



REGIONAL OVERVIEW:

The legal and political space for CSOs in seven Asian countries¹

Asia is home to a vibrant civil society sector. Yet over the past several years, civil society has seen a rise in authoritarianism and a corresponding shrinking of civic space. In varying degrees and with different dynamics, Asian countries have experienced growing policy restrictions on civil society organizations (CSOs) and communities, limitations on funding, and government interference in civic action. Fundamental rights are being suppressed, and key actors who exercise these rights are being harassed and persecuted.

Asia's young and fragile democracies remain under threat. As highlighted by the Asia Foundation Report on *The State of Conflict and Violence in Asia 2021*: "The trend towards more authoritarian governance, even in established democracies, is well established in many Asian countries ... The deterioration of political rights and civil liberties is reflected in the diminishing space for free media and growing restrictions on civil society."

While Cambodia has been under a single ruler for nearly four decades, the Philippines and Indonesia have seen a decline in civil liberties, growing military influence in politics and growth of political dynasties. In South Asia, countries such as Bangladesh and India have witnessed the growth of authoritarian governments with the dominance of single political parties. Many Asian countries are also constantly dealing with internal challenges arising from intolerant or extremist forces.

In Asia-Pacific, press freedom has deteriorated. Even in those countries reputed to be more democratic, the media face pressure from increasingly authoritarian and/or nationalist governments, such as in India, Sri Lanka, and the Philippines.² The curtailment of free speech and media has expanded to online content. In Bangladesh, the Digital Security Act has been called as one of the world's most draconian laws for journalists (RSF, 2022), resulting in the imprisonment of hundreds of people including human rights defenders, journalists and activists (Amnesty International, 2022).

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² Reporters Without Borders/RSF (2022), Press Freedom Index. <https://rsf.org/en/index>. From a list of 180 countries, these countries rank as follows: India (150th), Sri Lanka (146th), and the Philippines (147th). Others are: Bangladesh (162nd), Indonesia (117th) and Nepal (76th).

And in the midst of the COVID-19 pandemic, politicians and State leaders used the pandemic as a pretext to clamp down on rights and to consolidate their power. In Asian countries, there were disturbing instances of increased State militarization and aggressive policing, and of government crackdowns on dissent, media and free speech. In the Philippines, a new Anti-Terror Law was enacted during a lockdown and in the absence of public scrutiny and debate (ANGOC, 2020).

In this context, it becomes imperative for CSOs to examine the policies and forces that shape the deteriorating civic environment in which they operate, and to address the challenges that confront them.

Context of the country studies and regional overview

The seven papers in this compendium provide assessments of the legal, regulatory, policy, financial and political environment affecting civil society and civil society organizations (CSOs) in four countries of South Asia (Bangladesh, India, Nepal, and Sri Lanka) and three countries of Southeast Asia (Cambodia, Indonesia, and the Philippines). The ability of CSOs to register and operate freely, access resources, engage with government, and work collectively, form part of the enabling environment for CSOs. The studies do not assess the impact of CSOs on their countries' development. Rather, they examine the legal and political environments in which CSOs operate, and are therefore able to contribute to their countries' development. The papers identify challenges and steps for protecting and preserving the democratic space for CSOs.

The study objectives are:

- provide a brief description of the civil society organizations in the seven Asian countries;
- assess the legal and political environment for developmental NGOs; and,
- present recommendations on protecting and enhancing CSO space in the region.

These country assessments were written by researchers whose narratives have been shaped by their years of experience working with CSOs. As such, the papers reflect the views of CSOs "from within." The papers cover six areas of inquiry along two themes:

Theme 1 is on *the legal and regulatory environment for NGOs* that examines: (1) an overview of the formation and operation of CSOs in the country; (2) systems for legal recognition and accreditation of NGOs; (3) legal framework that impacts on NGO access to financial resources; and, (4) requirements for NGO reporting and accountability.

Theme 2 is on the *political environment* which delves into: (5) the protection of rights, including rights to freedom of association, expression and peaceful assembly and how they affect CSO space; and, (6) the state of CSO-Government relations.

The country assessment studies were carried out in mid-2022. For methodology, the country assessments used three key data collection methods: (1) desktop research of materials on CSOs, and analyses of the statutory/legal framework that govern the operations of NGOs; (2) focus group discussions (FGDs) involving two generations of CSO workers; and, (3) key informant interviews. In addition, the Indonesia study introduced a weighted scoring system for CSO respondents to assess the legal and political environment for CSOs in the country.

Regional overview paper. This paper provides a regional overview of the legal and political space for CSOs in Asia. It provides a perspective as well as overview of the country papers in the seven Asian countries. It is noted here that the country papers differ widely – in terms of their content and focus, level of detail, writing styles, and perspectives. Thus, while this regional overview paper draws its main findings and recommendations from the country papers, it supplements these by drawing from other sources as well.

Drawing lessons from earlier studies of ANGOC, this regional paper introduces a simple framework for examining the state of CSO-Government relations in the country. It seeks to operationalize and differentiate the terms used by the different country studies to describe the regulatory and political environment for CSOs – i.e., whether the conditions for CSOs are “supportive”, “regulatory” or “restrictive.” Using these terms, a summary rating of the regulatory and political environment for CSOs for each country is presented in Table 2 – as discussed among the researchers. This helps to provide a descriptive summary for the seven countries.

Finally, this paper cites the need to use a human rights approach towards framing the overall legal environment for NGOs. It then summarizes the recommendations drawn from the country papers along certain themes. Other sources (i.e., International Center for Not-for-Profit Law/ICNL and UNOCHCR documents) have been used to supplement and elaborate on the country studies’ findings and recommendations.

Outline. This paper is presented in six sections:

- Understanding the CSO legal and political environment;
- Civil society organizations;
- Historical evolution of CSOs;
- Legal and regulatory framework for NGOs;

- Summary assessments of the political and legal environment for CSOs; and,
- Summary recommendations.

Understanding the CSO legal and political environment

The context within which CSOs operate, and the breadth of activity they are allowed, is determined to a large extent by the interaction between the State and CSOs. This “political space” constitutes a sensitive and changing environment in which different actors strive to shape their purpose and pursue their visions of “development” (Riker, 1993).

The State is not a neutral actor that stands high above all contending entities; rather, it actively intervenes in the very constitution of different entities in society as well as in social movements. Thus, the “space” or environment within which CSOs operate is defined to a large extent by the government. The State may encourage, tolerate, interfere, discourage or abolish CSO activity through legal or coercive means (Riker, 1993). However, CSOs may in turn influence these parameters, by bringing salient issues to public discussion, advocating for certain policies or development priorities, asserting their rights and thereby expanding the boundaries of their political space. For instance, when CSOs adopt an empowerment strategy that serves to organize, link, and mobilize grassroots initiatives into a cohesive social movement, this can create a countervailing force that can widen the political space for participatory, self-help development.

The concept of *CSO space* refers to the arena in which non-State actors are able to undertake initiatives independently of the State. It refers to the interplay between two or more actors where contrasting principles of *CSO autonomy* versus *government control* define CSO-Government relations. The boundaries of political space may then increase or shrink, if one actor perceives its legitimacy as being affected by activities of the other sector.

Certain key dimensions largely shape the political space between government and CSOs, that may provide focal points for analysis:

- *Issue orientation* or the core differences in vision, values and ideology between CSOs and government;
- *Organizational*, or the level of control over the management, and the human and technical resources of CSOs;
- *Financial*, or the issue of control over available CSO material and financial resources; and,
- *Policy dimension*, or the extent to which CSOs are able to participate in policy debates on development issues, in terms of having access and influence in policy-making processes.

However, it must be noted that CSO space is not solely determined by CSOs' interaction with the central government. The environment in which CSOs operate is also affected by a confluence of other factors. These may include, i.e.: the presence (or absence) of an independent media; the prevailing peace and order situation; and, the presence (or absence) of societal tensions and extremism that may be driven by political ideologies, ethnic conflicts and insurgencies, religious fundamentalism or other polarizing groups and beliefs. Moreover, CSO space is affected by the level of support it receives from donors domestically and from abroad, by public perception and attitudes towards CSOs, and by the willingness of people to contribute to voluntary action.

Modes of interaction between Government and CSOs. In analyzing how the organizational, financial and policy dimensions play out in a country, we might find five different modes of interaction between the central government and CSOs across the spectrum of political space in a country. While government cannot be treated as a monolith, being constituted by different interests that may not always agree with each other, its general attitude towards CSO initiatives may be assessed by reviewing the predominant mode of government interaction with CSOs.

The following framework (Table 1) may provide a useful tool to describe the dominant relationship between CSOs and government by analyzing the underlying state of *CSO autonomy versus government control* in different aspects of CSO existence and operations.

