

CSO Assessment Study on Legal and Political Environment for Developmental/Rural Developmental NGOs in Bangladesh

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Executive Summary

In Bangladesh, there appears to be a dearth of research on the contribution of civil society organizations (CSOs). The dearth would be evident from even the lack of systemic, reliable information on the number of CSOs operating in Bangladesh. Whereas CSOs make various contributions to rural development or overall economic development, their contribution is not always well documented or studied. Mainly beginning from the emergence of Bangladesh with the design of providing relief to the war-ravaged people, the CSOs in Bangladesh are now much more diverse and many are more focused on rights-based advocacy of the marginalized sections of the community. They also have contributed significantly to creating employment opportunities for many. Some of their activities have been replicated in other parts of the world as role models.

The registration regime for CSOs in Bangladesh is a patchwork. Depending on the design of the founders, CSOs may be registered under different laws. While some observers have advocated for some sort of uniformity in the registration regime, the current mechanism seems to offer the CSOs some flexibility to tailor their operational structure according to their need. However, the registration process can be slower than the respective instrument charts and the cancellation of registration or non-renewal of registration as a way of curbing the activities of some CSOs can be problematic. To ease the burden of the CSOs as well as the registering authorities, the process of periodic registration may be abolished.

The government's concern about money laundering and terrorist financing cannot be dismissed. However, such concerns should not make the foreign disbursement process to CSOs more onerous. The CSOs in Bangladesh working on developmental or rural developmental sector seems to be facing the constraints of shrinking funding and ever-increasing number of CSOs vying for that limited funding. In recent years, the diversion of funds to the Rohingya related projects and the COVID-19 pandemic would appear to be significant factors contributing to this. The impending graduation of Bangladesh to a developing country status may further shrink foreign funding to CSOs operating in Bangladesh. A specifically earmarked funding for CSOs on the government's budget may significantly help the CSOs. This can also assist the government to channel money according to its rural developmental priorities. The corporate social responsibility (CSR) funding of the bank and non-bank financial institutions may be channeled more to promote the rural developmental and developmental activities of CSOs.

On the regulatory front, the governance of CSOs via circulars instead of laws seems to be undesirable. While the laws may also constrain the CSOs, circulars appear to be opaquer. One of the core challenges to CSOs is the controlling and centrality mindset of the bureaucracy that is even palpable in some official governmental policies. While this may not necessarily be a big challenge for international NGOs or large local CSOs, for the medium-sized and smaller CSOs, these would be

constraining. Unless the CSOs are truly viewed as a supplementary force to the government, it is difficult for CSOs to achieve their true potential in contributing to developmental and rural developmental process in Bangladesh. Even some of the comprehensive policy instruments such as the Poverty Reduction Strategy Paper of 2004, has unequivocally acknowledged the important supplementary role that CSOs may play in rural development. However, in some cases, the same progressive attitude does not find a place in laws, policies, and circulars of government bodies that preceded or succeeded it. As they appear to focus more on regulating the CSOs than helping them to thrive and work for the underprivileged. Some CSO representatives have expressed a frustration that due to the delay in certification on the completion of their project from the government authorities, their work often flounders. The onerous audit and other one size fits all requirements of some donors also stretch some CSOs.

The inter-CSOs connection and dialogue are not regular in Bangladesh. In addition, dialogues between CSOs and the government are infrequent and formalistic. Many of the ceremonial dialogues between government bodies and CSOs seem only to validate the government's position, reducing the efficacy of the consultation process. The CSOs inputs' during these dialogues do not appear to find its place in the laws and policies formulated by various government bodies.

All the above being said, not all impediments to the CSOs in Bangladesh are exogenous. CSOs (particularly the larger ones) should also work more to instill the values and culture of institutions rather than rely heavily on the founders and their family members working as successors. More needs to be done to augment the facilities of the workforce engaged in the sector that can boost the morale of the people working within them and may benefit CSOs. Of course, this may not be possible for smaller CSOs where there may not be someone from the ranks and files willing to take the leadership role, but this should happen for larger CSOs. More needs to be done to raise the awareness of public regarding the contribution of CSOs in the developmental and rural developmental activities within Bangladesh. Such awareness can help them to further enhance their image in public eye and may indirectly help them to gain more breathing space from the policymakers. For larger CSOs working in multifarious areas, the rural developmental activities should not slip off the radar. The inter-CSO networking also needs to be stronger. To help smaller CSOs, some of the income-generating activities may be channeled to the funding of some smaller CSOs.

The perils of fragile and chronically under-funded CSOs need more highlighting in Bangladesh. Some of the regulatory reforms and changing the perception of the bureaucracy may appear to be a drudgery and may remain elusive, in absence of truly democratic culture within the country, but nonetheless, the mission should persist. That sort of dogged approach may gradually take CSOs to the next level as a more influential pressure group within Bangladesh.

Background

While Civil Society Organizations (CSOs) in Bangladesh have a long history, in the last couple of decades, Non-Governmental Organizations (NGOs) have played an important role all over the world in matters pertaining to good governance, functioning of democracy, upholding of human rights and fundamental freedoms, and protecting vulnerable and under-privileged sections of the community. And Bangladesh is not an exception to the overall global trend. Bangladesh is endowed with a vibrant presence of many CSOs or NGOs (ADAB - Association of Development Agencies in Bangladesh., n.d.).¹ The supplementary role played by the myriad of CSOs in Bangladesh has been important in the upliftment of many and achieving Sustainable Development Goals (SDGs). This study charts the development of the CSOs through a historical lens, their evolution, the legal and political milieu within which they operate: the process of registration, funding, accountability and sustainability.

