# ICVA 2017 Annual Conference



NGO engagement with host governments:

How can humanitarian civil society better navigate a complex world

**ICVA** | A GLOBAL NGO NETWORK FOR PRINCIPLED AND EFFECTIVE HUMANITARIAN ACTION

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## Acknowledgements

## Introduction & rationale

**ICVA's 2017 Annual Conference discussed the relationship between states and civil society and the impact this relationship has on the ability of NGOs to operate**. In light of this, ICVA has launched a two-year project to support NGOs to protect their space, operate, and navigate a complex world through more strategic engagement with host governments.

The challenges facing today's global community - whether economic, social, or technological, require us to re-consider our relationships and how we communicate, cooperate, and engage. A longstanding and multidimensional relationship at the forefront of cooperation, is between states and humanitarian NGOs. Whilst acknowledging the relevance of non-state actors in contexts of armed conflict, the annual conference and the successive focus specifically on the relationship between NGOs and host governments.

## How is civil society evolving? Why? Where is it headed?
### *Academic Presentation: Dr. Amanda Murdie*

Dr Amanda Murdie commenced by outlining an established definition of civil society: **Civil society is often defined by what it is not. That is, civil society is comprised of organizations and actors that are *not* states and *not* for profit businesses**. However, this definition is inaccurate, as result of overlaps between civil society, states and the private sector.

Civil society includes everything from large International NGOs to grassroots movements with no organizational structure. In contrast with traditional perceptions of civil society, academics are developing an understanding of civil society as becoming increasingly diverse and splintering into a variety of both progressive and non-progressive causes.

> *"The often termed 'space' for civil society to operate represents the environment in which civil society can assemble, communicate, advocate and undertake initiatives with and on behalf of a community of concern".*

Witnessing recent trends, many conclude that the space for civil society to operate is shrinking – leading to a desire to better understand the current state of play, and how civil society has evolved in recent history.

- **WWII gave civil society the ability to demonstrate their comparative advantage with regards to humanitarian assistance, relief, and development**. The non-governmental nature of the organizations bypassed unnecessary bureaucracy, while their non-business nature meant that they were often staffed by altruists dedicated to the principles of humanitarian action.
- **Following the Cold War, civil society grew exponentially outside the global north**, requiring national and sub-national actors to develop new tactics for dealing with repressive hosts and home states.
- **The Post-Cold War period, according to many academics, was the apex of humanitarian civil society**. NGOs were praised for their transformative impacts on poverty reduction and democratization, resulting in the earmarking of funds for specific sectors and humanitarian purposes. Further, public involvement became integrated into civil society and led to the idea of 'slacktivism'– or activism by tweets and forwards—seen today.
- After the Cold War era, humanitarian actions and military interventions became routinely intertwined, blurring the definition of humanitarian action. Notably, **the attack on 9/11 and the proceeding war on terror resulted in significant restrictions on international funding and tightening of civil society space**. The primacy of security became a common justification for the control of civil society actors, including those that were neutral or homegrown. In light of humanitarian suffering, efforts increased for the protection of sovereignty at all costs. The global war on terror and vilification of civil society has since resulted in the targeting of civil society workers for kidnapping, violent attacks and targeting killings.

Recently, as new forms of global nationalism and isolationism increase, so have restrictions on protest and repression of minorities, contributing to the erosion of credibility of western promotion of civil society freedoms abroad.

- In parallel, the perception of NGOs as western organizations lacking language or cultural competencies grew in many host countries, resulting in calls to strengthen accountability and professionalization. For a period, global multilateralism allowed for the development of norms concerning human security, the global responsibility to protect, and international justice through the International Criminal Court, with this growth in policy and reassessment still being transformed by world politics today. Consequently, host states today are becoming increasingly watchful of civil society as agents impacting or intruding on sovereignty.

**What explains this transformation since WWII?** Five important drivers were explored which link the evolution of civil society to the current state of affairs.

- **Changes in international power dynamics from a bipolar, to unipolar, and now multipolar world**. Situations where the power of the hegemon is declining, are considered the most dangerous in history. While the US is declining in humanitarian stature, new regional actors are expanding their humanitarian footprint and shifting traditional balances of power. In



parallel, many European countries are experiencing difficulties addressing the refugee crisis. Public opinion of the UN and other IGOs has declined in certain regions and ideologies. As a result, few countries can now be considered champions of international action and civil society.