Table 1. Examining the dominant modes of Government-CSO interaction

| <i>Mode of interaction</i> | <i>Description</i> | <i>Salient features / examples</i> |
|--------------------------------|--|--|
| BENIGN NEGLECT/ AUTONOMY | Central government views CSO as non-threatening or lacks interest in the work of CSOs. It adopts a hands off policy and allows CSOs to operate as self-sufficient and autonomous entities. | CSOs enjoy organizational, financial, and policy autonomy. |
| SUPPORTIVE | Central government perceives CSOs as a <i>complementary partner</i> in development and creates a conducive or enabling policy environment. | Central government may facilitate (or also potentially inhibit) CSO initiatives, e.g.: <ul style="list-style-type: none"> • <i>Organizationally</i>: giving greater recognition and legitimacy to CSO roles; upgrading CSO capacities; • <i>Financially</i>: tax exemptions and donor incentives; and, • <i>Policy</i>: joint forums at different levels; CSO representation in government bodies; adoption and upscaling of CSO initiatives; collaborative programs. |

| <i>Mode of interaction</i> | <i>Description</i> | <i>Salient features / examples</i> |
|----------------------------|--|---|
| REGULATIVE | Central government attempts to direct CSO initiatives by regulating their activities. On one hand, there are regulatory functions that are somewhat similar to those required for other entities (e.g., private sector). On the other hand, central government also attempts to define the boundaries and limits of “CSO political space.” | Central government regulates CSO initiatives by, e.g.,: <ul style="list-style-type: none"> • <i>Organizationally</i>: CSO registration and accreditation; definition of CSOs (as non-profit and “non-political”); • <i>Financially</i>: audit and reporting requirements; and, • <i>Policy</i>: control over policy-making forums; attempts to avoid or minimize public debate and political visibility on sensitive issues. |
| RESTRICTIVE | Central government is wary of CSOs and moves to curb CSO initiatives that government perceives as may potentially undermine or challenge its authority. The actions taken by the central government may serve to impede, constrain, and prevent CSOs from freely undertaking their work and activities. | Central government undertakes measures to restrict CSO initiatives by, e.g.,: <ul style="list-style-type: none"> • <i>Organizationally</i>: security clearances for CSO registration; vague concepts of national security and political activity that prevent CSOs from engaging in legitimate activity; monitoring of CSO staff; constraints on CSO mobility and operations; • <i>Financially</i>: controlling licenses and permits necessary for CSOs to operate; stringent regulations and procedures on foreign financing; and, • <i>Policy</i>: restricting CSO activities to narrowly defined “non-political” activities; scrutiny and harassment of CSOs; withholding permits for meetings and public activities. |
| CONTROL | Central government exercises full control over civil society activities and civil liberties. Organized voluntary action is not permitted unless sanctioned by the State or undertaken with the expressed permission or acquiescence of government officials. | Central government controls civic space through, i.e.,: <ul style="list-style-type: none"> • <i>Organizationally</i>: mandatory registration; legal sanctions for unregistered groups and activities; security investigations; • <i>Financially</i>: prohibition on foreign financing; transactions controlled by government agencies and State banks; and, • <i>Policy</i>: exercise of full discretionary powers over all civic activities; organization of State-sponsored “CSOs.” |

References: ANGOC, 1992; Riker, 1993

Civil Society Organizations (CSOs)

Scope. Civil society organizations (CSOs) in Asia are known by different names: non-governmental organizations (NGOs), developmental NGOs, voluntary sector, non-profit/non-stock corporations, non-State associations, and voluntary social service organizations. In Indonesia, the popular term is *Lembaga Swadaya Masyarakat (LSM)* or non-profit organization. In India, those with Gandhian background prefer to be called *voluntary organizations*.

CSOs encompass a wide range of organizations that include traditional associations, faith-based organizations, foundations, voluntary groups, cooperatives, labor unions, community-based organizations (CBOs), professional associations, and student groups.

International NGOs, local NGOs, associations, networks/federations, and membership organizations are likewise included as part of civil society. CSOs also include those informal organizations that may have no legal status.

Definition. Civil society organizations are often referred to as non-governmental organizations (NGOs). They are commonly defined by four characteristics: (1) voluntarily formed; (2) non-profit by nature; (3) independent and not part of the State; and, (4) operates in the public interest through the delivery of public services or goods.

Non-profit means that they are not created for the purpose of profit or other financial gains for the people that establish, control or finance them, and any surpluses they happen to generate cannot be appropriated by other institutional units. They are independent by nature and are controlled by those who have formed them or by the Board of Management to which such people have delegated or are required by law to delegate responsibility for control and management. Thus, private trusts whose beneficiaries are specifically designated individuals are not considered as CSOs that are *nonprofit* (Islam, 2022).

Moreover, the United Nations (UN) defines CSOs as voluntary non-State entities, also not for profit, that is separate from the State and the Market. CSOs do not cover businesses or for-profit associations (UNGP Reporting Framework). Moreover, political parties are not considered as civil society. The UN Policy on Engagement with CSOs (2001) states that “CSOs are non-state actors whose aims are neither to generate profits nor to seek governing power.” In some way this definition echoes the philosophy of Gandhian constructive workers in India who emphasize not the politics of parties, elections, parliaments and government (or *Rajniti*), but the politics of the people (or *Lokniti*).³

The terms civil society organization (CSO) and non-governmental organization (NGO) are often used interchangeably. In common usage, however, the NGOs belongs to a subsector of civil society; CSO is a more encompassing term than “NGO” (Islam, 2022).

The term “non-governmental” itself was first introduced by the UN in 1950.⁴ And while the formal label “NGO” initially applied only to entities working

³To state that CSOs or NGOs by definition are “non-political” can be misleading. Indeed, many CSOs work in the realm of politics, defined as “the activities associated with the governance of a country or State.” However, they are not established to seek or to contend for governing power or State power.

⁴The term “non-governmental” was first introduced in the UN through ECOSOC Resolution 288(x) of 28 February 1950, giving it legitimacy in the world of nation-State governments. The UN Resolution simply stated that “any international organization which is not established by international agreement shall be considered as an international non-governmental organization”. The term “nongovernmental” arose largely from pressures exerted by International Trade Unions, which were among the largest and most powerful non-State entities at that time (De Fonseca, 1992).

internationally, the term was later applied also to domestic organizations. And with the advent of foreign aid, NGOs preoccupied with social and economic issues gained the additional attribute of being formally “developmental” (Fowler, 2011).

For purposes of this paper, the terms CSO and NGO are used interchangeably. Moreover, the main focus of the discussions in this study is on those CSOs *involved in development work*, or “development NGOs”.

Brief historical overview of the CSO sector in Asia

In Asia, civil society has evolved into a significant third sector outside the formal sphere of politics (State) and economy (market) to play an active role in the pursuit of development and democracy.

Civil society organizations long preceded the establishment of independent States across Asia. Voluntary groups first emerged from homegrown community initiatives. Service and care of the poor, sick, weak, disabled and destitute were seen as social, moral and religious obligations on the part of society and of individuals. The first civic organizations consisted of religious and community groups that engaged in emergency relief, health care, charity work, and corporeal acts of mercy. In India, social reform movements emerged against prevailing cultural practices like *sati*, child marriage, ban on widow remarriage, untouchability, *purdah*, and others.

Different forms of voluntary action later evolved into clearer organizational expressions of development work. With the establishment of colonial systems for company registration such as the Societies Registration Act of 1860 (India), Staatsblad 1870 64 (Indonesia), and the Corporation Law of 1906 (Philippines), the first non-governmental institutions emerged within the legal framework of the State. These consisted of schools, maternity homes, homes for widows, orphanages, hospitals, and welfare centers. In colonial Asia, many of the first registered societies were established by Christian missionaries. In the Philippines, the first nonstock corporations were Catholic hospitals and schools that were holdovers from the Spanish colonial regime.

Mutual-aid societies, unions, cooperatives and workers’ guilds also emerged as formal institutions. In the Philippines, the formation of cooperatives as formal institutions began in the late 1800s, in the form of guilds composed of local craftsmen. The formation of cooperatives in the Philippines later continued during the American occupation as part of the colonial pacification strategy (Pagsanghan 2022).

In Sri Lanka, the pre-colonial period was marked by the birth of associations focused on rural development, emergence of women's unions, the birth of civil society activism, the start of cooperative societies, and the formation of civil society networks (Marasinghe, 2022).

Some unions became an integral part of nationalist movements. In turn, nationalist movements spurred voluntary action. In Indonesia, one of the CSOs that took part in the the nationalist movement was the *Sarekat Islam*, a cooperative of Muslim Javanese batik traders founded in 1911 that later evolved into a political organization that demanded self-governance against the Dutch colonial regime and gained wide popular support. By the early 1920s, its total membership was reported to be between 350,000 and 800,000.

In India, Mahatma Gandhi emerged on the political scene starting in the 1920s as the leader of the freedom movement, with a vision of strengthening voluntary action at grassroots level.

Development-oriented civil society organizations emerged in the post-independence periods, as the gap between rich and poor widened, and the new elite continued the policies and lifestyles of former colonial rulers. Being largely peasant economies, peasant insurgencies became a marked feature of the changing socio-political landscape. New forms of civil society organizations and social movements emerged to address issues in nation-building.

In India and Bangladesh (West Pakistan), NGOs assisted in the tasks of migration and resettlement of refugees during the period of partition. In other countries, groups and associations emerged to address the structural injustices in society. In Sri Lanka, the Sarvodaya Shramadana Movement was founded in 1958 and based on Gandhian and Buddhist philosophies. The period saw the emergence of movements that emphasized "voluntary service" to the communities with a strong belief in volunteering as a "way of life" (Marasinghe, 2022).

Agrarian and trade union movements emerged in several countries to address the need for structural reforms. In the Philippines, the Federation of Free Farmers and the Federation of Free Workers were initiated in the 1950s.

Growing instability and conflict in the new republics led to the rise of authoritarian governments and civil wars; there was massive ebb and flow in the political space for civic action.

In Indonesia, the development of NGOs began in the late 1960s with the emergence of the New Order. Despite high economic growth at seven to eight percent per year,

poverty increased, and civic space was closed and restricted. In the 1980s and 1990s, Indonesian NGOs began to address issues of human rights, agrarian conflict, and environmental destruction in line with the increasingly authoritarian and repressive character of the regime. From these, a new democratic movement emerged.

In the Philippines, the period of Martial Law (1972 to 1986) gave rise to progressive NGOs. Community organizing became a major strategy for empowerment of the poor.

Cambodia went through over two decades of civil war and foreign occupation (1970 to 1993) that prevented the emergence of CSOs. The Khmer Rouge regime (1974 to 1979) completely destroyed Cambodian institutions that had previously evolved and functioned for hundreds and for even thousands of years (Sarin, 2022).

In Nepal, the establishment of the Panchayat regime (1960 to 1990), prevented the emergence of CSOs as the regime exercised tight control over society. The Social Services National Coordination Council regulated and supervised the NGOs, while the Social Welfare National Coordination Council (SWNCC) handled majority of the funding agencies. The end of the Panchayat regime was marked by a period of political instability that led to a decade-long civil war in 1996 to 2006.

In Bangladesh, there was a succession of three military governments from 1975 to 1990. During this period, CSOs grew as an alternative system for delivery of a wide range of services for the poor, as donors channeled their assistance to CSOs.