Rationale and Objectives

This study should contribute to the understanding of the various operational challenges of CSOs in Bangladesh. The footprint of some Bangladeshi CSOs can be traced well beyond the territory of Bangladesh. In addition to the fulfilment of their mission, the CSOs in Bangladesh have played an important role in generating employment for many that is crucial where unemployment is a severe challenge. CSOs are also playing crucial roles in promotion and protecting land and human rights, indigenous peoples' rights, and gender justice particularly since eighties of the last century. Overall, the positive contribution of CSOs in the anti-poverty fight and development is well recognized (Bangladesh: Unlocking the Potential, National Strategy for Accelerated Poverty Reduction, 2005). Its recommendations should help the government and CSOs to bring about a more conducive environment for the CSOs to operate and work in furtherance of their mission. It should also serve as a basis for a comparative study of the legal and political environment within which the CSOs operate in the selected Asian countries.

Methodology, Scope and Limitations

This study is based on a survey of existing literature on CSOs. It also engages in the analysis of the relevant statutory legal framework governing various aspects of the operation of CSOs in Bangladesh. It is mainly a desk-based review but a validation workshop was also conducted on 9 September 2022, and participated in by 27 CSO representatives (20 females, 7 males) who contributed to the analysis and recommendations for the study. Within the limited timeframe of the study, to provide a comprehensive overview of CSO in Bangladesh is a challenging task. The focus of this study is on the developmental or rural developmental CSOs. However, as many CSOs in Bangladesh have

¹ Throughout this study, the two terms have been used interchangeably. This is in line with what the UN website does when it comes to defining CSOs.

quite a broad area of operation, to pinpoint developmental or rural developmental CSOs can be complicated. The wide import of the word “development” and its different contours make the task even trickier.

CHAPTER 1: Introduction to Civil Society Organizations (CSOs) in Bangladesh

Brief History of Civil Society Organizations (CSOs) in Bangladesh and their Evolution

The origin of CSOs in Bangladesh pre-dates the emergence of Bangladesh as an independent State. The earliest CSOs could be the international charities, few national voluntary initiatives and some Christian missionaries who set up charitable institutions with the motive of charity, voluntary, and emergency relief works. Bangladesh Baptist Church *Sangha*, set up in 1796, appears to be the oldest such institution (Bangladesh Baptist Church Sangha, n.d.). Parallel to these, there were public charities run by local philanthropists operating as religious trust-based schools, hospitals, and orphanages, etc. (Haider, 2011). As early as 1947, the Kumudini Welfare Trust was set up, which is perhaps among the earliest secular CSOs by local initiative (Kumudini Welfare Trust of Bengal Ltd., n.d.). The Bangladesh Academy for Rural Development (BARD) was established in Comilla and the so-called “Comilla Cooperative Model”, a distinct approach to rural development was launched in 1959, initially, on a somewhat experimental basis. In the following two decades, it focused on various rural development programs based on funding from development partners from around the world. During the Liberation War, a few million Bangladeshis had to take refuge in Bangladesh and in the years that followed, Bangladesh witnessed severe natural disasters, and resource constraints. In 1972, Fazle Hasan Abed established Bangladesh Rural Advancement Committee (currently known as BRAC) to resettle refugees who took refuge in India. Of course, relief and rehabilitation were not the only motives for CSOs; the founders seem to have a vision for contributing to the empowerment of the masses.

Agricultural cooperatives and agri-development organizations formed a consultative group called the Agricultural Development Association of Bangladesh, which subsequently changed into the Association of Development Agencies in Bangladesh (ADAB) (Mohinuddin, 2017). While clearly the initial thrust of NGO was on emergency relief, it gradually moved towards social and economic upliftment of vulnerable groups through service delivery. In the 1980s, moving beyond relief and rehabilitation, CSOs started to engage in the delivery of services, particularly, though not exclusively, in the fields of health and education. What factor/s propelled this shift is not crystal clear, but it would seem that a growing inclination of the international donor agencies in preferring CSOs in delivering certain services to the government could have been a crucial factor to the growth in the number and somewhat changed the *modus operandi* of CSOs (Sobhan and Bhattacharya, 1990). As the flow of overseas development assistance to Bangladesh has shrunk, many CSOs appear to have focused their attention on income generating activities such as marketing commodities or offering various services on a competitive market basis.

One very significant activity of many rural CSOs has been offering micro-credit. Probably, the most well-known in this regard in Bangladesh is Grameen Bank. While micro-credit has opened the option of credit without collaterals to many who could not otherwise access formal financial institutions, the interest charged or broadened scope of the credit, even extending to consumer goods, has been criticized as too heavy by many (Finch and Kocieniewski, 2022). There is also *Palli Karma Sahayak* Foundation (PKSF) that was established in May 1990 as an apex financing institution for assisting NGOs in expanding their micro-credit to the underprivileged people. Apart from this, some CSOs have focused on the rights advocacy for the less privileged sections of the community.

Apparently, the focus of CSOs in Bangladesh has evolved with the evolution of the country. In the initial phases, the NGOs in Bangladesh were mainly focusing on emergency relief and assistance to the most vulnerable sections of the community. The scenario started to change in the 1980s when NGOs started to operate on a more formalized structure.

As already pointed out, the activities of the CSOs are quite diverse. However, their focus could be found on: establishment of an effective democratic process at the grassroots; poverty alleviation; promoting child and women's rights; advancing education; health and sanitation; family planning, legal aid, and protection of the environment (Mohinuddin, 2017). The ever-expanding ambit of the sister concerns of some large CSOs make this even more challenging to pinpoint the principal scope of focus of CSOs in Bangladesh. Since early nineties, the rights-based NGOs (both at the national and local levels) have been operating quite actively in protecting and promoting the human rights, land-water and indigenous rights, minority rights and working emphatically the issue of gender justice. They are the actors who can play a role in giving voice to the voiceless.

