



After the restoration of democracy and enactment of a multi-party system in 1990, civil society organizations (CSOs) have seen rapid growth contributing for polity change in Nepal. CSOs are interchangeably referred to as non-government organizations (NGOs), and include professional associations, academics, social movements, and campaign-based organizations. These organizations have contributed to strengthening Nepal's democracy and public interest (Talcott, Khanal, and Bhattarai, 2019). Through the years, they “have made a significant contribution to social welfare, community development, environmental sustainability, skills and livelihood development, micro-credit, health and sanitation, gender and minority human rights and inclusion, citizen empowerment and public awareness” (Talcott, Khanal, and Bhattarai, 2019).

As CSOs evolved, so did the challenges they faced and continue to face. Among the major challenges confronting CSOs is the shrinking space for civic participation that has likewise occurred in many countries across the world.

This study was therefore undertaken to:

- provide a brief description of civil society organizations in Nepal;
- assess the policy and legal environment for CSOs; and,
- present recommendations on protecting and enhancing CSO space in the country.

Methodology

Both primary and secondary data were collected for this study. For primary data collection, interviews with five CSO leaders ranging from different age groups were conducted in Kathmandu, capital city of Nepal. In the same way, three focal group discussions (FGDs) were conducted to collect data: (a) with the youths [below 40 years of age], (b) with senior CSO leaders [above 40 years of age], and (c) with both youths and senior leaders [mixed age group]. The researchers reviewed 11 different reports, articles, and journals to validate the data obtained from primary sources.

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This report follows the framework prepared by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), and agreed upon by the country writers. This paper does not claim to capture all perspectives on this topic. Further, this study does not include any information on cooperatives, labor unions, and faith-based groups. Although the religious organizations, women's groups and youth clubs are considered as CSOs in Nepal, the study team could not reach out to them to collect data.

History and evolution of CSOs in Nepal

Before the 1950s, faith-based organizations were the main groups contributing to Nepal's social and humanitarian needs. There was no opportunity for any formation of CSOs during the said period as the then prevailing government (the Rana regime) controlled any associations, assemblies, and critical mass formations which may have contributed to the growth of independent civil societies (Bhatta, 2016).

While the Association Registration Act of 1977 paved the way to open up new organizations in the name of social and economic development of Nepal, the repressive move of the Panchayat regime in 1960 to 1990 did not allow CSOs to flourish. From the mere number of ten NGOs in 1960s, only 27 were added by 1987.

CSOs continued to face several transformations in enjoying their rights as well as in advocating for the people's rights. While they have contributed significantly to the restoration of democracy by overthrowing the Panchayat regime, they are taken only as a safe shelter by the political parties. For example, the political parties introduced some repressive policies to control CSOs when they took power after the restoration of democracy in 1990. This was quite undemocratic practices performed by the democratic government even in the multiparty system of Nepal.

Even at present, CSOs are not recognized as a development actor although they played crucial roles in policy change including the promulgation of the Constitution in 2015.² CSOs are tagged as anti-State bodies without any evidences. Significant number of political leaders associated with NGOs are also criticized.³

Developmental NGOs

Number, composition, typologies

After the restoration of democracy, the country witnessed a high number of registration of NGOs as the Constitution and laws (particularly the Social Welfare Act 1992) allowed the citizens of Nepal to establish NGOs for the promotion and protection of people's rights.

² Based on the FGD with CSO leaders (18 August 2022)

³ Ibid.

As of June 2021, data from the Social Welfare Council (SWC) data showed that there were 51,513 registered NGOs. Of which, only 6,259 NGOs renewed their registration in 2020/2021 (SWC, 2022). Out of the total number of registered NGOs, about 6,000 remained active by performing several activities through the foreign aid (since annual renewal of registration is a requirement for granting foreign aid from SWC).

There is wide gap in the numbers of registered and renewed NGOs in Nepal because of several reasons. First is the counting of religious associations, trust, mothers' groups, community based organizations, consumers groups as NGOs. Another reason is the counting of both social and faith-based organizations as NGOs.

According to Upreti (2021), the several types of CSOs in Nepal are:

- NGOs;
- Religious organizations;
- Trade unions;
- Social and cultural groups;
- Identity-based associations;
- Professional associations;
- Networks;
- Federations; and,
- Trusts (Upreti, 2011).

Roles and services of CSOs

The role of CSOs in Nepal are more facilitative for national development as well as democracy strengthening. CSOs not only provide independent centers of power to check abuse of federal and local authority but also empower people of different corners of the State together with political watchdogs (Bhandari, 2014). "Many NGOs have included income generation or savings and credit components in their programs to promote community participation and sustainability" (ADB, 2005).