As CSOs grew in scope and influence, they were met with State-led harassment at particular periods of history. Two events are worth noting. In India, Prime Minister Indira Gandhi's state of internal emergency (1975 to 1977) was marked by a massive crackdown on civil rights and the political opposition. In particular, Gandhian organizations and leaders were prosecuted with false charges of acting against the national interest and misappropriation of foreign funds for political purposes. This led to the enactment of the Foreign Contribution Regulation Act (FCRA) of 1976 to monitor and control the entry of foreign funds, a policy that continues to this day.

In Sri Lanka, President Premadasa established in 1990 the "Presidential Commission of Inquiry in Respect of NGOs' Functioning in Sri Lanka." Alongside the NGO Commission, the government machinery was used to launch a witch-hunt and a malicious campaign against NGOs and their leaders.

The growth of CSOs were spurred by specific events – i.e., an era of civil war, the fall of authoritarian regimes, and the restoration of freedoms. These marked the rise of a new generation of rights-based CSOs working for democracy and good

governance and for the rights of poor and disadvantaged sectors in society. As many CSO researchers point out, these occurred from the late 1980s to the mid- 2000s, at different points in each country's history.

In Bangladesh, NGOs first emerged in the aftermath of the Liberation War of 1971. Among these was the Bangladesh Rural Advancement Committee (BRAC) that was involved in resettlement of refugees, and in providing relief and rehabilitation. In the 1980s, NGOs began to operate on a more formalized structure, and emerged as major players in the delivery of services, primarily in health and education. Their growth was partly propelled by international donors who opted to channel their assistance to NGOs instead of government. This gave rise to some of the region's largest NGOs (Islam, 2022).

The fall of the Ershad regime in 1990 marked the end of the military era, and the start of parliamentary democracy. This gave rise to rights-based NGOs that addressed issues of human rights, land-water and indigenous rights, minority rights and gender justice.

In Sri Lanka, there was a birth of human rights movements after the 1971 insurrection led by Sinhalese rural youth associated with the ultra-left Marxist organization the Janatha Vimukthi Peramuna (JVP) that was crushed by the armed forces (Marasinghe, 2022). And with the outbreak of civil war in the North and East (1983 to 2009) between the Government and the Liberation Tigers of Tamil Eelam (LTTE), there began an influx of International NGOs and inflow of foreign aid into the country. There was increased emphasis on conflict resolution, peace building, democracy, and human rights issues. And after hostilities ended in 2009, assistance shifted towards economic recovery and rehabilitation of conflict-affected areas.

In Sri Lanka, the assassination of President Premadasa in 1993, and ensuing change in government gave NGOs a broader space in which to operate. The NGOs played an active role in the election of People's Alliance government in 1994, and later collaborated with the government's peace and reconciliation initiatives. With a more conducive political environment, NGO work expanded in the fields of human rights, legal aid, environmental conservation and justice and the emergence of the green movement (Marasinghe, 2022).

In Sri Lanka, the change of government in 2015 marked another turning point in the discourse on democracy, good governance, transitional justice, and peace and reconciliation. NGOs played an active role in lobbying for Constitutional Reform and several legislated reforms.

In Nepal, the Comprehensive Peace Accord of 2006 (between Maoists and the Government), formally ended the Civil War that lasted for over a decade. With the

restoration of democracy and enactment of a multi-party system, the CSO movement flourished as part of the democratic reform movement. CSOs stood together with political parties on the streets for abolition of the monarchy in 2008. CSOs advocated for the rights of marginalized and indigenous communities, *Dalits* and women.

In Indonesia, the resignation of President Suharto in 1998 after 32 years in power signaled the end of the New Order and a transition to democracy. The ensuing *reformasi* period was marked by the emergence of new NGOs and civil society movements. With the restoration of basic freedoms, CSOs grew rapidly in number and scope of involvement.

In the Philippines, the nonviolent 1986 People Power Revolution saw the ousting of the Marcos regime by a broad, multi-sectoral opposition consisting of a wide range of civil society organizations and formations that composed the People Power Movement. These included groups from the business sector, the military, women, professionals, NGOs, and basic sectors (urban poor communities). CSOs were the catalysts in the passage of major policy reforms laws in governance (Local Government Code, civil society participation), asset reforms (agrarian reform, urban land reform, indigenous peoples' rights, fisherfolk reforms) and women's rights. Several key CSO leaders also assumed high posts in government.

In Cambodia, the Paris Conference of 1991 and arrival of the United Nations Transitional Authority in Cambodia (UNTAC) in 1992 marked the disarmament of factional armies, the end of civil war, the repatriation of refugees, and the transition to democracy. In rebuilding the country, NGOs became an important force by contributing to development efforts in the country ranging from basic service delivery roles to more sensitive areas, including advocacy, human rights, democratic development, and environmental protection (Sarin, 2022). NGOs grew with international recognition and financial assistance from international donors.

However, the periods of social reform were curtailed as authoritarian regimes arose and political oligarchies found their way into power. In Cambodia, the bloody coup of July 1997 gave rise and dominance to a single ruling party. Over the years, NGOs have played an important role in advocating for democracy and human rights, including participation in street protests. However, human rights advocates, land rights activists, and environmental NGOs have encountered pressures from local authorities as well as shrinking political space.

In the Philippines, the election into office of President Duterte in 2016 resulted in his "war on drugs" involving extrajudicial killings of thousands of drug suspects consisting of mostly urban poor people, now under investigation by the

International Criminal Court. Hundreds of activists, rights defenders, Indigenous leaders, lawyers, journalists, trade unionists, and environmentalists were killed in a counter-insurgency campaign that involved the vilification, called “red-tagging,” of people deemed to support communist insurgents. Duterte also sought to silence his critics, including independent media organizations (Pagsanghan, 2022).

Legal and regulatory framework for NGOs

Number and reach. The number of NGOs in each country is difficult to determine. In the Philippines, their numbers vary widely due to the lack of authoritative data. In India, registration is at State level, and in some States, this is further decentralized at district and sub-district levels. Most countries provide for multiple registration systems and categories for NGOs; data are not consolidated, and in many cases, data are not updated to reflect those NGOs that remain in active status.

In India, a staggering 3.1 million CSOs in India are registered under the Societies Registration Act, based on information collated from all States and Union Territories in 2015. In terms of development NGOs, however, a more realistic number might be the 143,196 organizations registered with NGO DARPAN of NITI Aayog (Policy Commission), which is mandatory for accessing government funds (AVARD, 2022).

In Bangladesh, estimates from secondary sources vary widely, but some 40,000 CSOs are registered as non-profits under company laws. However, making reliable estimates of the number of CSOs engaged in development work or in the rural developmental sector would be nearly impossible (Islam, 2022).

In Nepal, some 51,513 NGOs are registered with the Social Welfare Council as of June 2021. However, since only 6,259 NGOs have renewed their registration in 2020 to 2021 to be eligible for foreign funding, this latter figure might provide a more realistic estimate of *active, development-oriented* NGOs in Nepal (Gautam, 2022).

In Sri Lanka, statistics maintained by the government’s NGO Secretariat show that there are 38,097 social service organizations/NGOs in the country. These consist of 1,699 national level CSOs (including 408 international NGOs), 964 CSOs operating at district level and 35,434 organizations working at the divisional level. Approximately 800,000 personnel are employed in the NGO sector (as cited, Marasinghe, 2022).

In Cambodia, estimates on the number of CSOs range from 4,000 to 6,000, with figures drawn from different studies and government sources (Sarin, 2022).

In Indonesia, data from the Ministry of Home Affairs shows a total of 512,997 registered NGOs as of January 2022. Of this total, some 202,903 are registered as associations; 307,434 are incorporated as foundations; and 56 are foreign NGOs. However, these numbers are far from complete as there are other NGOs such as cooperatives and trade unions that are registered outside the legal framework of the NGO Law, Law 28/2004, and Staatsblad 1870 No. 64 (Harja, 2022).

Incorporation, registration and legal status

In most countries informal groups and unregistered associations are allowed to exist and to operate, without the need for registration. Mandatory registration is not the norm. There are no sanctions against the formation and existence of unregistered groups. In Indonesia, Law No. 17 of 2013 on Societal Organizations recognizes a category of “societal organizations without legal entity status.”

However, in some countries, registration is mandatory for associations and this requirement is covered with criminal sanctions. In Nepal, the Association Registration Act of 1977 (as amended) prohibits the formation of an unregistered association without registration (Art 3) and imposes a fine “of up to 2,000 Rupees on each member of the management committee of such an association” (Art 12).

In all countries, registration is required for an entity to open bank accounts, enter into contracts and to raise funds or contributions from the public.

The right to association is recognized under the Constitution of each country. In the Philippines, the Constitution declares that “The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation” (Art 2, Sec 23). It also mentions People’s Organizations, which it defines as “bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure” (Art 13, Sec 15).

However, the Constitutional right to association in some countries is bound by legislations that may impose restrictions to freedoms in order to protect national security, national unity and internal harmony. In Indonesia, Article 28 of the 1945 Constitution states that freedom of association, assembly and expression is part of human rights in the life of the nation and State (Art 28). The formation of NGOs is allowed as long as it does not conflict with *Pancasila* and the Constitution.

In Nepal, the Constitution guarantees the “freedom to form unions and associations.” However, the Constitution states that this freedom may be subject to laws that may impose “reasonable restrictions on any act which may undermine the sovereignty, territorial integrity, nationality and independence of Nepal, ... or

on an act of sedition or on any act which may undermine the harmonious relations between the Federal Units or on any act of incitement to caste-based or communal hatred or on any act which may undermine the harmonious relations between various castes, tribes, religions and communities or on incitement to violent acts or on any act which may be contrary to public morality” [Article 17(d)].

Thus, in Nepal, while the contribution of CSOs is recognized by the Constitution, the laws legislated after promulgation of the 2015 Constitution seem to control CSOs, including their freedom of expression, assembly and association. Some provisions of law such as restricting criticisms on the president's and government's actions, and limitations imposed on rights to information are some of the examples that showcase the growing sense of fear that the legal environment for civil society is becoming increasingly restrictive (Gautam, 2022).