Definition and Characteristics

Civil Society Organizations are known by different names in different countries: non-governmental organizations/developmental NGOs, voluntary sector, non-profit, non-stock organizations, non-State associations etc. In Bangladesh, typically, CSOs are referred to as NGOs. However, it would seem that CSO is a more encompassing term than NGO. For the purpose of this study, a CSO may be defined as a non-political body set up independently of the government working on a non-profit basis for the development of people through offering various kinds of services. This definition is in line with the UN definition of CSO that it is “any non-profit, voluntary citizens’ group which is organized on a local, national or international level” (The UN and Civil Society, n.d.). While this definition may fit with even political parties, it would be pertinent to submit here that the United Nations Policy on Engagement with CSOs (2001) definition which states “CSOs are non-state actors whose aims are neither to generate profits nor to seek governing power.” Thus, this would connote that as they seek governing political power, they would fall outside the ambit of the scope of CSOs.

By definition, NGOs or CSOs would be set up by individuals working independently of the government and are not a part of the government apparatus. It would not operate on a

profit-making motive. Therefore, any excess fund generated would not be distributed among the founders or members of the CSOs. It would work in public interest. Thus, any private trust whose beneficiaries are specifically designated individuals should remain beyond the scope of CSOs. CSOs are supposed to stay away from party politics. Mostly, in Bangladesh, they are so, but at times, allegations and concerns have surfaced about CSOs getting embroiled into political activities directly or indirectly. There are also many international NGOs (INGOs) who operate in Bangladesh and they would be within the ambit of CSOs. Many of the local NGOs receive some substantial funding from the INGOs operating in Bangladesh.

Overview of CSOs in Bangladesh

Number, Coverage, and Types of Organizations

The legal basis for the formation of CSOs is the pronouncement in Article 38 of the Constitution of Bangladesh that grants the right to form associations. CSOs in Bangladesh are an amorphous group. Instead of focusing on what they do, maybe the question would be what they do not. In essence, except for engaging in politics and political governance and the core functions of the government, there is hardly anything in which the myriad of CSOs do not engage in Bangladesh, except perhaps for competing in elections or activities that are purely within the exclusive domain of the government such as the law enforcement. Arguably, in Bangladesh, like in many other countries, CSOs are now performing some functions that used to be exclusive functions of the government.

It would not be an exaggeration to suggest that some large CSOs in Bangladesh are constantly pushing the boundaries of their operation and exploring new frontiers by venturing into new areas of experimenting with new initiatives. The jury is perhaps out on the long-term sustainability and desirability of these experimentations. While more often than not governments in Bangladesh have praised the activities of CSOs, there seems to be some sort of undercurrent of tension on the expanding scope of the reach of CSOs and their perceived direct or indirect meddling in politics. CSOs, in turn, are skeptical of regulations and administrative practices that at times, inter alia, encumber the process of registration, disbursement of funding, and overall smooth operation of their activities. Apparently, a challenge with the foreign donation to the CSOs is that the donors do not perceive Bangladeshi public – who are supposed to be the ultimate beneficiaries of CSO activities in Bangladesh – as their primary audience, rather they primarily lay their focus on their public at home (Aid Transparency Country Pilot Assessment , 2015). This is likely to cause public in Bangladesh being in the oblivion at best and skeptic at worst, about the motivation and outcome of foreign donation to CSOs.

There being no centralized comprehensive publicly available record, the actual number of CSOs in Bangladesh is very difficult to determine. The estimates in secondary sources widely vary. By one estimate, Bangladesh has around 40,000 CSOs operating currently. As of June 2022, as per (NGOAB, 2022; NGOAB, 2022), there are as many as 2,529 NGOs registered with it (2,268 national, 261

international). Of course, the number would be a small portion of the actual CSOs in Bangladesh, as unless the CSO receives foreign donation, it cannot not at all be registered with NGOAB. Indeed, quite possibly, most CSOs in Bangladesh taking the name voluntary social welfare agencies are registered with the Department of Social Welfare. Some CSOs are registered as societies to work for the promotion of science, culture or arts. There are also some CSOs that take the name trust and operate under the *Trusts Act, 1882*.

As already pointed out, some CSOs are only or predominantly working as micro-credit offering entities. Some CSOs registered under the company laws operate as not for profit companies that cannot pay any dividend to their members. These diverse types of CSOs taken together will exceed 40,000 who have been somewhat active in social work and contributing to overall social development. There are many co-operative societies working for the economic empowerment of the members, however, due to bureaucratic regulations and members working as depositors interested in interest on their deposits, their actual contribution is far less than their potential (Islam and Ahmed, in press).² Some Muslims also create waqf dedicating their property under Islamic law and such waqfs too come under the ambit of CSOs. There are also many trade unions in Bangladesh who would also fall within this umbrella term. And providing any specific, reliable number of CSOs or CSOs working in the developmental or rural developmental sector would be nearly impossible.

Reach and Network

The CSOs seem to have a presence all over the country. Indeed, traditionally, the hinterland of Bangladesh where many essential services were scantily offered by governmental entities, CSOs used to fill this void. The larger CSOs tend to have operations across the whole of Bangladesh. Small, rural CSOs generally operate within specific parts of the country. Some of their operations may even be limited to one or a few villages within a specific locality with a very limited scope of activities. Some CSOs operate specifically within the three hill tracts districts. There are also many CSOs working for a specific segment of the community: children, women, elderly, persons with disability etc.

Association of Development Agencies in Bangladesh, founded in 1974, is a network of general coordinating forum of many CSOs in Bangladesh. Association for Land Reform and Development (ALRD) is a network of rights-based advocacy forum for land rights of national and local NGOs/CSOs/CBOs. Bangladesh *Shishu Adhikar* Forum (BSAF) is a national network of CSOs actively engaged in the protection and promotion of child rights. Campaign for Popular Education (CAMPE) is a network of CSOs working on education for all. Credit and Development Forum (CDF) is the network of CSOs involved in offering micro-credit. FNB (Federation of NGOs in Bangladesh), like the ADAB is a generic platform of many CSOs in Bangladesh. The National Forum of Organizations Working with The Disabled (NFOWD) is a network of CSOs working on persons with disability. Of course, this list of CSO platforms is not exhaustive, but it more or less captures the key network of CSOs in Bangladesh.