- **The growing power of host countries and their concerns about sovereignty**. There is no academic evidence that international humanitarian civil society limits the ability of states to deliver services to their own populations, or to develop their own civil society sector. However, with the shrinking credibility of the west and the growing power of host countries, civil society space is increasingly restricted by the proliferation of hybrid regimes and leaders who may feel vulnerable to the possibility of external and internal political influence. In response to this perceived threat, states often seek to close civil society space.

- **The growth and influence of politicized humanitarian action (and non-action)**. The politicization of humanitarian action has complicated how the public views humanitarian civil society space. Political leaders have refused to act when politicized arguments arise of the costs of humanitarian action, coupled with the rise of right-wing nationalism – leading to limited domestic support for humanitarian action.

- **The blurring of the lines of humanitarian civil society space**. Civil society is extremely diverse, yet there is a spillover effect, as pushback against certain organizations often lead to pushback against all civil society. The blurring of civil society can erroneously lead individuals to assume that all civil society actors share the same values, strategies, backgrounds, and funders.

- **A world connected by social media has allowed for nimble humanitarian organizations to respond quickly, operate locally, and gain necessary international attention**. However, it has conversely allowed for the spread of misinformation, a new form of nationalism, and 'slacktivism.' Social media connectivity has reduced citizen disengagement and according to some academics, social media connectivity is responsible for spreading international citizen unrest, which can be violent and used to justify restrictions on civil society.

### Global trends and drivers impacting civil society and humanitarian NGOs
### *Shrinking of Civil Space, Global Trends & Drivers: David Moore*

David Moore, Vice President of Legal affairs at the International Centre for not-for-profit law, discussed the current trend, limiting the space for civil society to operate – primarily achieved through restrictive legislation at national levels.

Since 2012, approximately 70 governments have enacted over 120 legal initiatives restricting civil society - specifically the freedoms of association and assembly. Approximately 45% of these initiatives have restricted the ability of people to form and operate civil society organizations; and approximately 33% have restricted the ability of organizations to access international funding. This trend against civil society continues and is linked to a global decline in democracy, with 42 countries currently considering new laws to further restrict civil society, and is marked by a number of characteristics:

- We are witnessing a shift within many countries of the rule *of* law, to the rule *by* law. In these cases, law is employed as a repressive tool, rather than a shield to protect space.
- Governments are utilising increasingly diverse legal measures including tax law, cyber laws and counter terrorism laws in an attempt to stifle civil society space. This is a global trend, with no region immune to these increasing restrictions imposed on civic space. This trend is fueled by a contagion effect, whereby countries replicate restrictive laws of one another across regions. These restrictions, once only impacting organisations championing human rights causes, is now impacting civil society as a whole - including NGOs undertaking humanitarian action.
- These legal barriers affecting civil society, often restrict access to resources. Restrictions to access international funding are on the rise, with the first restrictive step often requiring approval to access funding through a separate registration process - in addition to approval for every project receiving foreign support. This often results in delays and project cancellations.
- Many laws stigmatize receipt of international funds by categorising those that do receive it as *foreign agents*, a term which inadvertently becomes a deterrent for funding. Other laws place limits on receiving international funding, for example, equating to no more than 10% of an organization's total income, limiting the ability of the organization to operate effectively.

Other laws require foreign funding be regulated through government channels, including state banks or government agencies, resulting in delays or blocks in the receipt of funding. Laws exist which block the receipt of funding from foreign black-listed donors, whilst subjecting CSOs to over-burdensome reporting and inspections. Considering 'life cycle' legislation, various legislation can be created to further impede access to resources. For example, in one country, in order to found a national association, there must be 400 founding members. In another country, to found a humanitarian organization, it must have in excess of USD1 million in a national bank account. An INGO in comparison, must have USD2 million available. Complex and regular registration and renewal processes are regularly used to further restrict operations. Laws have been utilized to interfere in organisational governance.

> *"In one specific country, CSOs with more than five staff are required by law to employ a full-time money laundering reporting officer. Counter terrorism polices have led to significant restrictions on CSOs and their access to funding and their ability to operate in volatile contexts, often where the humanitarian need is most urgent".*

ICNL presented a number of drivers for this regulatory backlash, most notably the paradigm shift following 9/11, the growing perception of many CSOs as foreign agents. This is illustrated by approximately 140 countries adopting counter terrorism policies over the last decade. Drivers for restrictions have also gained momentum from various initiatives to promote aid effectiveness.