In Cambodia, the Constitution states that “Khmer Citizens shall have the right to establish associations and political parties” (Chapter 3, Art 42). Yet, the same Article also states that “These rights shall be determined by law.” Thus, the Law on Association and NGOs (LANGO), which was legislated by the National Assembly in 2015, gives the government the legal tool for total control over civil society, grassroots groups, and independent human rights organizations. Human rights groups have observed that the restrictions on the right to freedom of association contained in the LANGO goes well beyond the permissible limitations allowed by international human rights law (as quoted in Sarin, 2022).

The LANGO also provides that an organization may be denied registration, if its purpose and goal would endanger, among other things, “national unity, cultures, traditions, and custom of the Cambodian national society” (Section 18, LANGO).

The legal frameworks provide for multiple systems and channels for registration.

In Bangladesh, CSOs register as non-profit companies, societies, or trusts. There are separate registration systems for other types of organization such as trade unions. In India, there are nine different acts for registration of CSOs but most of the *developmental NGOs* are registered under the Societies Registration Act, Indian Trusts Act and Non-Profit Company Act. Indonesia recognizes six categories of CSOs: membership-based associations, foundations, non-profit companies, trusts, charities, and special forms, such as companies for the public interest, study centers/institutions, and others. Sri Lanka provides registration for societies, non-profit companies, cooperative societies, and voluntary social services organizations. In the Philippines, many developmental NGOs register as non-stock, non-profit corporations, while other types of organization such as cooperatives and labor unions register with the appropriate government agencies. This makes it possible

for some organizations to have more than one registration. Also, as CSOs have different mandates and operations, they are able to select the legal system under which they should register and operate.

However, in Cambodia, a “non-governmental organization” or “NGO” is defined as a discrete type of organization under the LANGO, enacted in 2015.

The registration body may vary with each particular kind of organization. The government agencies responsible for registration usually include: company registration agencies; ministries/departments of interior or home affairs; ministry of development planning or ministries for particular fields (education, health, labor); special stand-alone registration agencies for NGOs; or, office of the State Minister or Provincial Governor. In India, the laws make State authorities the key agencies for incorporation and registration for several types of organization.

Registration defines the scope of the permissible purposes of organizations, laws or regulations. These sometimes include broad statements of prohibition and allow wide discretion to government regulators (Sidel and Moore, 2019). These limitations may include:

- *Limitations based on concerns for “national security”,* which is sometimes open to wide ranging interpretation.
- *Prohibition from engagement in “political” activities,* which is often left undefined. For instance. Cambodia’s LANGO states that foreign and domestic organizations should “maintain their neutrality towards political parties in the Kingdom of Cambodia” (Art 24). Indonesia’s Law No. 17 of 2013 (Law on Societal Organizations) prohibits organizations from propagating an ideology that conflicts with State principles of *Pancasila*.⁵
- *Other limitations, such as involvement of foreign citizens or non-citizens.* In Nepal, foreign persons do not have the right to participate as founders of an association or as members with voting rights. In Bangladesh, non-citizens are excluded from founding or belonging to non-profit organizations (Sidel and Moore, 2019).

Depending on how these provisions are implemented, they may prevent CSOs from engaging in a wide range of legitimate activity. These include assistance to ethnic and religious minorities, support for vulnerable communities especially those in areas of conflict, and many areas of advocacy work.

⁵ Criticism of the State ideology of *Pancasila* is forbidden under Article 68 of the Criminal Code in Indonesia. In 2017, for instance, the government revoked the legal status of Hizbut Tahrir Indonesia, a conservative Islamist group deemed to threaten *Pancasila* (Burhani, 2017).

In some countries, incorporation or registration at the national or State level is not enough. CSOs must likewise register with certain agencies, as well as re-register with the regions, districts or municipalities where they operate. The multiple registration procedures for statutory compliance can create cumbersome and time-consuming documentation workloads for CSOs. In Sri Lanka, in addition to their original statutory registration, CSOs are also required to register under the Voluntary Social Services Organization (VSSO) Act that lays down additional statutory requirements for compliance. CSOs providing institutional care for destitute elders and persons with disabilities, as well as residential care facilities for children are mandated to register with the appropriate Provincial Departments. Also, all CSOs are likewise required to re-register with the district and divisional secretariats for administration purposes (Marasinghe, 2022).

In India, the task of CSO registration itself is devolved at the State level, and in many cases at the district and sub-district levels. In Nepal, CSOs already registered or incorporated at the national level must likewise register in those local municipalities where they operate. Moreover, the approval of local authorities is required for any activities that CSOs may undertake. And because CSO registrations must be renewed, this creates unnecessary bureaucratic burdens on CSOs. Moreover, due to the lack of guiding laws at the federal, provincial and local levels, the jurisdiction of the three levels is not clear and the laws are conflicting.⁶ While decentralized approaches may help broaden geographic access to registration, they also pose distinct challenges regarding the consistency and professionalism of implementation. Especially when implementing provisions are vague or nonexistent, officials may exercise discretion in interpreting legislation; some might even impose added requirements not based on the law.

Meanwhile, rights based CSOs may also face difficult situations vis local governments especially when they advocate on sensitive *local* issues (e.g., on corruption, land grabbing, or conflicts).

Legal and operational distinctions must be made between registration and accreditation. While *registration* bestows upon groups their legal personae, *accreditation* may be required for registered groups to exercise certain rights and privileges, to undertake certain activities, or to participate in programs of government. In some countries these accreditation requirements for CSOs are:

- *To access foreign funds;*
- *To access government funds or to participate in ODA-funded projects;*

⁶ NGO Federation of Nepal/NFN (2022). "FGD Report on the Current Situation and Future Direction of CSOs in Nepal." Kathmandu, 18 August 2022.

- *To obtain tax exemption status, or to qualify as donee institution for the purpose of determining tax-rebates for domestic donors; and,*
- *To undertake certain activities that might be covered by professional licensing arrangements and industry standards.* These include the provision of institutional services in health, education and social care; microfinance services; engineering; and, construction works.

Moreover, there has been an increasing "securitization" of the registration and incorporation process of CSOs. In Bangladesh, for example, prior clearance from National Security Intelligence (NSI) is mandatory for registration under the Societies Registration Act.

Often, there is no judicial recourse when registration is denied. In most cases, CSOs can inquire into the reasons for denial with the relevant registration agency and can re-apply after fulfilling requirements. In Sri Lanka, the VSSO Act stipulates that a person aggrieved by the registration decision can only appeal to the "Secretary to the Ministry of the Minister in charge of the subject of Social Services..." (No. 31, Art. 6).

In Nepal, the Association Registration Act of 1977 does not stipulate the specific grounds to reject a registration application. Rather the law states that "the Local Authority shall make the necessary inquiry, and register the Association, if he/she deems it *appropriate* to register the Association." Many CSOs have criticized the term "appropriate" as being vague and arbitrary (Gautam, 2022).

The duration and renewal of registration varies across countries. However, in some countries there are stricter requirements for CSOs than for other types of organization. In the Philippines, nonprofit and non-stock corporations registered under the Securities and Exchange Commission (SEC) have perpetual existence unless otherwise provided for under their articles of incorporation.⁷ This provision for non-profits is similar to that of a business (for profit) corporation.

However, in India, NGOs registered under the Foreign Contribution Regulation Act (FCRA) must renew their registration every five years (Secs 12A, 80G, and 35A). Periodic renewal is also a prominent feature in the registration system for CSOs in Bangladesh and Nepal. Such requirement for periodic renewal of registration is seen as *discriminatory* to CSOs, as business corporations are not burdened by similar regulations. As explained in the Nepal paper:

⁷ As provided under the Philippine Revised Corporation Code of 2018.

“The registration system is different between profit-making companies and non-profit NGOs in Nepal. Profit-making companies can simply submit the necessary documents to the Company Registrar to get their approval for registration. It is not mandatory for them to renew their registration with multiple agencies annually; one can just pay the tax or VAT to get a tax clearance certificate to continue the company every year. They also receive incentives from the government. However, for CSOs, the process is more complicated and cumbersome as they must register with the local government where the CSO operates. This is mandatory. In addition, CSOs face undue political interference from government officials. The requirements for each CSO may differ; the processes and requirements are not fair for all” (Gautam, 2022).

Funding, taxation and reportorial arrangements

The flow of foreign funding has been increasingly scrutinized in many countries in Asia. This includes funding from government-related entities, international NGOs and foundations, and individuals. Some governments seem to view foreign funding as a means of interference in domestic political processes.

In India, the Foreign Contributions Regulation Act, 2010 (FCRA) imposes significant limits on the foreign funding that CSOs and political groups can receive. The FCRA requires every person or NGO wishing to receive foreign donations: (a) to be registered under the FCRA, (b) to open a bank account for receiving the foreign funds in the State Bank of India, New Delhi, (c) to secure prior permission on a case-by-case basis to receive foreign funding, and (d) to utilize those funds only for the purpose for which they were received. Information on the NGO and its members are then reviewed by the Intelligence Department of the Home Ministry, who may physically visit the NGO premises and check their documents. Further, NGOs are required to file annual returns and must not transfer the funds to another NGO.

In India, NGO registration with the FCRA must be renewed every five years. Similarly, one has to complete a CSR registration under the Ministry of Corporate Affairs, for mobilizing financial support from corporations.

NGOs often face problems related with renewal of their FCRA Registration. The numbers of NGOs are huge and the staff with intelligence agencies for verification are limited so there are repeated delays. Some cases of corruption in the department have been reported. The licenses of some NGOs have been cancelled for not following the proper procedure while some others are fighting their cases in courts (Sidel and Moore, 2019).

India's FCRA regulatory framework has been in place for 46 years. The law was first enacted during the Emergency Period in 1976 amid apprehension that foreign powers were interfering in India's affairs by pumping in funds through independent organizations. The amended FCRA was passed in 2010, and this was again amended in 2020, giving the government even tighter control and scrutiny over the receipt and utilization of foreign funds by NGOs.