Sources of funding

The main source of funding for Nepali CSOs is international donors, including multinational and bilateral organizations. Some INGOs, including charitable organizations, also donated for certain cause such as poverty alleviation, child education, disaster response, gender equality, health and sanitation in different parts of Nepal. The government, on the other hand, is not interested in donating fund for NGOs or CSOs but they want collaboration activities with them to implement their policies and programs in communities.

The data of SWC depict that out of total NRs 14,626,271,265.35 (more than 112.5 million USD) approved budget from different NGOs in Nepal, the total amount received from international organizations was NRs 14,289,416,949.98 (more than 109.9 million USD) whereas NRs 336,854,315.37 (more than 2.5 million USD) were managed from internal sources for the fiscal year of 2021/2022 (Social Welfare Council, 2021).

Legal environment for developmental NGOs

While the contribution of CSOs is recognized by the Constitution, unfortunately the laws legislated after the promulgation of the Constitution attempted to control CSO movement, including freedom of expression, assembly, and association. Restrictions on criticism against government's actions and limitation to rights to information are some of the examples that showcase that there is a growing sense of fear that the legal environment for civil society is becoming restrictive.

The following are the major policies governing the rights and responsibilities of CSOs in Nepal:

- Constitution of Nepal;
- Association Registration Act, 1977;
- National Directive Act, 1961;
- Social Welfare Act, 1992;
- Local Self-Governance Act, 1999;
- Local Government Operation Act, 2017;
- Company Act, 2006; and,
- International Development Cooperation Policy, 2019.

Registration and reporting

The Association Registration Act of 1977 is the primary legal framework for CSOs in Nepal. Registration of an organization has been criticized by NGO leaders in Nepal for being overly-complicated and costly, and is made more difficult by the multi-level government system of Nepal. The myriad processes include: (a) securing recommendation letters from multiple local government offices, (b) submitting notarized copies of the citizenship certificates of the executive committee members, (c) submitting the same documents (such as those related to the organizational structure and personal information of the executive committee) to different government agencies, (d) seeking a clearance report from the Nepal police, and (e) application for affiliation to the SWC. Further, the Association Registration Act provides arguably *arbitrary* power to the local authority to determine if an association may be registered.

NGOs are also bound with different requirements, forms, and fees among district offices. After the Annual General Meetings (AGMs) of NGOs, they are required to submit all documents such as: (a) AGM report, (b) audit report, (c) recommendation of local governments, (d) tax clearance certificates, (e) tax renewal certificates, and (f) organizational annual report to renew their registration from the District Administrative Office (DAO). In the same way, they should also ensure annual renewal from SWC with the above-mentioned documents.

The size, donor fund and income generation of each CSO differ, thus, the process and requirements are not fair for all.

These complications indicate that the government is more regulative than supportive of CSOs operating in Nepal.

Political parties in the name of social development register many NGOs. However, they are registered only once and not renewed by the SWC. This is one of the reasons why there are more than 50 thousand registered NGOs in Nepal.

Taxation

Upon registration with relevant line ministries and after securing final approval from cabinet, some organizations are eligible to be exempted from paying certain taxes. For organizations that have received a tax-exemption certificate from the Department of Internal Revenue, income from grants, donations, and investments are not taxed. The certificate remains valid as long as the organization carries out the public benefit purposes mentioned in the organization's by-laws and does not carry out income generating activities. The Income Tax Act 2058 (2002) recognizes a category of tax-exempt organization which include organization of social, religious, educational, or benevolent organization of public nature established with non-profit motive.

However, as with registration, the primary criticism against the taxation scheme is that it is lengthy, complicated, and may be influenced by public officials and personal connections of CSOs.

Financing NGO operations

Most NGOs are dependent on funding agencies, especially INGOs and foreign donors. CSOs are required to get approval from the government in order to receive any funds from foreign agencies, and funds received must pass through the Ministry of Finance and the SWC. Government has a mixed feeling towards access to foreign funding. While at times it believes that CSOs seek funds for development and social work, there is a perception that CSOs/NGOs are damaging the country's reputation internationally.

CSOs do not limit their source of funds to foreign aid but also engage in income generating activities. This self-reliant approach has considerably increased participation and capacity building of the CSO leaders and the public. Fundraising and the use of local resources are allowed with the permission of the Home Ministry and line agencies.

There are also funding sources from the government, although the opportunities are few and only a small number of NGOs are able to benefit from these. If there are certain projects that are being implemented by the government in collaboration with local NGOs, the political parties may provide funds to accomplish the projects.

Challenges to NGO accountability

CSOs have self-assessment and self-regulation mechanisms in place that are results-oriented and responsive towards their own projects or programs. CSOs/NGOs believe in transparency and also submit themselves to the mandatory external regulation procedures set in place by the government. CSOs/NGOs are accountable in case of annual audit, disclosure of the publications of their findings, and other reporting activities that will allow them to be as transparent as possible.