**With these occurrences, what can be done - and how to strengthen engagement between Governments and CSOs?** There remain opportunities for engagement, for example, through the UN special rapporteur on freedom of association and assembly. Opportunities in multi-stakeholder arenas such as the Global

Partnership for Effective Development Cooperation initiative, which gathers donor representatives, host governments and CSOs to improve the effectiveness of development cooperation. At the regional level, we have witnessed positive movement with the African Union, specifically the African Commission, which formed study group on freedom of association in the process in development guidelines. Some positive cases do also exist at the national level. For example, an enabling law was passed in Myanmar on association registration as the product of a highly consultative process initiated and led by many civil society representatives.

**A following plenary discussion with Dr Amanda Murdie and David Moore highlighted:**
- The need to be proactive with national/host governments, attempting to build a relationship before restrictive measures are put in place. Discussions highlighted the need to demonstrate the effectiveness of civil society and often, the reality of a common vision.
- NGOs must employ various strategies to better engage with host governments. Different approaches are needed within the same country and host government on various issues.
- The importance of local leadership within CSOs was highlighted, citing the value of national and cultural understanding and often a stronger ability to engage with government representatives.
- Many NGOs operate as multi-mandated entities. This can pose additional complications whereby NGOs within a certain country may need to prioritize one mandate over another. If restrictive laws take place, it was discussed whether one must decide if it is still possible to work in a multi-mandated way.
- With regards to strengthening interactions with host governments at the national level, humanitarian actors often navigate a challenging landscape to remain true to humanitarian principles while considering sovereignty concerns of the host government.

## Panel discussion One:
### *NGO experiences in navigating a complex world: What changes are we witnessing?*

- **Ms. Sema Genel,** Director, Support to Life
- **Ms. Pansy Tun Thein,** Executive Director, Local Resource Centre, Myanmar
- **Mr. Adam Combs,** Regional Director – Asia/Europe, Norwegian Refugee Council

**The panel discussed a number of key issues, including:**

**The trends witnessed which are impacting humanitarian operations.** Panellists shared experiences of exceedingly restrictive current regulatory frameworks. For example, in **Pakistan**, all 130 INGOs were required to resubmit their MoU with the Government, involving a significantly long processing period and impacting the ability for these INGOs to operate, placing increased resource demands on staff. This is occurrence is not limited to Pakistan.

Changes are occurring in **Myanmar**. The 1988 Registration Act was a major obstacle to humanitarian operations in Myanmar. Whilst this restrictive measure was more recently revised, additional challenges remained. The required by-laws took over a year to be passed and, once passed, were not implemented at local levels due to limited awareness raising on the review laws.

Humanitarian operations in and around **Turkey** have been under severe recent demand as a result of the Syrian conflict. The legal framework for INGOs to operate did not exist prior to the crisis, and following significant engagement from INGOs, the Turkish government initially reacted through conducting a series of audits. INGOs were in-turn perceived by the segments of Turkish media as a threat. As increasing scrutiny was directed towards INGOs, a panellist noted that the ability for National NGOs to operate has increased – as long as this was undertaken in coordination with government authorities.

**Recent actions of Western governments have especially impacted perceptions of INGOs**. For example, Western Governments' reactions to the refugee and migrant crisis across Europe, has significantly damaged the reputation/perception of many European governments as advocates of humanity.

**Panellists discussed the role of the media in either strengthening or weakening the perception of NGOs – especially INGOs**. Examples shared across Asia and MENA highlighted how the media is a tool which can raise awareness and mobilise public sentiment to support humanitarian action. Alternatively, the media can actively contribute to alienating civil society, often focused on INGOs. A key recommendation is for civil society to proactively engage with the media wherever possible.

Following the attempted coup in Turkey in July 2016, a wave of restrictive regulations was placed on NGOs - in particular of INGOs, placing immense pressure to justify themselves and defend their credibility. Parallel to these developments, Turkey recently declared it will approve all internally funded humanitarian projects - provided it is involved in the design phase. This development provides an opportunity for NNGOs to develop a framework for operations with the government of Turkey.

