Based on its work since Accra, the Task Team on CSO Development Effectiveness has reported to the Working Party on Aid Effectiveness that all participants at HLF-4 should recognise the importance of “assuring that the Paris Declaration principles, including ownership and alignment, are not in any way interpreted or applied to narrow the enabling environment for CSOs.”

This issue, however, has been sorely neglected since 2008, and is sidelined in the Draft Outcome Document for HLF-4 (draft4). *The International Framework for CSO Development Effectiveness*, endorsed by civil society in Siem Reap, Cambodia, in June 2011 specifically states that: since the 2008 Accra HLF-3 commitment by donors and governments ‘to work with CSOs to provide an enabling environment that maximises their contributions to development’, “many CSOs, in both donor and developing countries, have experienced deteriorating and disabling conditions for their work.”

Threats to Civil Society in Malawi

In Malawi civil society space has become increasingly restricted since the 2009 elections. This is a remarkable reversal of a period of around 15 years of democratic gains and civil society expansion since the end of one party rule in 1994. Civil society, particularly Malawi’s churches, played a key role in ushering in a democratic era and have been key guardians of good governance and human rights ever since. However, since 2009, the government has begun to introduce restrictive new legislation. Amendments to the Police Act granted new powers to search without a warrant; the Penal Code was amended allowing the government to close down any media outlets publishing material against the public interest; and the Injunctions Bill prevents anyone taking out injunctions against the government. Furthermore, civil society leaders including Trócaire partners have reported increasing intimidation in recent months. This has culminated in the deaths of 19 people in July this year when police opened fire on civil society demonstrations which called for changes to government economic policies. Civil society leaders have reported death threats and many have gone into hiding. The Malawian government is specifically targeting NGOs and networks working on human rights and governance issues. The independent media and academics known to be critical of the government have also been singled out. Whilst some space for dialogue remains open, particularly at local level, the situation is deteriorating rapidly.

4. Moving Forward: What needs to happen in Busan

The centrality of an enabling environment for civil society organisations and actors needs to be recognised and acted on at the HLF-4 in Busan in December 2011. In the absence of basic minimum enabling standards on the part of donors, partner governments and other development partners (be they local authorities, private sector actors, foundations, international organisations or others), CSOs will be thwarted in their work to reduce poverty, as well as the promotion, protection and defence of human rights.

While the focus in the Draft Outcome Document 4 on the role of parliaments is welcome, as well as the reference to the *Istanbul Principles* and the *International Framework for CSO Development Effectiveness*, the commitments on the role of civil society need to be greatly strengthened, and to reflect much more fully the key outcomes of the Working Party's multi-stakeholder Task Team on CSO Development Effectiveness – including its important recommendations in relation to CSOs as independent development actors, the enabling environment, donor support models, CSOs' effectiveness, and issues of accountability, transparency and respect for human rights.¹⁹ Regarding specifically the enabling environment for CSOs, the Busan Draft Outcome Document 4 dedicates paragraph 19a on the need to “focus on an enabling environment that maximizes the contributions for CSOs to development”, but fails in defining it as a space that must be based on fundamental rights enshrined in international treaties and agreements.²⁰

In the lead up to HLF-4, and well beyond that particular meeting, CIDSE will highlight this crisis situation for civil society globally, and call on all development actors to do their utmost to address this. In the short term, this can be advanced through specific and concrete measures at HLF-4 to advance an enabling environment for CSOs. In the longer term, it will require close attention and political engagement and action by donors, partner governments, CSOs and others.

CIDSE calls on the EU, EU Member States and OECD countries to play a key role by advancing basic minimum enabling standards for CSOs to engage with development and human rights, in line with the recommendations formulated in the Structured Dialogue concluding paper.