² However, one can argue that cooperative societies may redistribute the profit generated from their activities, and as such, they would not fall under the category of CSOs.

CHAPTER 2: The Legal Framework on Developmental/Rural Development NGOs in Bangladesh

The developmental/rural development NGOs constitute a small but significant portion of the CSO sector of Bangladesh. CSOs in Bangladesh may be known as NGOs, non-profit companies, societies, trusts, youth organizations or women organizations or worker rights groups, *waqfs*, voluntary social organizations, trade unions etc. Many larger CSOs do not have any exclusive focus on developmental/rural development. In practice, for many CSOs the line between acting as a pure CSO with a larger focus on functioning on not-for-profit basis and an exclusive focus on working as micro-finance institutions (MFIs) are difficult to demarcate. There is also a concern on whether the broad scope of some larger CSOs is having a counter-productive impact in that at times their ever-expanding breadth of activities is making it harder and harder to distinguish some of their operation from the enterprise of private commercial actors (Bangladesh: Unlocking the Potential, National Strategy for Accelerated Poverty Reduction, 2005, p.172). There are some cooperative societies working with the objective of uplifting the lives of their members and helping rural development. While trade unions would also fall under the categories of CSOs, their presence appears to be limited to urban centers only.

Brief Description of Developmental/Rural Development NGOs

Overall, there is inadequate reliable data on the number of CSOs in Bangladesh; the same is true of developmental or rural development CSOs in Bangladesh. This dearth would imply several trends. Firstly, that there is a lack of systemic, in-depth studies on developmental or rural development CSOs in Bangladesh. While the nature and impact of activities of CSOs would not be quite diverse, in terms of the reach, it may be fair to say that the reach of their activities is spread across Bangladesh. In terms of their services, the differentiation of activities between urban and rural services seems to be rather difficult. It is well known that agricultural products in Bangladesh often suffer from a severe lack of reward to farmers (Mondal, 2010) and this would appear to be an area where more attention to rural development CSOs may make a contribution.

A key function that many CSOs in rural areas perform is offering micro-credit facilities. While this has greatly ensured access to finance for many extremely poor people with credits who could not otherwise access credit from regular financial institutions. However, some expressed trepidations about the high interest rate charged and the use of this scheme by some as a means of reducing the dependence of donors for funding activities (Lewis, 2011, p.120). The CSOs involved in micro-credit defend the relatively high interest charge by referring to the high transactional cost of these programs (Lewis, 2011, p.120). The jury seems to be out on this. Some CSOs offer services in rural areas in addition to the ones offered by the government. Services of this kind would include primary education, family planning, sanitation, health care facilities etc. Some CSOs also work to raise the awareness of various sections of the community on important socio-economic matters. Another

critical function that CSOs perform is rights advocacy and focusing on fostering an enabling environment to ensure pro-poor, inclusive policy changes that may be more empowering for the downtrodden section of the rural community than delivering specific services. The offering of legal aid to the rural poor is also an area that the CSOs may put more emphasis on.

Major CSO Networks in Bangladesh

As pointed out in Chapter I, there are various networks of CSOs in Bangladesh. Without rehashing them, it needs to be pointed out that these networks often lack in coordination that is likely to make it harder for them to have the optimum level of influence in working as a pressure group in law and policy-making.

Overview of Registration Process of Developmental/Rural Development CSOs

As a matter of law, registration of a voluntary organization is not mandatory in Bangladesh. However, as a practical matter, registration of CSOs is almost inevitable to operate for various reasons. There are multiple avenues for registering as a CSO in Bangladesh. If an NGO wants to receive foreign donations, it has to be registered with the NGO Affairs Bureau (NGOAB) as per the *Foreign Donations (Voluntary Activities) Regulations Act, 2016*. Many CSOs register as societies or charities under the *Societies Registration Act, 1860*. Some others are registered as non-profit associations under Section 28 of the *Companies Act, 1994*. Some CSOs also register under the *Trusts Act, 1882*. The registration under this Act is relatively simpler. Some also register under the *Waqf Ordinance, 1962*. Any NGO engaging in offering micro-credit must be registered with the Microcredit Regulatory Authority under the *Microcredit Regulatory Act, 2006*. Any INGO operating in Bangladesh must be registered under the NGOAB before functioning within Bangladesh.

While some critique these disparate regimes as creating an undesirable a maze, in fact, the option under various avenues appears to be a boon than a bane as it offers CSOs some flexibilities to suit their specific mission. The registration process varies depending on the type of CSO. In essence, they entail three things: filling out the necessary forms along with the particulars needed, payment of fees, and the clearance from the relevant governmental authorities. For some sector-specific CSOs, such as the ones working for youth, women, or people living in the hill tract districts,³ registration with the respective ministry of the government is required.

For performing the 15 designated social welfare activities, namely: child welfare, youth welfare; women's welfare; welfare of the physically and mentally handicapped; family planning; recreational programs designed to help people stay away from anti-social activities; etc., a CSO may be formed as voluntary social agency under the *Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961*. Moreover, registration is not typically perpetual and periodic renewal is a

³ The registering authority lies with the Chittagong Hill Tracts Regional Council Act set up under the Chittagong Hill Tracts Regional Council Act, 1998.

prominent feature of the registration of many forms of CSOs in Bangladesh. One can question whether the registration of CSOs requires periodic renewal. To ease the burden of the CSOs as well as the registering authorities, the process of periodic registration may be abolished.

CSOs in Bangladesh typically convene annual general meetings on a regular basis, in which they evaluate activities, review their income and expenditures, and approve their work plans for the next year. Most CSOs have to comply with the requirement of annual reporting. However, in almost all cases, there are question marks about the capacity of the relevant regulatory bodies to meaningfully assess the filings made to them. This, of course, is beyond the various project completion reports that they may have to submit to specific funding bodies for specific projects funded by the respective donors. Reporting obligations are more extensive when it comes to foreign donations.