Legitimacy is important for CSOs/NGOs but it is highly influenced by external forces. The complex multi-level federal governmental system of Nepal causes complications for CSOs who wish to comply with the various government regulatory and administrative requirements.

Public trust and perception determine the effectiveness of the CSOs/NGOs. However, there is a lack of mutual understanding among CSOs/NGOs, government and other authorities regarding responsibilities, rights, and the scope of NGOs' work. In addition, bureaucracy and political hurdles have influenced CSOs' capacities, building, inclusiveness, and participation.

Government-CSO relations

After the restoration of the country's democracy in 1990, the CSO movement increased rapidly for the promotion of protection of human rights as well ensuring sustainable livelihood of people. From 1990 to 1997, the roles of NGOs were highly recognized by the democratic government.

In 1996, the Communist Party of Nepal (Maoist) initiated an insurgency to overthrow the Nepalese monarchy and establish a people's republic. As a result, the Comprehensive Peace Accord was signed between then Maoist group and the government in 2006. The CSO movement flourished with strong recognition of political change in Nepal.

In 2007, CSOs started to raise the issues of the marginalized and indigenous communities respecting their rights and duties. The women, *Madheshi* (the southern backward community of Nepal), Dalit, and other marginalized communities were taken in central position in designing CSO programs in Nepal. However, governmental action were unpleasant and blamed CSOs as capital-oriented rather than a development mechanism. Soon after that, it became difficult for CSOs to lobby campaigns and programs to government agencies (Talcott, Khanal, and Bhattarai, 2019).

The relation between CSOs and government could be characterized by both adjustment and cooperation. Their relationship varies based on the issues. Sometimes it seems disturbed due to trust and understanding of each other's role in the society. Both feel like they compete for development and funding (ADB, 2005). Despite of all, the Government of Nepal (GoN) could not contradict the truth that CSOs had put up immense effort in the development of Nepalese society. GoN had acknowledged the contribution of CSOs in achieving the goals of the prolonged transition period to democracy. There was coordination between CSOs and government in some cases to implement government's policies and programs. The 15th periodic plan of Nepal has encouraged private sectors to acquire long-term goals for rapid economic growth and prosperity. The plan aims to enhance public-private partnership to encourage and facilitate private sector to produce goods and services by increasing investment and creating productive and dignified employment opportunities. During the period, 55.6 percent of the investment is expected to come from private sectors that is to be used in wide and diverse range of social, physical, and environmental developments.⁴

Rights to freedom of expression, assembly, and unrestricted mobility of CSOs

It was notable that the CSO movement succeeded to enshrine the provision of rights to freedom of expression, assembly, and unrestricted mobility in the constitution.

In terms of the **national legal frameworks**, the following have specific articles as regards to the rights of CSOs and other social organizations in Nepal:

- The **Constitution of Nepal**, under Article 17 (2), guarantees the freedom of expression and opinion, among other rights and freedoms, in line with the International Covenant on Civil and Political Rights. It also states that every citizen has the freedom to assemble peaceably and without arms and ammunition.

⁴ Based on interview with National Planning Commission Member

- The **Local Government Operation Act of 2017** requires community and social organizations to work in coordination with local government.
- The **National Directorate Act of 1961** allows professional organizations such as Nepal Bar Association, NGO Federation of Nepal, National Land Rights Forum, and Federation of Nepalese Journalist Association to act without any restriction. Such organizations can also criticize the government's undemocratic move.
- The **Association Registration Act of 1997** "is the primary legal framework for CSOs in Nepal. Most of the CSOs are registered under this Act" (Upreti, 2011). Under this Act, any seven or more persons willing to establish an association must comply with the rules fulfilling the documentary requirements. An association can be registered with the permission of local authority.
- Under the **Social Welfare Act of 2007**, any organization affiliated to SWC is eligible to proceed for foreign assistance.
- The **Right to Information Act of 2007** has clear provisions on the freedom of expression, association, and assembly to individual and organization. It mandates the government to form the National Information Commission where government agencies and offices, as well as NGOs, are mandated to submit periodic reports.

In terms of **international legal frameworks**, Nepal is a party to the Charter of the United Nations and the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR) and its optional protocol, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Similarly, the country is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its optional protocol, the Convention on the Rights of Persons with Disabilities (CRPD). These international instruments have the provisions of freedom of expression, assembly and association.

However, there appears to be a double standard of political parties and State's authorities in the perception towards CSOs in Nepal. While the government participates in several events organized by NGOs and applauds their contributions, the government still tries to control the formulation of policies for CSOs/NGOs by putting several restrictive provisions in the policy documents.⁵ The absence of consistency, practical rules and regulations, and other policy documents that conform to the Constitution are the reasons for CSOs/NGOs to accuse government of formulating regulative policies (Upreti, 2011).