5. Recommendations

Looking forward to HLF-4 in light of the urgent threat to CSOs around the world, and revisiting the commitments of the Accra Agenda for Action on aid effectiveness, CIDSE calls on fellow EU Member States and the OECD **to affirm and ensure the participation in development of the full diversity of CSOs, as independent and autonomous development actors in their own right.**

In doing so, CIDSE urges them to prioritise and promote the matter of tackling shrinking civil society space in many countries – and the consequent, urgent need for development partners to progress agreement on basic minimum standards for an enabling environment for CSOs.

CIDSE calls on EU, EU Member States and OECD to:

- 1 } *Promote agreement at HLF-4 on minimum enabling standards for government and donor policies, laws, regulations and practices (in line with international human rights law) that create an enabling environment for CSOs to maximise their contributions to development and human rights, including women's rights.*

¹⁹ CSO Development Effectiveness and the Enabling Environment, Key Messages for the Fourth High Level Forum on Aid Effectiveness, The Task Team on CSO Development Effectiveness and Enabling Environment, Working Party on Aid Effectiveness, Cluster A, http://www.cso-effectiveness.org/IMG/pdf/final_key_messages_from_the_task_team.pdf

²⁰ *Ibid.*, p.4: « 4. Committing to and promoting an enabling environment for CSOs as independent development actors, both in law and practice, at minimum in keeping with existing commitments in international and regional instruments that guarantee fundamental rights. These include: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding, and the state's duty to protect.” Also see EU Structured Dialogue p.6

- ‡ *Address the issue of CSOs being hindered or restricted in their roles as independent development actors, as formally recognised in the AAA, under the guise of countries' adherence to Paris Declaration principles or aid effectiveness approaches.²¹*
- ‡ *Before and at HLF-4, reaffirm the AAA's recognition of CSOs as independent development actors in their own right, playing roles that complement but are distinct from those of governments and the for-profit private sector. To this end, the Minister of State for Trade and Development of each EU member State and OECD country should make a statement emphasising the importance of autonomous CSOs, their roles in development, and the importance of assuring the minimum enabling standards that would allow them fulfill their potential as independent development actors.*
- ‡ *Endorse, and promote the endorsement by other countries, of the Istanbul Principles (developed partly in response to the AAA's call for civil society reflection on how it relates to the Paris process) as a basis for context-specific assessment of CSO contributions to development, and for donor and government policies that enable these contributions.*
- ‡ *Actively promote and support an enabling environment for CSOs' work by speaking out publicly where CSOs are under threat and by using its influence to call on donors to act and speak collectively in light of donor and partner countries' commitments under international human rights norms and standards.*
- ‡ *Employ the EU guidelines on Human Rights Defenders²² more systematically to support and strengthen ongoing efforts of the EU to promote and encourage respect for the right to defend human rights.*
- ‡ *Encouraging cooperation among both donors and partner country governments with the recently appointed Special Rapporteur on the Freedom of Assembly and Association. The issue of democratic space for civil society action, such as securing basic minimum enabling conditions, should be promoted as a special focus of the work of the Special Rapporteur.*
- ‡ *Encourage support and cooperation among both donors and partner country governments with other relevant UN human rights mechanisms such as the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the UN Special Rapporteur on the Situation of Human Rights Defenders.*

6. Conclusion

The draft Outcome Document for the HLF-4 states that international development cooperation currently finds itself at a critical juncture. As outlined above, a critical part of this relates to the disabling environment in which civil society actors are working across the world. International development cooperation must promote democratic ownership and adherence to human rights standards, and squarely address the underlying causes of poverty and inequality in the world today. This issue is intrinsically linked with key elements of the aid effectiveness agenda.

It is essential that the HLF-4 in Busan, as a key development forum, is used to address the issue of shrinking democratic space for civil society. The EU, EU Member States and OECD countries are in a strong position to ensure that this happens.

²¹ See footnote 20

²² <http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf>



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CIDSE is an international alliance of Catholic development agencies. Its members share a common strategy in their efforts to eradicate poverty and establish global justice. CIDSE's advocacy work covers global governance; resources for development; climate justice; food, agriculture & sustainable trade; and business & human rights. www.cidse.org.

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