Overview of Accreditation Systems of Developmental/Rural Development NGOs

Accreditation is, by no means, a prominent or even discernible feature of CSOs in Bangladesh as may be the case in many other countries. When journalists are taken as a part of the civil society, only they may be said to have an accreditation system in Bangladesh. However, as Bangladesh like many other countries in the global South is notorious for red tape, it is unsure that any government-regulated accreditation system would make any real positive contribution to the CSOs in Bangladesh.

Funding for Developmental/Rural Development NGOs

Apparently, with the concern over terrorist financing, the rules on funding for CSOs in Bangladesh have been tightened. The shrinking inclination in many donor countries also seem to have shrunk the access to foreign funding by CSOs.

Participation in Official Development Assistance (ODA)

Overall, ODA flow in Bangladesh is dwindling which is currently at around only 1.4 percent of the gross national income (GNI) total ODA (much lower than in the 1970s when in one year, it was around eight percent of the GNI) (Net ODA Received (percentage of GNI) - Bangladesh | Data, n.d.). However, ODA or any other funding from overseas cannot be disbursed directly to CSOs in Bangladesh, the government acts as the conduit. Apparently, concerns about money laundering and terrorist financing have further tightened regulations on foreign donations making it even tougher and more time-consuming for CSOs to obtain foreign funding. This is likely to put further strain on their activities.

Some CSOs in Bangladesh take part in income-generating projects. Some CSOs receive donation from INGOs. There are also small government grants. Some multilateral organizations are also a source of funding for CSOs in Bangladesh. In some cases, the donation from the founder or member

contribution has also helped CSOs to bear their expenses. The COVID-19 and Rohingya crises seem to have diverted funds from some regular CSOs to these specialized areas of concern. While adequate and smooth funding appears to be an issue for most CSOs in Bangladesh, the smaller ones would appear to face this more acutely, for example, a July 2020 survey by the Citizen's Platform for SDGs reported that 90 percent of NGOs at the district level did not have adequate resources (USAID et al., 2021, p.11-12). It is also the case that many smaller CSOs often struggle to tap on the available funding either because of the lack of information or because of lack of adequate experts to apply for the available funding (USAID et al., 2021, p.12). This would clearly further worsen the asymmetry in access to funding between the larger and smaller CSOs. Many CSO representatives report that some donors impose a requirement that the auditing would have to be done by only a small number of auditing firms and bearing the service charge of those firms are challenging for some CSOs.

In view of the dwindling flow of ODAs to Bangladesh, one less explored funding source for the CSOs could be the corporate social responsibility (CSR) spending of various corporate actors, particularly but not exclusively banks and financial institutions and other large companies listed in the stock exchanges. While some CSR funding is channeled through the CSOs, it seems to be much less than the potential. Policy intervention in this arena could not only be beneficial for CSOs but may also make the CSR spending regime in Bangladesh more transparent (Mahmud et al., 2019; Belal and Cooper, 2011) and under a more robust framework.

Government Funding and Support to CSOs

Bangladesh NGO Foundation is a body operating as an autonomous organization as per its Memorandum of Association and Articles of Association. Its mandate is to implement socio-economic development activities and poverty alleviation through NGOs. It is required to spend some 80 percent of its funding on grants and capacity building of the partner NGOs or community-based organizations. Bangladesh NGO Foundation provides financial grants to its partner organizations for implementing any field of social development sectors except only micro-credit being excluded. As the government is encumbered by the cost of mega projects and an increasingly bigger volume of loan repayment, it seems likely that the funding of CSOs from the government would flounder in coming years. To alleviate the situation, there may be a distinct earmarked budget for CSOs in the government's national budget that would help them implement some priority developmental or rural developmental works. This may not only help the CSOs to have more financial breathing space but should also mean that the government can prioritize the areas of rural developmental and developmental work that it wants to prioritize. Another challenge for CSOs appear to be the requirement of certification of the completion of their activities. During the discussion with CSO representatives, some expressed a frustration that due to the delay in certification on the completion of their project from the government authorities, their work often flounders.

Tax-exemptions for Donors and Recipients of Grants

For many, there are no income generating activities and so they do not have to pay tax. For the same reason, NGOs that are registered with NGOAB are not required to pay any tax on funds received from donors. When CSOs procure any products or services, the law requires them to deduct applicable taxes and VAT, the applicable rates of which would depend on the nature of the respective product and services. Moreover, like any other type of entities, there is tax on employee salaries for salaried personnel of CSOs. When a CSO is engaged in income generating activities such as providing training or commodity selling, they have to pay taxes. The donation to CSOs generally do not allow the donors to be entitled to any blanket tax exemption. However, corporations and individuals may “claim a tax deduction for donations made for certain designated public benefit purposes, e.g. donations for old age homes, forestation, waste treatment plants, care for the disabled, education for orphans and street children,” etc. (ICNL, 2020). While some claim that there may be tax exemption for donations to CSOs, it is quite probable that blanket exemption may open the door for unscrupulous and fraudulent practices and such donation between related parties may occur simply as a means for the evasion of tax payments. In addition, the overall low GDP to tax ratio and the government struggling to increase the tax net would appear to imply that any overhaul is unlikely in the near future.

Accountability Mechanisms of Developmental/Rural Development NGOs

In some cases, there are provisions for periodic reporting to the relevant regulatory bodies. Apart from the regulatory mechanism, the basic accountability mechanism for CSOs in Bangladesh is their own periodic press releases. A rather common scenario is the lack of internal accountability mechanism within many CSOs in Bangladesh that may in turn corrode the public confidence in the sector. This appears to be the case for several reasons: the culture of deference to authority may mean accountability of the high-ups is generally rare in Bangladesh. The founders of many CSOs clinging on to the management or the management succeeding to the family members of the founding members are anathema to institutionalization of the CSOs. This is also likely to discourage the career progression of promising and talented personnel working in the CSOs. The eminent professional working in internal governing bodies of many CSOs often do not devote enough time to their role and this also is a hurdle for ensuring the proper adherence to the accountability mechanism. Due to the lack of availability of steady funding, the appointment of staff on an ad hoc project basis may further exacerbate this problem.

