Role of Civil Society Organizations in Legislative and Policy Reforms in Afghanistan

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Civil Society Organizations in Afghanistan

- Civil Society Organizations in Afghanistan are a number of formal and informal, and non-governmental organizations that are formed by private individuals voluntarily to pursue legitimate purposes for a non-profit motive and (formal CSOs) operating within the legal framework enacted by the government;
- Informal CSOs exist in Afghanistan traditionally from the past. These informal CSOs include village councils, local NGOs, interim gatherings such as (Ashars حشر) to settle disputes, and act in best interests of the relevant geographical area;
Formal CSOs include Social Organizations and NGOs that are regulated through Social Organizations’ Law and NGO Law.

Afghan NGO Law defines an NGO as a domestic or foreign non-governmental, non-political and not-for-profit organization.

According to Afghan Social Organizations Law: “Social organizations (communities, associations) are the voluntary union of real persons, organized for ensuring social, cultural, scientific, legal literature, and artistic purposes.”
Afghan government obligations toward CSOs support is based on article 35 which recognizes the right to form Social Organizations and Political Parties.

Article 7 of Constitution: Afghanistan is obliged by international Conventions. Civil and Political Rights Convention recognizes the freedom of association and Afghanistan is a signatory of it.
Number of CSOs

- Number of registered NGOs as of March, 2013 reached to 2198, and number of Social Organizations to 3700 with Ministry of Economy and Ministry of Justice subsequently.
- Rapid growing of NGOs after 2001 and need for an NGO Law in 2005.
NGOs/ CSOs

Misunderstanding on the recognizing of NGOs as CSOs due to following reasons:

- First, they have been known as foreign phenomena due to huge amount of foreign aid since 2001
- Secondly, miss-interpretation of NGOs as private businesses due to fund raising activities of NGOs.
- Finally, poor accountability and transparency within NGO sector
Current legislative process in Afghanistan

The legislative process in Afghanistan has five stages of drafting, scrutinizing, approval, endorsement, and publication into official gazette.
Drafting is responsibility of government related sectorial Ministry or by proposal of 10 members of National Assembly (Parliament)

Legislative Department (Taqnin) of Ministry of Justice is responsible to scrutinize the draft Laws
National Assembly as the legislative body is responsible to approve the bills.

After endorsement by President the law is published through official gazette and is enacted.
CSOs interventions in legislative process

- MoU with Parliament
- Social Organizations Law: As a result of Afghan SOs intervention and advocacy campaign, 33 positive amendments were proposed by SOs, and 27 of them were accepted by Parliament.
  - Out of 27, 20 of them by Wolisi Jirga (lower house), 7 by Meshrano Jirga (upper house), and 2 by Joint commission were accepted.
- The two main positive amendments are: allowing Social Organizations to be involved in any legal activity to obtain their objectives
- For better accountability, SOs will be required to report annually to government
Access to Information Act:

- Media jointly with CSOs came with draft Access to Information Act and submitted to Ministry of Justice for further processing. The draft is still pending within Legislative Department of MoJ. Advocacy is going on to convince government to accept it.
- Once enacted, Afghan citizens will be enabled to access to necessary information on government development programs and ask for better accountability of the government.
- Lead of this initiative is on Integrity Watch Afghanistan (IWA) and NAI.
The Law has recently been passed through lower house (Wolisi Jirga).

Three drafts were prepared by Independent Elections Commission, Parliament, and Ministers’ Council.

Civil Society Organizations provided their comments on all drafts.

The comments were very comprehensive including setting minimum education requirements for presidential and parliamentarian candidates.....

Approximately %80 percent of the recommendations were accepted.
CSOs’ role in policy reform

- Attempts toward making Government accountable and transparent
- Influence on Government budgetary process to highlight needs of people to be included within fiscal budget of the government
Civil Society Natural Resources Monitoring Network (CSNRMN)

- Formed in January 2013 to call upon the Government for more meaningful and constructive engagement between government and Civil Society and local communities

- Member networks are Afghanistan Watch, Integrity Watch Afghanistan, Afghan Civil Society Forum Organization (ACSFo), and 13 more organizations

- Areas of involvement of the group are consultation on the draft mining legislation, To ensure that a percentage of the revenues of mines are allocated for the socio-economic development, calls upon Ministry of Mines to consider revising National Mining Policy and other major activities
As a result of CSOs intervention and international community support, a mixed legal aid service delivery was established by Ministry of Justice in 2008.

In addition to government legal aid provision, more than 10 NGOs are providing legal aid services. Both are monitored by a Legal Aid Board consisting of government and NGOs’ representatives.
Purpose of Tokyo Conference (July, 2012)
Tokyo Mutual Accountability Framework (TMAF)
CSOs’ views on Tokyo Conference:
1. Democratic development
2. Good governance
3. Human Resource in government
4. Private sector
5. Infrastructure development, rural and agricultural development
6. Demands and commitments of Afghan Civil Society
I PACS support

1. In Legislative Process:
   - Support Afghan CSOs in signing of MoU with Parliament on inclusion of CSOs’ views in legislations by Parliament
   - Facilitate and support advocacy campaign on Social Organizations Law
   - Facilitate and support Advocacy Campaign on NGO Law
   - Establish Taskforce on Private Giving to support legal proposal on fiscal incentives for private sector to donate CSOs
2. In policy reform

- Establishment of five thematic Working groups on Health, Education, Women and Youth empowerment, Socioeconomic, and democracy and governance.
- The groups include representatives from both CSOs and government officials to address priorities in each thematic area and propose policy reforms.
- Initiate and organize provincial policy dialogues, and annual National Policy Reform Conferences.
- Arrange peace dialogues between Afghan and PAK youths.
Challenges

1. No single voice by CSOs and weak coordination among CSOs in regard to standing for or opposing any specific policy of government

2. Poor accountability and transparency within NGO sector: Although some initiatives have been taken by NGOs such as commitment to principles of Code of Conduct for NGOs engaged in Afghanistan, but again the issue exists

3. Feeling absolute ownership of the policies and programs by government Ministries and not well receiving of CSOs
4. More attention of CSOs toward fund raising then their intellectual responsibilities
5. Financial Resources: foreign donations’ dependency
6. Human Resource issues: Promotion and leaving of staff
Why CSOs’ role will be important for a better democratic Afghanistan?

- They exist everywhere in Afghanistan and comes from the gross route;
- Service delivery to remote and suburban areas of the country;
- As pressure groups toward government’s commitments
- Advocates for ensuring Human Rights, democratic values and Women Rights in the country
- Filling gaps of State
Thank You.