Similar restrictions on foreign funding are imposed in other countries especially within South Asia. Some common features include the need for secondary registration, and the need for prior approval of both the proposed project and the donor by the government.

In Bangladesh, there is a complex system of regulatory approval for foreign funding that has been in place for years. This has been expanded under the Foreign Donations (Voluntary Activities) Regulation Act of 2016 that requires all organizations wishing to receive and use foreign donations/contributions to: (a) register with the NGO Affairs Bureau; and, (b) to secure advance project approval, on a case-by-case basis.

In Nepal, the Social Welfare Act requires NGOs who seek to receive foreign funding to: (a) register with the Social Welfare Council (SWC), and (b) submit a project proposal and an application for the project. The SWC then scrutinizes each funder for the project. Also, foreign funds must pass through the Ministry of Finance and the SWC. Meanwhile, fundraising and use of local resources are allowed only with the permission of Home Ministry and line agencies.

In Sri Lanka, the VSSO Act similarly regulates the operations of NGOs and controls the access of NGOs to foreign funds.

In countries of Southeast Asia, there is also increasing scrutiny of foreign funding. In the Philippines, in February 2021, Department of Foreign Affairs (DFA) Note Verbale No. 2021-0592 was issued, notifying all diplomatic missions that all foreign government funding for NGOs should be coursed through the DFA for "appropriate clearance." According to the DFA Secretary, this note verbale is part of "how responsible government monitors where money comes from and goes to in the face of insurgent and terrorist-secessionist threats."

In Indonesia, in order to access foreign funds and implement projects, NGO recipients must first be registered with the Ministry of Home Affairs. Foreign aid can be received by NGOs indirectly or directly. If the foreign aid is to be received *directly*, then the NGO is required to report the plan to the Minister of Home Affairs (for

national work areas), the Minister of Home Affairs through the Governor (for provincial work areas), or to the Minister of Home Affairs through the Regent/Mayor (for district, municipal and city work areas) (Art. 10, Minister of Home Affairs Regulation 38/2008). In Indonesia, foreign donors must also be registered by the government.

Some countries have introduced additional requirements for CSOs, in order to monitor their funding sources. In Sri Lanka, the Central Bank of Sri Lanka (CBSL) mandated financial institutions to obtain the NGO's constitution, funding sources and their activities and related documents as requirements to open an account. In the Philippines, while the registration requirements under the Securities and Exchange Commission (SEC) are straightforward, SEC Memo Circular 15 Series of 2018 prescribes additional reportorial requirements for NGOs considered "medium" or "high-risk" of being so-called funding channels for terrorist organizations, creating difficulties for organizations labelled as "leftist," and even for independent progressive organizations (Pagsanghan, 2022).

Taxation and tax exemptions

Most countries provide for tax-exemptions for registered non-profit organizations. Tax exemption usually requires an accreditation approval by the Tax Department or Internal Revenue Agency. An application for tax exemption requires an additional step that is separate from incorporation/registration.

In India, NGOs must register under section 12 A of the Income Tax Act for getting income tax exemption, and under sections 80 G and 35 AC for providing tax rebate to persons making donations to the organization. On the other hand, the individual donors get 50 percent exemption in income tax if they donate to an organization registered under 80 G, and 100 percent if the recipient organization is registered under 35 AC of the Income Tax Act.

One main problem that NGOs face is their renewal of registration. Prior to 2010, NGO registration under the Income Tax Act used to be a one-time requirement for life. But following the amended FCRA Law in 2010, NGO registration under 12 A, 80 G, and 35 AC for income tax exemption now has to be renewed every five years.

Meanwhile, for accessing CSR funding, NGOs in India must register under the Ministry of Corporate Affairs. And for accessing government funds, NGO must sign up with an office under NITI Aayog (National Policy Commission) as a mandatory requirement.

In Bangladesh, NGOs that are registered with the NGO Affairs Bureau are not required to pay any tax on funds received from donors. However, donations made

to NGOs 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,” among others (as cited, Islam 2022).

In Nepal, NGOs that receive a tax-exemption certificate from the Department of Internal Revenue, are tax exempt on their income from grants, donations and investments. The Income Tax Act of 2002 recognizes a category of tax-exempt organizations that include social, religious, educational, or benevolent organizations of public nature established with a non-profit motive. However, individual and group donors that provide financial support to NGOs are not tax exempt.

NGOs in Nepal may also apply for exemption on customs duties for certain types of imported equipment such as those intended for the disabled and orphans. However, the process is lengthy, tedious and complicated, and may require multiple approvals from several ministries.

In Sri Lanka, NGOs may be taxed up to 30 percent of their “profits” (or “income”) which the tax regulation code defines as three (3) percent of the money these groups received as grants and other forms of contributions. In other words, donations received by NGOs are taxed by the government, except for those CSOs categorized as “charitable institutions,” i.e., those providing institutionalized care to the sick and the needy.

Also, NGOs may be freed of the tax liability if the country’s Commissioner-General of Inland Revenue determines that the funds are directed towards “humanitarian activities.” In this case, NGOs should be providing and rehabilitating infrastructure facilities and livelihood support in areas identified by the said Commissioner to be stricken by disasters, civilian conflicts or poverty.

In Sri Lanka, while the profit sector enjoys specific tax concessions, the non-profit sector has to rely on the decision of the Commissioner-General of the Department of Inland Revenue for exemptions that are provided under limited conditions (Marasinghe, 2022).

In Cambodia, Article 20 of LANGO states that “an association or non-governmental organization, which has registered or signed the memorandum of understanding, shall be subjected to the existing taxation regime law, and receive incentives and enjoy exemptions in accordance with the existing laws and provisions.”

In the Philippines, there is an innovative system of NGO certification for tax exemption, managed by NGOs themselves. It provides one example of self-regulation by the NGO sector itself. The Philippine Council for NGO Certification (PCNC) is a self-regulatory body of the NGO sector, whose main purpose is to accredit NGOs that meet established good governance standards. PCNC certification, which involves a rigorous review of NGOs' operations, is a pre-requisite for the registration of NGOs and foundations with the Bureau of Internal Revenue (BIR) as qualified donee institutions. Donations made to qualified donee institutions are tax-deductible. PCNC is governed by a nine-member board of trustees composed of representatives from Philippine NGOs and foundations. The role of PCNC is covered by a special Memorandum of Agreement signed in 1998 between the Department of Finance and the PCNC.

In all countries, apart from tax exemptions on donations received, NGOs are generally subject to the same regulations and requirements as for-profit companies. NGOs pay the same VAT rates and Social Security Contributions as for-profit companies, and NGO personnel pay their income taxes on salaries and wages received. When NGOs are engaged in income-generating activities such as training or services on fee basis, or engage in commodity-selling, they also have to pay taxes similar to other entities.

Reporting and accounting requirements

Annual reporting is usually required by the registration agency as well as by other regulatory agencies. These usually consist of minutes of board meetings, reports of activities for the given period, and audited financial reports.

Reportorial requirements may be tedious and cumbersome. This is especially true in those cases where:

- *Multiple registration agencies and accreditation bodies are involved, together with other State actors at multiple administrative levels (national, district, municipality);*
- *More frequent reporting (e.g. quarterly) is required for certain groups involving specific types of information;*
- *NGOs require pre-approval for their funding and activities (i.e., where foreign funding is involved), and thus, must submit their upcoming plans alongside their completed annual reports; and,*
- *Foreign NGOs do their own reportorial and accountability requirements.*

In Bangladesh, CSOs must submit activity reports and audited financial reports of the preceding year, and activity plans (programs) and the budgets of the coming year to their registration authority on an annual basis. The government can

suspend activities of a CSO or even cancel its registration for non-submission of reports to its registration authority.

However, in almost all cases, there are questions regarding the capacity of the relevant regulatory bodies to meaningfully assess the filings made to them. Reporting obligations are even more extensive when it comes to foreign donations (Islam, 2022).

In Nepal, NGOs must submit annual reports on their activities and finances to the District Administration Office (DAO), and the SWC. This includes an audited financial report by a certified accountant that is *appointed by the NGO's Annual General Assembly* (Association Registration Act, Nepal). All these submissions are compulsory as they form part of the application process for renewal of registration. Furthermore, an NGO must submit to the SWC an activity plan for the following year. In Nepal, reporting goes through multiple processes and multiple levels.

In India, all registered organizations must conduct general body and executive committee meetings as prescribed by law and inform the relevant authority about any changes made in the board. Besides, they have to submit audited statements of accounts to income tax department and to FCRA division, if registered under FCRA. All organizations have to report the funds received from foreign sources *every quarter*. All donations made to the organization by individuals are reported to the Income Tax Department that issues certificates for exemption of tax to the persons making donations.

In Sri Lanka, the reporting requirements for NGOs is quite detailed and tedious. Given the influx of foreign aid to NGOs and movements, there is public perception that NGOs have an abundance of funds and are dependent on donors. This is why the State tends to look at NGOs with skepticism and raises accountability issues in view of the large sums of money that NGOs are seen to be managing.

Pursuant to Circular RD/99/01, NGOs in Sri Lanka are required to submit a proposed action plan in accordance with the prescribed format formulated by the NGO Secretariat. The information required in this format includes: (a) the nature of the proposed activities, (b) the area and the target groups, (c) the number of people that will be employed, (d) source of funding, (e) annual expenditure budget, and (f) the amount of funds that will be brought into the country.

An NGO must submit: (a) a true copy of the rules of the organization, (b) a copy of the latest statement of accounts including the balance sheet certified by a recognized auditor, and (c) a proposed program of work plan for the ensuing year.

The Circular further stipulates that every NGO registered under the VSSO Law shall keep and maintain: (a) cash book with bank accounts; (b) petty cash book; (c) main ledger; (d) main journal; (e) membership fee ledger; (f) debtors and creditors ledger; (g) counterfoil books; (h) register for issue of receipts; (i) assets register; (j) committee meeting report books; (k) membership register; (l) details of the members, staff, officers and servants inclusive of their letter of appointment; and, (m) files containing the relevant Acts and Regulations. According to of the VSSO Act, the Minister can refer an NGO to a Board of Inquiry in the event that any person makes an allegation of fraud or misappropriation (Sec 10).