⁵Based on FGD with CSO leaders (24 August 2022)

Changing the government structure has affected the CSO/NGO sector in various ways. Political interference, unclear policies, complex legal instructions, and institutional mechanisms, are the barriers to enjoy freedom and operate organizations soundly. The mandatory requirement and re-registration of CSOs/NGOs violate the right provided by the Constitution.

It is pitiable that the space of CSOs/NGOs is continuously being limited, interfered, and their operations are controlled by the government. Government prefers to collaborate with NGOs for so-called “hardware” type of work such as construction, disaster management, publication of government's books, and resources, rather than affairs of human rights, research, and community awareness. Government is reportedly distrustful of the rights-based advocacy CSOs/NGOs.

Rights to information and participation

In Nepal, the right to information has been in a place as fundamental right since 1990. A separate Act has been enacted to implement right to information effectively. Article 27 of the Constitution enshrines, “every citizen shall have the right to demand and receive information on any matter of his or her interest or of public interest.”

Right to participation is linked to other rights to peaceful assembly and association, freedom of opinion and expression, and right to education and information. It describes the person as having equal right to participate on their own or through their related unions or organizations in the process of development of important policies that may affect them.

However, there are still significant challenges in the access to information and in participation among CSOs/NGOs. A large proportion of public bodies have failed to appoint information officers as required under the law. Coordination, communication, and political interferences are at peak. Moreover, receiving information is a long and difficult process. Nepal is restrictive towards the freedom of information and does not line up with international laws. The right to freedom is curtailed, and CSOs/NGOs are less able to intervene effectively in the policy-making processes.

Partnership and coordination mechanisms

NGOs and government cooperate in various ways, from joint policy development to funding agreements. Government tends to be dismissive of and its legitimate role in a society. Government perceives CSOs as personal projects and all about training and workshops, not addressing actual need of the society. The Government of Nepal views the civil society ineffective but also a potential threat.

Conclusions and recommendations

CSOs/NGOs act as a bridge and lobbying body between communities and international and governmental agencies. The perception of the government towards CSOs/NGOs varies from time to time. There is no equal treatment of all CSOs/NGOs. The individual perception, availability of resources, and nature of work are some of the key factors that directly and indirectly affect the CSOs/NGOs and government relations in Nepal.

CSOs/NGOs have been facing a variety of challenges from the program design to implementation. Lack of independence, their opacity, politically divided ideologies and government-formed CSOs/NGOs are some of these internal challenges. On the other hand, repressive and regulative activities of the government, complex registration and renewal procedures, and lack of one door policy for registration, and negative political and bureaucratic biases, are some of the external challenges encountered by CSOs/NGOs in Nepal. Hence, this paper has outlined the following recommendations:

To Government

- In order to create a harmonious working environment, the government needs to create a one-door policy for mobilization of CSOs/NGOs as per the constitutional mandate.
- Multi-level registration provision should be abolished for NGOs to manage and operate activities smoothly.
- The SWC should regularly update the list of NGOs.
- Government should delegate authorities to provincial and local governments for the mobilization of NGOs. It would possibly ease the distribution of work, and allocation of human and financial resources.

To CSOs

- CSOs need to increase their coordination and cooperation among development partners, including national and international NGOs, to eradicate the duplication of the same types of programs in the same areas.
- Foreign aid and funds are not always adequate for operating all the activities of the project/program. To combat insufficiency, CSOs must find alternative sources of resource generation.
- The present scenario of the country and the organization needs the involvement of youth in development. CSOs must increase youth leadership and capacity-building in marginalized communities.

- CSOs need to be transparent and accountable while implementing their programs and the resources obtained from different sources. Events (such as social audits, public hearings) must regularly be organized to publicize activities and advocacies among beneficiaries and stakeholders.
- Ensure the sustainability of funds with proper utilization of money for the benefit of community members.

To Private Sector

- The private sector must respect and must seek collaborations with NGOs as development partners.
- To decrease the dependency of CSOs on external sources of funding, the private sector must implement Corporate Social Responsibility and support NGOs that are not from their own foundations.

To Funding Agencies

- To utilize the resources effectively and efficiently, funding agencies should directly provide funds to NGOs (without INGOs serving as intermediaries), so that larger amounts of funds would reach the communities.
- Understanding and cooperation is vital for the success of a project. Donors should create discussion platforms to resolve the issues between NGOs and INGOs.
- Donors must focus on sustainability of a program rather than changing policies. Priorities and mechanisms should be developed so that the funds go directly to the community. ■

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