## Panel discussion Two:
### *Reflections on host government engagement with NGOs undertaking humanitarian action*

- **Ms. Ayan Nuriye,** Programme Officer for Humanitarian Affairs, Intergovernmental Authority on Development (IGAD)
- **Ms. Loretta Hieber-Girardet,** Chief Inter-Cluster Coordination Section, OCHA
- **Mr. Berk Baran,** Deputy Permanent Representative of Turkey to the United Nations Office at Geneva



Discussions in this session commenced with acknowledging – that globally, the space and ability for NGOs to operate is reducing. Within this context, panellists noted the importance of distinguishing between contexts of disaster and contexts of conflict. Humanitarian responses in contexts of conflict are easily politicised, which is often the same contexts where the ability for NGOs to operate is most limited

Panellists discussed what a strong relationship between government and NGOs could look like. This relationship was characterized by NGOs sharing information about programs and operations, engaging with local communities, inviting government to trainings and workshops, complemented by when governments reciprocate by supporting NGOs undertake their work through a manageable and appropriate regulatory and accountability environment.

On the other hand, a strained relationship was characterized by instances when NGOs operate strictly from their mandate, rather than following a needs-based approach and substituting the role of the government - rather than supporting it in the delivery of services. This strained relationship is further compounded through language barriers and cultural insensitivity demonstrated on occasion by INGOs. In relation to governments, a negative relationship may be characterized by using sovereignty at the driver to impose restrictions; requesting heavy levies on aid supplies; charging inflated visa costs; and restricting access. The role of the UN in these contexts should be grounded in a rationale of partnership and facilitation maintain the humanitarian space.

The Turkish Deputy Permanent Representative spoke of Turkey's recent expulsion of specific INGOs operating within its borders. In Turkey, as other countries, NGOs are required to apply for permits to operate. Often, permits cover a specific geographic location, and do not signify a blanket approval. NGOs

on occasion operate in numerous locations after receiving approvals for one area only, which has resulted in expulsion of the NGO in question.

Panellists noted the 'New Way of Working', which promotes collective outcomes and stronger engagement between development and humanitarian actors, will require stronger engagement with host government authorities as much development work is undertaken in partnership with governments.

Panellists were asked what recommendations they would give to NGOs to better engage with host governments. Primary points included:
- For NGOs to prioritise establishing and maintaining relationships with host governments and local communities, whilst being more open and realistic about what can be achieved.
- The need for clearer definitions of the humanitarian mission, and to support the introduction and rollout accountability frameworks on both ends.
- For NGOs to better understand in country legal structures and governmental procedures.

## Panel discussion Three:

### *Can stronger NGO engagement with host Governments promote the ability for NGOs to operate?*

- **Mr. Christian Captier,** Former MSF Swiss General Director, Head of Project – Sharing Incident Memory & Mitigation Project - Médecins sans Frontiéres
- **Mr. Naseer Memon,** Chief Executive Strengthening Participatory Organisation (Pakistan)
- **Ms. Suzanna Tkalec,** Humanitarian Director, Caritas Internationalis

In this last session, participants reaffirmed the importance of acting according to the context, which varies significantly from country to country. Most importantly, panellists expressed the importance of attempting to understand the perspective of the respective government, working towards a stronger foundation to engage and discuss meaningfully.

Governments themselves within a country are not homogenous. Perspectives and government priorities at local level may therefore be different to those at the provincial or national level. Acknowledging this, panellists stressed the importance of investing in understanding the structure and mechanisms of the specific authorities, and engaging strategically at those levels and individuals which can bring about the most impact.

Further panel discussions stressed:
- The need to prioritize continuous engagement with the government, and one which should not be underappreciated. Establishing, whenever possible, meaningful relationships during 'peace times' was considered key. This continuous engagement should be undertaken by senior staff members to. Additionally, working closely with development actors, on closely engage with governments, was also recommended.
- The important role of NGO for a was also highlighted. Some NGOs engage proactively with NGO fora, whereas others do not for various reasons. However, the value of NGO fora was recognized and recommended as a useful vehicle to engage directly with host governments.

## Amplify Your Initiative

Throughout the day, a number of short interventions were given by NGO participants, highlighting their initiatives, these included:

**CIVICUS:** *The CIVICUS monitor*

**HAMI:** *Influencing education policies for refugee children*

**Christian Aid and Norwegian Refugee Council:** *Counter Terrorism Measures: Impacts and Opportunities*

**COAST Bangladesh:** *Strengthening self-accountability and coordination among Bangladeshi CSOs*

**Action Contre La Faim:** *Attacks against humanitarian action*

**Refugee Consortium of Kenya:** *Engagement with Members of Parliament in amending the Refugee Act of 2006*

**Oxfam Novib:** *Empowering local and national humanitarian actors*

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