In Cambodia, the law requires domestic NGOs to submit a copy of its activity report and annual financial report by not later than the end of February of the following year (Art 25 of LANGO). In practice, NGOs or associations submit their annual activity report together with the financial report to the Ministry of Interior (MoI) and the Ministry of Commerce (MoC). Meanwhile, the LANGO law allows local authorities to come and inspect without prior notice to the NGO, and this threat tends to limit NGO space (Sarin, 2022).

In Indonesia, the government requires NGOs to make financial accountability reports in accordance with general accounting standards based on AD/ART, especially for NGOs that collect and manage funds from member fees (Article 38 of Law 17/13 on Society Organization). The same law also requires NGOs to periodically publish their financial reports to the public.

Reporting requirements for foreign NGOs tend to be more extensive. Foreign NGOs may be required: (a) to report any new activities, new partners, or operation in new parts of a country; (b) to report on a quarterly or other very frequent basis; (c) to report in detail and for approval before activities are carried out; (d) to report in detail after activities are carried out; (e) to report to one or multiple State authorities and partners; and/or (f) to report voluminous, highly detailed information at any step in the activity process.

In Cambodia, the government has required foreign NGOs to submit their annual report on “activities and finances status” to the Ministry of Foreign Affairs and Ministry of Economy and Finance “within thirty days from the date of their submission to donors.” Foreign NGOs are also required to submit copies of all proposals and financial agreements with donors to the Ministry of Foreign Affairs and Ministry of Economy and Finance within thirty days of the donor agreeing to the proposal (LANGO, 2015).

In Indonesia, NGOs established by foreigners are required to make periodic reports to the Government or Regional Government and to publish these for the public through an Indonesian language mass media (Article 51 of Law 17/13).

In addition to reporting, State agencies also utilize other measures to ensure accountability and compliance among NGOs. In Sri Lanka, under the VSSO Act, the Registrar has the power “to enter and inspect at all reasonable hours of the day” the premises of an organization registered under the Act. The Societies Ordinance authorizes “any person having an interest in the funds of the society to inspect the books and names of the members at all reasonable hours.

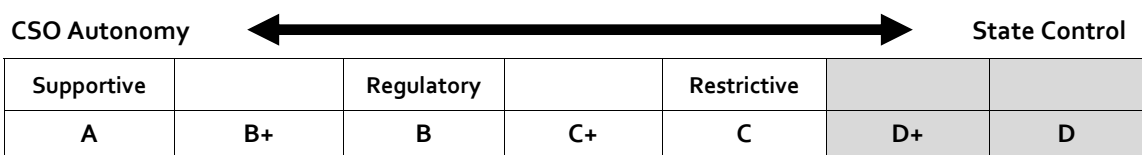
In Bangladesh, the 1961 Voluntary Social Welfare Agencies Ordinance gives the Department of Social Services (DSS) the power to suspend the executive committee of a CSO registered under the Act, without giving any right to appeal. At the same time, the governing body of the CSO cannot dissolve itself without the approval of the DSS.

Summary assessments of the political and legal environment for CSOs

Table 2 below provides a summary description of the working environment for development NGOs/CSOs in seven Asian countries. It is noted that:

- The three broad categories used here to describe the CSO environment are: Supportive (A) to Regulative (B) to Restrictive (C). These three categories are described by Table 1 in an earlier section. (Refer to pages 14-15 of this publication.)
- The rating system shows a *continuum* rather than exclusive categories. This is because the CSO environment in each country may have elements that are supportive, regulative, or restrictive at the same time (See Figure 1). Also, the CSO environment may shift over time, with changes in government administrations, or in State policies.
- The ratings here are based on the research papers plus the writers’ individual and collective assessments.
- The “CSO environment” is assessed in terms of two related categories:
 - *Political environment* – looks into the state of *collective* human rights such as freedom of association, assembly, and expression, and how they affect CSO space.
 - *Legal and regulatory environment* - looks into official laws and policies that govern the registration, financing, reporting requirements, and other facets of NGO operations.

Figure 1. Rating system for the CSO environment



Note: The CSO environment here is viewed as a “continuum”

Table 2. Summary assessment of the CSO environment in Asian countries

| OVERALL POLITICAL ENVIRONMENT FOR CSOs | LEGAL AND REGULATORY ENVIRONMENT FOR NGOs |
|---|---|
| Cambodia | |
| <p>Restrictive / C Since 2015, new legislation, including laws regulating NGOs, trade unions and political parties, have had a chilling effect on Cambodia's vibrant civil society, while human rights defenders, labor activists and opposition politicians have been subjected to criminal charges and imprisonment. There has been a new escalation in restrictions on fundamental freedoms; with some independent media outlets have been forced to close.</p> | <p>Restrictive / C NGOs are regulated by the new Law on Associations and NGOs (LANGO), which was legislated by the National Assembly in July 2015. The LANGO has been used as a tool to control CSOs, grassroots groups, and independent human rights organizations.</p> |
| Indonesia | |
| <p>Regulatory / B The fall of the Soeharto regime in 1998 marked the start of a <i>reformasi</i> period, demonstrated by shifts from authoritarianism to democracy, from military rule to civilian supremacy, from centralism to regional devolution, and towards the separation of powers among branches of government, and increased recognition of the role of civil society. This has opened the doors to partnership arrangements between the government and NGOs (e.g., policy consultations, participation). Yet, despite the government’s normative statements about democracy, justice, freedoms and protection of human rights, many challenges remain. Agrarian conflicts continue with police repression, access to public information remains restricted, and many public consultations have turned out as mere formalities.</p> | <p>Regulatory / B Certain aspects of the legal framework are seen to support the development of NGOs (i.e., registration requirements and processes, tax exemptions for donors and grantees, and reporting requirements). On the other hand, some aspects are restrictive (i.e., access to foreign funding that requires a verification and screening process of the foreign donor NGO by a government ministry).</p> |
| Philippines | |
| <p>Regulatory / B Basic freedoms are protected, yet these have increasingly come under attack since 2016, by authoritarian State policies that have led to media repression, “red-tagging,” drug war-related deaths, and prosecution of opposition leaders. There are also unsolved killings of journalists, and of human rights/land rights defenders. The growing climate of apprehension and fear affects the political space for CSOs.</p> | <p>Supportive to Regulatory / B+ The NGO policy environment created after the 1987 People Power Revolution remains supportive (i.e., liberal laws related to NGO registration, financing, and reporting; and, provisions for civil society representation in government). However, since 2016, civic participation in government has been weak, and new regulatory policies are being put into place.</p> |

| OVERALL POLITICAL ENVIRONMENT FOR CSOs | LEGAL AND REGULATORY ENVIRONMENT FOR NGOs |
|---|---|
| Bangladesh | |
| <p>Restrictive / C CSOs have carved a significant role since the birth of Bangladesh in 1971. As the State has been unable to assist the poor, or to alleviate poverty, CSOs have grown to fill the gap in delivering a wide range of services (education, health, livelihoods, micro-finance) and in pushing for women’s rights. The government remains wary of the expanding scope and reach of CSOs and their perceived political influence, given the reality that Bangladeshi partisan politics is extremely antagonistic. Over the years, the struggle for free space has changed, depending on whether a democratically elected or a military government has ruled the country. Overall, CSOs feel that they operate within a restrained framework. Given the rise of fundamentalist groups, and without a fully functioning democracy and growth of a democratic culture, the struggle for CSO space continues.</p> | <p>Restrictive / C The legal framework for NGOs is restrictive (i.e., registration and 5-year renewals, restrictions on foreign funding, need for security clearances, prior approvals for funding proposals from multiple agencies, etc.) An NGO Affairs Bureau, created in 1980, regulates all NGOs that receive foreign funding. Moreover, the regulations for NGOs are constantly redefined through the issuance of circulars. These create more bureaucratic red tape, more policies, and the exercise of discretionary powers by government agencies. The resulting administrative and procedural bottlenecks make it difficult for NGOs to comply with all formalities of existing regulations. Most affected are the smaller NGOs and those involved in rights-based initiatives and advocacy work.</p> |
| India | |
| <p>Supportive to Regulatory / B+ Constitutional rights and basic freedoms are exercised and protected by law. However, the political environment is operationalized at the <i>State</i> level which may vary widely from State to State. Overall, there is a vibrant civil society which, at times, acts as counterbalance to excesses of the government.</p> | <p>Regulatory / B The overall policy environment for the voluntary sector is supportive and at times pro-active (e.g., Law on Corporate Social Responsibility, representation in government bodies) yet there are restrictive policies in place (e.g., on foreign funding, 5-year renewal of NGO registration, on foreign NGOs operating in the country, etc.).</p> |
| Nepal | |
| <p>Regulatory / B The overall political environment for CSOs improved after the Peace Accord of 2006, the end of monarchical rule in 2007, and the ratification of a new Constitution in 2015. Government-CSO collaboration may work in the field of physical development, but government is not supportive of CSO rights-based work (i.e., legislative advocacy, awareness building, public campaigns and community mobilization). The government’s attitude towards CSOs varies, and there is no equal treatment for all CSOs. Government-CSO working relations are based mainly on individual perceptions, availability of resources, and the nature of work. Moreover, there are some CSOs formed by government or by political parties – which itself creates political/ideological divisions within the CSO sector itself.</p> | <p>Regulatory to Restrictive / C+ Despite having ratified a progressive new Constitution in 2015, many of the old laws and bureaucratic attitudes of government remain. This includes the Association Registration Act of 1977 that was promulgated during the authoritarian Panchayat Regime. These have affected the working space for NGOs. Complex registration and renewal procedures, lack of a one-door policy for registration, monitoring of NGOs, restrictions on foreign funding, and political and bureaucratic biases of government functionaries – are some challenges that NGOs face. The policy and legal provisions for NGOs are deemed to be as “of controlling rather than of monitoring nature.”</p> |

| OVERALL POLITICAL ENVIRONMENT FOR CSOs | LEGAL AND REGULATORY ENVIRONMENT FOR NGOs |
|--|---|
| Sri Lanka | |
| <p>Regulatory / B In a country marked by ethnic strife (1983 to present), insurgency (JVP revolt, 1987 to 1989) natural disasters (Asian tsunami, 2004), and a national economic/political crisis (starting in 2019), the response of CSOs has enabled them to gain public recognition and a major role in the nation's social and political life. However, CSOs working on human rights, conflict resolution, peace and reconciliation, inter-ethnic and inter-religious harmony, and those with a presence in the North and the East, have increasingly been subjected to more State scrutiny than those CSOs focused on development and social welfare.</p> | <p>Regulatory to Restrictive / C+ Since 1996, with the creation of the National Secretariat for NGOs (following the VSSO Act of 1980 as amended), NGO legislative and regulatory mechanisms have become increasingly "stringent, cumbersome, bureaucratic and intimidating." These include laws on registration and renewal, foreign funding, NGO taxation, and audit and reporting requirements. Stringent requirements (e.g., on prior approval for project proposals and activities) also affect NGO operations. The overall regulatory framework for NGOs continues to be shaped by growing State concerns over "national security" and "money laundering."</p> |