Concluding Observations

Bangladesh has slipped in the *Sustainability Index of Civil Society Organizations (CSOSI)* (USAID et al., 2021, p.8). This would imply that their overall functioning has become more challenging. The legal framework on regulation of CSOs does not stand in a vacuum. It has to be viewed through the prism

of the economic and practical factors. On the one hand, the diversity of funding sources seems to have widened. However, if that is a fact, the converse is that the competition for the development funding and the often-shrinking volume of the funding are making it harder for CSOs to sustain financially. The potential progression of Bangladesh to a full-fledged developed status may make this even harder as the ODA may potentially be on an even shorter supply. Overall, it seems that delay in clearing the fund obtained by NGOs appears to be a challenge for the CSOs in Bangladesh. Lack of cohesion among CSOs may also undermine their strength as a group.

CHAPTER 3: Political Environment of Government-Developmental/Rural Development NGO Relations

Rights to Freedom of Expression and CSOs

Article 39 of the Constitution guarantees freedom of expression subject to interests of the security of the State, friendly relations with foreign States, public order, decency or morality, defamation or incitement to an offence. However, interestingly, the constitutional scheme, by using the words “citizen” and “the press” in Article 39(2), seems to envision its scope only to natural persons and the press, and may not apply to all CSOs per se. More importantly, the constitutional guarantee does not and cannot operate in a vacuum; it is how this freedom operates for people working for the CSOs that is crucial. It appears that in Bangladesh, an overarching problem is the narrative of democracy versus development as if there is an inverse relationship or wedge between the two. It seems that a rather weak presence of the opposition political parties for the last decade or so has not only made the political environment more dominated by the governing political party but also has somehow provoked a perception of somewhat more constrained space for the expression of the civil society. To what degree that perception applies to individual CSOs depends on their respective mission and persons running them.

A challenge for CSOs in Bangladesh appears to be the indirect use of the law to curtail their activities or expression. A case in point would be the rejection of renewal of Odhikar’s registration allegedly for “engaging in activities that tarnish the image of the country in the international arena” (The Business Standard, 2022). Without taking any stance on the merits or demerits of the activities of Odhikar, it can be said that if there is any violation of law, that should be acted upon, not resorting to the non-renewal of registration. It appears that when it comes to putting curbs on the activities of a CSO, there is some disparate plight of INGOs and national ones. For example, Transparency International Bangladesh (TIB) has faced stern critique from the government, it does not appear to have faced challenges what Odhikar or the likes have. Indeed, literature suggests that INGOs generally work more like foreign private consulting firms with little regulatory control of the government (Islam, 2021, p.401). The underlying rationale for this disparate attitude is unclear and arguably, this is discriminatory. The plight of small local or regional CSOs seems to be worse which is

paradoxical in that those with capacity constraints are subject to more regulatory oversight and control than their larger counterparts. Considering their capacity constraint, the attitude of regulators and governmental bodies may ideally be more relaxed to smaller CSOs.

Again, it appears that a bigger challenge exists for the media and human rights CSOs, particularly those working on civil and political rights than purely developmental CSOs working on service deliveries (USAID et al., 2021, p.8). Although, this generalization needs to be viewed with some degree of caution as the theoretically clear demarcation line between the two may sometimes be blurred in practice. The CSOs operating in sensitive areas such as working for gender equality or working on transgender rights have been subject to attacks by radical forces. Thus, many CSOs seem to indulge in self-censorship (USAID et al., 2021, p.3). The same concern exists among many CSOs who work for the right and welfare of small indigenous groups.



Right to Assembly and Unrestricted Mobility

There are legal restrictions or special rules on visiting Chittagong Hill Tract. Restrictions on CSOs exist from both State and non-State actors on their right to peacefully gather and work. While the government claims that it gives full access to all international partners and CSOs to work in Cox's Bazar and support the Rohingyas (National Report Submitted in Accordance With Paragraph 5 of the Annex to Human Rights Council Resolution 16/21 : [Universal Periodic Review] : Bangladesh, 2018, para.126), there are reports of some CSOs feeling constrained in working there (The Economist, 2022). Restrictions tend to occur from direct threat, harassment through legal proceedings, and self-imposed restraint out of fear (USAID et al., 2021, p.12). From the CSOs' side, some of them being

aligned with political parties may have done a disservice to their neutral role and indirectly curbed their own space to act as a force distinct from the political parties vying for the right to govern the country (Tasnim, 2017). Of course, this scenario is as much attributable to the centrist political party culture in Bangladesh as it is to the CSOs (Tasnim, 2017). Overall, for developmental or rural developmental CSOs the right to assembly does not seem to be a big challenge in Bangladesh.

Rights to Information and Participation

CSOs are exerting or seeking to exert their influence as a pressure group. The passing of the *Right to Information Act, 2009* is a step in the right direction. It seems to have some modicum of success. There is also the *Public-interest Information Disclosure (Provide Protection) Act, 2011* that does not seem to be used at all. A significant problem is that government information sharing exercises with CSOs is often only promotional with few details. Increasingly, CSOs are formally invited to some law and policy-making exercises by government bodies. There is also sometimes option to make submissions on draft policies or laws. However, there does not appear to be enough reflection of the inputs of CSOs in the law and policy. When the government submits its report in compliance with its international treaty obligations such as in the process of universal periodic review of human rights, it does invite CSOs in formal meetings. Thus, generally, the participation of CSOs seems to be formalistic as the government agencies feel the need for the participation for compliance with the requirements of the treaty or the demand of foreign donors. CSOs' participation in validating, not partnering/collaborating in law and policymaking may not achieve the optimum public good. More than CSOs, it would harm the people.

The various policy analyses and other formal position papers should be available to the public at large which would benefit the CSOs and also the public and government (Islam, 2021, p.377). While the government seems to acknowledge the positive role of CSOs in developmental activities and services deliveries, the government's overall outlook towards the CSOs seems to be somewhat ambivalent. Indeed, the government's overarching paternalistic attitude, as reflected in the *Draft National Policy on Development Cooperation* may epitomize a fundamental challenge for the CSOs:

[F]oreign assistance follows the country needs and priorities. Therefore, all line ministries shall ensure that development interventions under foreign assistance are implemented under their **direct** policy and **administrative leadership** and guidance.⁴

It begs the question whether at all levels the government agencies' direct policy and administrative leadership is compatible with the idea of a vibrant culture where the CSOs can thrive and work as a complementary force to the government. Arguably, the above does not sit well with the government's own (Making Vision 2041 a Reality Perspective Plan of Bangladesh 2021 to 2041, 2020)

⁴ Emphasis added.

that “the government needs to gradually move away from direct service delivery and more towards creating enabling digital platforms and infrastructure that enables the private sector, civil society and academia to partner and meet citizen’s needs for modern personalized services” (p. xiii). The instrument also states that although the CSOs in Bangladesh had an impact on development at the micro-level, their impact at the macro-level was inconsequential (p.16). Whether or not one agrees with the statement, one would probably agree that CSOs’ impact on the macro-level largely depends on the government apparatus’ willingness to perceive the CSOs as a complimentary force. Should the government want to implement this vision of fostering an enabling environment for the non-government sector, it needs to show more confidence in the ability of the CSOs to take steps to ensure development and rural development.

Other Rights and CSOs

One neglected avenue for the CSOs to contribute to the rural development could be to ensure their greater access to the debates of parliamentary standing committee debates (Islam, 2021). As these debates may be the precursor to lawmaking, the CSOs’ participation may be more meaningful than mere formalistic participation just before the passing of a bill by the Parliament. In a similar vein, the various government ministries and departments do not regularly present any policy or position papers and therefore, there may be a disconnect between the developmental or rural developmental vision of the government and CSOs.

When it comes to the rights of CSOs, apparently, a less talked about aspect of some CSOs in Bangladesh is their internal governance mechanism that would appear to have a bearing on the rights of CSOs themselves. Almost the entire discourse seems to focus on the governmental law and policies and other exogenous factors undermining the space for the CSOs, with very little focus on the internal constraints in many CSOs that can be limiting them in several ways. In some of them, a lack of good internal practice within some CSOs in Bangladesh may inhibit the rights of CSOs, albeit indirectly. Also, founders of some CSOs clinging on to positions of powers forever would appear to stunt the prospect of good institutional culture. Moreover, family successions to the position of power and policymaking in some CSOs with little discernible difference with private business and CSOs may well be a fundamental internal constraint (Khatun, 2021).

Even when a formal transfer of authority may take place within a CSO, there may be shadow leadership exerting influence. Some CSOs running with disinterested persons in the top management or in various oversight bodies also does not help CSOs to flourish. Within such institutional milieu, it may be difficult to attract and retain bright individuals to choose this field as a career path. This may in turn hurt the quality of the work of CSOs. And from the viewpoint of CSOs’ legitimacy, it is imperative that they are perceived as responsible actors where transparency and accountability receive high priority. More than a question of theoretical legitimacy, the improvement of internal institutional culture may increase their internal resilience and enhance the public image of CSOs that

may help them to be more independent. Moreover, unlike the exogenous factors such as the access to funding or governmental law and policies; this is something that is within the control of the leadership of the CSOs (Khatun, 2021).

Partnership and Coordination Mechanisms

As pointed out in chapter one, the formal mechanism for partnership and coordination between rural CSOs themselves and between them and the government are scant in Bangladesh. The CSOs sometimes cooperate with each other on special occasions by taking up joint activities or implementing joint projects. In some multi-sectoral government agencies, such as the Counter Trafficking Committee (CTC) at district levels, representatives of CSOs are included. However, these bodies with limited funding and consisting of various professionals with many shades of responsibilities do not seem to have any meaningful impact. When it comes to the more powerful bodies, such as the bodies with the power to allocate various social security benefits to be rendered by the government or allocation of government-owned resources for the less privileged sections of the community, the CSOs' representation is less prominent. A true spirit of partnership between the government and CSOs should mean that it would forge a stronger partnership.

Overall Assessment

Overall, there does not appear to be a strong empirical basis to draw a comparative conclusion on the space for the civil society of Bangladesh in the last few years. The civil society in Bangladesh seems to have struggled for free space since the birth of Bangladesh. The face of their struggle may have changed depending on whether a democratically elected or a military government has ruled the country. However, it appears that the civil society feels that they operate within a restrained framework. And this feeling in itself can be limiting the scope and outcome of their actions. Without a functional democracy and growth of democratic culture, the struggle of the CSOs for more space may continue. Until those factors materialize, it is the CSOs whose collaborative efforts, internal resilience, and public confidence that can be the vanguard of their strength.

Conclusion

There are threats to the freedom of CSOs, but they do not seem to be new. Possibly, though the threats may have changed in shape, not necessarily in substance, depending on the military rule to fledgling democracy. Threats to CSOs in Bangladesh are non-exclusive from the Government. Even in international legal order, which is very much a State-centric regime, the role of the civil society is widely accepted. As one academic commentator notes, "observers of global politics have long focused on the role of nongovernmental organizations in promoting new norms, raising political awareness, lobbying governments for political change, and providing services like humanitarian relief" (Eilstrup-Sangiovanni and Sharman, 2022). While as unelected bodies CSOs may not have the

same claim of authority in the making of laws and policies, it cannot be forgotten that modern democracy is indirect democracy and the role of CSOs as a pressure group and watchdog is important for a functioning democracy.