References: CSRC, 2022; Harja, 2022; Islam, 2022; Marasinghe, 2022; Mishra, 2022; Nhek, 2022; Pagsanghan, 2022; and other

Recommendations to improve the space for CSOs and the voluntary sector

The following recommendations identify some critical areas that governments, CSOs, and other entities need to address, in order to protect and broaden the political and legal space for voluntary action.

Improve the existing legal and regulatory framework for CSOs

Identify specific areas for the reform of existing laws affecting NGOs. Government regulatory controls on civil society are becoming increasingly restrictive, especially for advocacy groups and those engaged in rights-based work. It becomes imperative to identify priorities for legal reform in order to create an enabling legal framework where NGOs can work without fear and intimidation. Recommendations from the country papers include:

- **Provide for voluntary registration.** Laws that provide for compulsory registration, or that penalize non-registered groups or unsanctioned activities are a violation of citizens' rights and of international law.
- **Provide for simpler and more efficient systems of CSO registration.** Reduce red tape and onerous requirements that make registration mechanisms unnecessarily stringent, cumbersome, bureaucratic and intimidating.
- **Abolish or minimize the need for multiple registrations with different agencies for statutory compliance.** CSOs should have the freedom to decide under which law they intend to derive its legal personality. The legal regulatory regime must at all costs abstain from vitiating the legal basis of statutes that allow people to come together collectively.

- **Abolish the need for multi-level registration and pre-approval of CSO activities** in each locality where the CSO operates. In Nepal, government needs to create a one-door policy for registration of CSOs in accordance with the Constitutional mandate.⁸
- **Abolish the requirement of periodic registration to ease the burden of the CSOs.** It is discriminatory to require CSOs (in India, Bangladesh, Nepal) to renew their registration every five years, yet other entities (i.e., stock and for-profit corporations) have no such requirement.
- **Streamline reporting requirements and ensure that the amount of government supervision is commensurate to the risks involved.** Advanced approval processes, including prior clearances for certain activities, may result in undue interference in CSO activities.
- **Remove or reduce foreign funding restrictions.**
- **Improve tax concessions for the non-profit sector.** The non-profit sector should not be treated in the same way as the for-profit sector. Tax concessions should be accorded to the non-profit sector considering its contribution towards the betterment of the country and its people.
- **Facilitate philanthropy.** Provide for tax deductible contributions to qualified recipients. Other efforts may include provisions for company profit-sharing with workers and communities, and support for corporate social responsibility.
- **Address the issues and proposals raised by CSOs to amend existing laws.** CSOs in Cambodia have proposed specific amendments to LANGO in view of its highly restrictive provisions, e.g., requiring permission from the Ministry of Interior for CSOs to transfer their office.

Furthermore, identify and address regulations that limit the freedom and independence of civil society actors. The UNOHCHR describes the nature of some of these regulations, i.e.:

- "Requiring registration without positive benefits (e.g. tax benefits);
- Limiting what types of activities can be done;
- Criminal sanctions for unregistered activities;
- Restrictions placed on the registration of specific associations, including international NGOs, or associations receiving foreign funding or groups working on human rights;
- Setting criteria for who or what can undertake activities or limiting those activities;
- Restricting sources of financing (i.e., foreign sources);

⁸ As provided for under Point 14, Article 51(j) of the Nepal Constitution related to "policies regarding social justice and inclusion."

- Legislation governing freedom of peaceful assembly, association and expression that contains discriminatory provisions, or have a disproportionately negative impact on some groups; and,
- ... burdensome administrative procedures and discretionary measures that may inhibit or delay civil society actors from carrying out activities” (UNOHCHR, 2014).

Build better Government-CSO relationships

Establish platforms at National and State level where government and CSOs can freely discuss matters pertaining to the policy framework (i.e., rights and obligations) of the civil society sector. Also, strengthen existing forums for dialogue between government and NGOs at the local level to dispel distrust, foster dialogue, and initiate cooperation. In each country, there are already policy pronouncements that provide the basis for Government-CSO cooperation.

CSOs should continue engagement with the government. Depending on the current state of CSO-Government relations, the stance taken by Asian CSOs with their governments may range from confrontation to cooperation, to avoidance. But since the main focus of CSOs is to assist poor and marginalized sectors and communities, CSOs should continue to engage the government even in hostile political conditions. They should make it clear that CSOs are *not* anti-government; rather, they are for *good governance*. Some approaches may include:

- ***Work with credible and supportive officials/agencies within the government.*** Governments are not monoliths, and there are competent and well-meaning civil servants in every agency.
- ***Focus on, and work with local governments,*** especially where the powers of government have been devolved. At local level, the results of development interventions may be more impactful and lasting.
- ***Diversify CSO strategies.*** CSOs working in difficult political environments can diversify their approaches, with a mix of activities of varying political sensitivity. They may engage in political mobilization, while at the same time deliver less politically sensitive services such as health, livelihood trainings, and production inputs.

Government should take initial steps to show its trust and willingness to engage constructively with CSOs. The country papers proposed some possible measures:

- ***Practice transparency through public information disclosure and by giving CSOs access to its regulatory bodies.*** For greater public scrutiny and transparency, the activities of CSOs should not be governed by administrative *circulars* but by laws already known, enforced, and welcomed by CSOs.
- ***Stop the unlawful harassment of individuals and organizations.*** Lawmakers and officials need should desist from making baseless statements or insinuations

that NGO activities need to be monitored on the grounds of “national security,” “fraud,” or “money laundering.” If authorities have the necessary evidence, then they should prosecute the cases according to the law, instead of using accusations to destroy, malign, and insult the organizations and individuals.

- **Educate the police force and enforcement agencies to respect civil and political rights.** There should be no repression of demonstrations and peaceful civil activities.
- **Improve the quality of participatory planning and budgeting through the involvement of NGOs in different levels of State administration.**

Finally, both government and CSOs should comprehend the broader contexts and issues that compel them to collaborate as “development partners.” To cite an example: Sri Lanka is currently engulfed in a phenomenal economic crisis that has driven 9.6 million people below the poverty line in 2022, compared to three million people who lived below the poverty line in 2019. This means that 43.63 percent of the total population live below the poverty line. In this scenario, the government needs to consider seriously whether to continue its “hostile” stance towards NGOs and allow the gulf between the government and NGOs to increase, or whether to recognize NGOs as “development partners” and invite them to work together with the government in all sectors to resurrect the country from the present plight (Marasinghe, 2022).

Uphold and protect human rights

Ensure the human rights of “development partners.” By ratifying the *Universal Declaration of Human Rights (UDHR)* and other international human rights conventions, governments have taken on a legal responsibility that should extend to all employed personnel and volunteers in the CSO sector. If CSOs are to contribute to the country as “development partners,” then government needs to uphold the human rights and freedoms of people working in the sector by adopting measures to support and encourage their work and by abstaining from violating the rights of CSO workers.

Use the UDHR as the basis for framing the legal environment for CSOs. The task of framing a legal and regulatory environment for CSOs and the voluntary sector must be seen within the broader context of a set of principles – the *Universal Declaration of Human Rights (UDHR)*. The UDHR upholds, among others, the right to freedom of association and expression, and due process (Articles 19, 20, and 11, respectively). The UDHR further states that “The will of the people shall be the basis of the authority of the government” (Art 21). It also states that “Everyone has duties to the community in which alone the free and full development of his personality is possible,” adding that “... in the exercise of rights and freedoms,

everyone shall be subject only to such limitation as are determined by law solely for the purpose of securing the recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

Building on these principles, CSOs have put forward a set of propositions related to the legal rights and obligations of persons and organizations engaged in voluntary action.⁹

- **Voluntary action as a human right.** It is an expression of a right and a civic responsibility to participate in a community, whether done individually or collectively. CSOs are organizational expressions of voluntary action.
- **Right to association.** Formation of a voluntary association or group requires no permission from any government; nor does the intention or act of exercising such right require public notification. It should not be subject to government review or approval – so long as no grant of special privilege is requested from and granted by the government.
- **Government authority and will of the people.** The authority of government derives from the will of the people (UDHR, Section 21). Discussions about what constitutes the “public good” should be in the realm of public discussion and review.
- **Minimum use of coercive powers of the State.** The best governments are those that maintain public order essential to the exercise of the full range of basic human rights with the least use of coercive powers of the State.
- **Regulatory concerns not specific to CSOs.** The use of government authority to restrict CSOs or other voluntary sector activity should be limited to very specific and clearly identified public concerns related to the infringement of the rights of others. Concerns about “money laundering,” “terrorist activity,” protecting the public from fraudulent fund-raising practices, preventing dangers to public safety and health, and infringements on people’s sovereignty by foreign and economic interests – though valid, are concerns that are not specific to CSOs or voluntary associations. These are covered by other laws of the land – Civil Code, Criminal Code, Tax Code and others. The laws relating to such practices should apply equally to NGOs as to other organizations. Consequently, there should be few, if ever, regulations that are specific to NGOs, including “Special Laws on NGOs.”
- **Distinguishing rights and privileges.** The formation of a voluntary organization is a right, not a privilege granted by government. However, when the entity is given special privileges (e.g., right to raise public funds, collect fees, seek tax

⁹ Based on “Appendix 1: Legal Framework for NGOs and the Voluntary Sector: Recommended Principles” in *Government-NGO Relations in Asia: Prospects and Challenges for People-Centred Development* (1995). Heyzer, N., Riker, J.V. and Quizon, A.B., eds. Appendix 1, pages 209-213. These recommended principles were drawn up by participants of the “APDC-ANGOC Regional Dialogue on Government-NGO Relations in Asia” held in Chiangmai, Thailand on 12 March 1991.

exemption, etc.) which are not inherent rights, there are certain obligations that CSOs should fulfill, such as a board, internal rules, audit, and reporting requirements.