A more meaningful role of the civil society in the developmental and rural developmental activities in Bangladesh can be a force for good and maybe a boon for the State than a bane. For their part, the CSOs have to strengthen their internal governance conducive to a strong intuitional culture, not relying merely on their founders' vision, skill, and goodwill. The public engagement and public confidence in them are critical for CSOs. The public appreciation of CSOs' contribution to the development and rural development may help them achieve a greater stature. Internal good governance and valuing people who work for them can be pillars of good administration. A strong coalition of CSOs or at least those working on developmental or rural developmental ones could help them a stronger representation. There seems to be a persuasive case for them to liaise with each other to a greater degree for having a more concerted voice in the national developmental and rural-developmental discourse. Adherence to the *Code of Ethics & Conduct for NGOs* would also be welcome.

CHAPTER 4: Conclusion and Recommendations

This study finds that there is a dearth of research on CSOs in Bangladesh. It also finds that the CSOs and those who work for them perceive threats from different actors, which make them feel constrained in taking up and effectively implementing their activities. The COVID-19 and global economic uncertainty pose further challenges to the sustainability of many CSOs, particularly the smaller ones. Bangladesh's impending graduation to a developing country status may also make it challenging for many of them to secure foreign funding for their activities.

The bureaucracy's centrality and *control-centric* perceptions about the CSOs are key challenges for CSOs to work in a more decisive way and make a more meaningful contribution to developmental or rural developmental activities in Bangladesh. Such perception means that CSOs are not seen as partners in development but as subsidiary actors that should behoove to the government for its activities. While circulars that take away the scope for public debate and transparency control some areas of the activities relating to the CSOs (such as their registration, organogram etc.) are governed by various laws, in practice, some of the critical mass of the actual CSO activities associated with the law-making process. This is not to say that the law-making process in Bangladesh always conforms to the values of a functioning democracy, but at least this process is more transparent than a circular promulgated by a government agency.

The lack of regular dialogue between CSOs and the government is a problem not just for the CSOs to make a more meaningful contribution to the policy making on rural development, but it may also mean the governmental policies do not always get the benefit of the input of all relevant

stakeholders. It also seems to be a cause of concern that for some larger CSOs, the focus seems to be somewhat shifting from rural development. The diversion of funds to Rohingya-related projects is a cause of concern for the economic sustenance of some smaller CSOs. This may be regressive for some of the services or activities that some CSOs used to offer or undertake.

Recommendation for Effective Change Agents of Governance and Democracy

In terms of the capacity of compliance with regulations and donor requirements, both the government and funders should recognize that not all CSOs could comply with the same set of requirements. Hence, to the extent possible, they should tailor their regulations and various project-related requirements accordingly to accommodate the special circumstance of smaller CSOs. Advocacy for more transparency of government bodies, including Parliamentary Standing Committees and access to CSOs, is vital. For the sake of greater public scrutiny, transparency, and democratic governance of CSOs, to the extent possible, the activities of CSOs should be governed by laws already enforced and welcomed by CSOs, not by government circulars. For these changes to occur, a strong political commitment would be a prerequisite. However, the public advocacy geared towards forming a public opinion may help in gradually achieving this.

For long-term sustenance, CSOs cannot only rely on the good wishes of government and donors. They themselves may also play a vital role that does not seem to have been explored enough. There appears to be the scope for some endogenous reform too. A more robust networking and a coalition of CSOs within and beyond the country can help them pull more weight. For many internal constraints, the institutional reform of smaller and middle-sized CSOs may be more challenging and an incremental objective. CSOs, particularly the larger ones, would benefit from instilling institutional values within their own structure. This is important for both their greater public legitimacy and more efficacy of CSOs.

Larger CSOs (NGOs) should come forward to provide funding to smaller CSOs. While this may not be possible for many donor-funded activities, a portion of the income-generating activities of larger CSOs should be channeled to smaller CSOs to give the latter more breathing space and create a conducive atmosphere for the overall CSO sector. The nimble structure and familiarity with the local situation of some local CSOs may help them make low-cost interventions at the grassroots level. CSOs may also do more to promote public awareness of CSOs' contribution to developmental and rural developmental activities. To make it more credible and meaningful, such promotion should not be just sporadic self-promotion but rather on a sectoral and inclusive basis. The perils of shrinking space for CSOs needs to be in the public discourse. Unlike the exogenous reform, much of the endogenous reform is within the reach of the CSOs.

An enabling environment for the CSOs to perform their complementary role within the society is an important ingredient not only for rural development or economic development but also for a functioning democracy. Moreover, a robust presence of CSOs is an important element in ensuring smooth work for rural development and poverty alleviation (Bangladesh: Unlocking the Potential, National Strategy for Accelerated Poverty Reduction, 2005). As pointed out in the introductory

chapter, that in an era when CSOs are playing an active role even in the domain of international law and policy-making, they cannot be an onlooker within the sphere of rural development or the overall economic development within Bangladesh. Their watchdog role in ensuring rural development needs to be sustained for society. ■■

List of Acronyms

ADAB	Association of Development Agencies in Bangladesh
ALRD	Association for Land Reform and Development
BARD	Bangladesh Academy for Rural Development
BRAC	Bangladesh Rural Advancement Committee
BSAF	Bangladesh Shishu Adhikar Forum
CAMPE	Campaign for Popular Education
CDF	Credit and Development Forum
CSO	Civil Society Organization
CSOSI	Sustainability Index of Civil Society Organizations
CSR	Corporate Social Responsibility
CTC	Counter Trafficking Committee
FNB	Federation of NGOs in Bangladesh
GNI	Gross National Income
INGO	International NGO
MFI	Micro-finance Institution
NFOWD	The National Forum of Organizations Working with the Disabled
NGO	Non-Government Organization
NGOAB	NGO Affairs Bureau
ODA	Official Development Assistance
PKSF	Palli Karma Sahayak Foundation
SDGs	Sustainable Development Goals
TIB	Transparency International Bangladesh
VAT	Value Added Tax

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