- **Accountability and trusteeship.** The accountability of a legally incorporated CSO (i.e., NGO, non-profit) is held by its board of directors or trustees. Members of the board act in a position of a public trust. If the CSO is a membership organization, then the directors manage the organization and its assets in behalf of members by whom they are elected and to whom they are accountable. If it is not a membership organization, the board is generally “self-perpetuating.”¹⁰ It is fully appropriate for the government (especially in the case of non-profits or tax-exempt organization) to specify that directors or trustees should have no personal financial stake in the organization. Also, government may examine obligations of the trustees in relation to public interest. Examples:
 - *To supporters:* A legal obligation which may be legally enforced to assure that the organization’s purposes are fully and accurately disclosed, that the funding it receives have been used for the purposes for which these were provided, and that all these have been fully disclosed.
 - *To beneficiaries:* An ethical obligation which may have legally enforceable elements, that the CSO presents itself accurately and that its services meet standards of quality.
 - *To the law:* A legal obligation to oversee the CSO’s observance of applicable laws that apply to organizations and individuals. These include laws on fraud and embezzlement, laws on contracts, foreign exchange transactions, zoning regulations, labor laws, and others.
- Given the above, it is important that governmental policies and regulations related to the formation and function of CSOs be re-examined and revised within the framework of universally accepted human rights principles.

There should be a safe and enabling environment for civil society work – supported by a robust national legal framework and grounded in international human rights law. Freedoms of expression, association, peaceful assembly, and the right to participate in public affairs, are rights that enable people to mobilize for positive change. Everyone, individually or in association with others, should enjoy these rights. They are central to civic activity (UNOHCHR, 2014).

There should be no Special Laws on NGOs. Over the past decades, a number of governments in Asia have contemplated on enacting Special Laws on NGOs. Currently, there are at least three such laws. In Cambodia, the Law on Associations and Non-Governmental Organizations (LANGO) was enacted in 2015, and in Sri Lanka, the Voluntary Social Services Organizations Act (VSSO) legislated in 1980 has undergone amendments on several provisions. Rather than being enabling

¹⁰ A self-perpetuating board means that the board manages its membership subject to its own regulations. It can set terms dictating how long a director can serve, and can elect and re-elect directors itself without input from external members of the organization.

legislations, these special laws have only served to curtail the political space for CSOs, and to tighten government control and supervision over CSO operations. Moreover, in Nepal, the Association Registration Act of 1977, promulgated during the authoritarian Panchayat Regime, remains in full force and effect as the primary legal framework for CSOs.

It should be noted that there are other laws already in force in each country that are fully sufficient to regulate the activities of corporations, associations and CSOs. These other laws allow prosecution in cases *where criminal acts have been committed*, including cases of fraud, money laundering, public disturbance, insurgency, and others. These cases are already covered by other existing laws of the land such as the Civil Code, the Criminal Code, the Corporation Code, and others. Thus, *there is no need for Special Laws on NGOs*.

Institute reforms within the CSO sector

Engage in CSO collective self-reflection. The CSO sector in each country should engage in collective assessments of the changing socio-economic and political landscapes in which they now operate. CSOs need to forge new strategies and approaches for CSOs to remain relevant in light of their shrinking space and shifting development roles. These conversations should cut across sectors and among broad alliances and coalitions.

Expand coalition-building with other sectors in civil society. Development NGOs can no longer afford to operate within their confined circles, networks, and silos of work. Social change is not achieved through “projects.” Instead, there must be greater effort at building conversation and engagement with other sectors of business, worker unions, professionals, the academe, and community associations – to build social movements, to protect democracy and to address people’s economic, social, and political rights.

Develop and strengthen systems of self-regulation among CSOs and the voluntary sector in each country. Self-regulation has many motivations – as an educational tool to strengthen CSO quality and effectiveness; as a means to forestall even stricter government regulation; as a device to unify the voluntary sector; and, as a means for umbrella groups to extend their influence (Sidel and Moore, 2019).

It is unlikely for the government to cede regulatory authority to CSO self-regulatory initiatives; these exist alongside government-led regulations. In the Asian region, the sole exception to this is perhaps the Philippine Council for Nonprofit Certification (PCNC).

The PCNC is a registered private voluntary, non-stock, non-profit corporation whose main function has been to certify the qualification of non-stock, non-profit organizations for accreditation as qualified donee institutions. In 1998, a Memorandum of Agreement between the Department of Finance and the PCNC authorized the PCNC to accredit NGOs applying for donee institution status.¹¹

Develop a voluntary Code of Ethics and Conduct for CSOs. There have been various efforts at developing Codes of Conduct among CSOs in the Philippines and Cambodia.¹² One critique of this approach has been the lack of ability for CSOs to enforce these Codes.

In this regard, CSO associations and networks might consider these Codes of Conduct to serve as the basis for setting and adhering to membership certification standards. Membership meetings could be used as venues for peer reporting, questioning and mutual accountability. Standards of professionalism could be set in areas such as board membership, fund raising, public reporting and financial auditing. Strong coalitions of CSOs could help the sector build a stronger public representation.

As organizations that constructively challenge the actions and inactions of State power, authority and functions, ***CSOs should take steps to practice legally and ethically acceptable standards of governance that uphold transparency, accountability, organizational integrity and consensus-based decision-making.***

For instance, CSOs involved in the delivery of community services should explore ways to make themselves more accountable to the people they serve. This might be done, e.g., by inviting people's representatives to sit as CSO Board Members, by melding CSO professional staff services into people's organizations, or by transforming service delivery systems into some kind of fee-for-service arrangements where finances are linked to clientele satisfaction. Moreover, CSOs should practice systems of public accounting, especially in cases where volunteer work and donations are sought from the wider public.

Moreover, there must be robust internal systems of evaluation and audit. The individuals who govern and manage CSOs must exhibit integrity in both their work and private lives; they must strive to personify the ideals for which their organization was created.

¹¹ As this certification is used as a basis by the Bureau of Internal Revenue, this means that contributions or gifts actually made to such accredited donee institutions become tax deductible in computing taxable income. This is in accordance with the Philippine Tax Reform Act of 1997. See <https://www.pcnc.com.ph/about-us/>

¹² In Cambodia, the Cooperation Committee for Cambodia (CCC) introduced the NGO Governance and Professional Practice (NGO GPP) in 2004 as an independent voluntary-based certification system. Also, the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia was developed in 2005. In the Philippines, the Caucus of Development NGOs (CODE-NGO) ratified a Code of Conduct for Development NGOs in 1991.

Improve public visibility and discourse. The legitimacy of CSOs precisely lies in public trust (Harja, 2022). Hence, CSOs should inform the wider public about their work and of the problems they face, as the perils of shrinking space for CSOs needs to be placed in the public discourse. This should involve not just sporadic self-promotion, but rather, reporting on inclusive and regular basis (Islam, 2022).

Related to this, **explore and make better use of social media platforms.** The growing influence of social media provides both an opportunity and a challenge. For while social media will enable CSOs to reach a wider public, CSOs will have to contend for messaging in an arena that is also increasingly inhabited by troll armies, “buzzers” and conveyors of disinformation. CSOs must learn to be more effective in utilizing the internet and social media.

Develop more robust networking and improved mutual assistance among CSOs. In some countries (i.e., Bangladesh), small and medium-sized CSOs are likely to face more difficult internal challenges in terms of securing funding support or gaining public recognition for their work. In this context, the larger and more established CSOs should come forward to provide funding and assistance to smaller CSOs, and to pull their weight to bring greater attention to the work of smaller CSOs. This will not only give smaller CSOs more breathing room in which to operate, it would also help to build a more vibrant voluntary sector.

Engage donors in dialogue, so that they understand and appreciate the regulatory and political environments in which CSOs operate within the country. In this way, donors can become active partners in widening the space for CSOs. Suggested actions for donors include:

- Extending financial and other forms of support for rights-based work and peace initiatives that may be politically sensitive, rather than just focusing on “safe” development interventions;
- Honoring the autonomy of CSOs to identify on-the-ground needs that require CSO interventions, and developing the mandates and priorities of donors accordingly;
- Providing funds directly for community activities rather than for overheads of international organizations;
- Providing longer-term support for CSOs, including costs for administration and personnel;
- Support for capacity-building of CSOs; and,
- Ensuring equal opportunities for small CSOs, by providing CSOs support in those areas where skills and capacities may be lacking.

Develop the next generation of CSO leaders and workers. The existing practice of some CSO founders clinging on to positions of powers or passing them on to family members stunts the development of good institutional culture. Organizations need to evolve, and not rely merely on their founders' vision, skills, and goodwill (Islam, 2022).

The challenge is not just for the next generation of CSO leaders to “continue” the work that was started by the older generation; rather, it is about them re-imagining development work for the future. This requires capacity building programs on development theory, program management, leadership, and strategic planning and the core skills needed by the next generation to build the sector (Pagsanghan, 2022). ■

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