

Desk Study

***Assessment of the environment for civil society
in six selected countries in Asia***

(Vietnam, Cambodia, Indonesia, Nepal, Thailand and Philippines)

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1. Background and introduction

This was commissioned as part of an assignment to support the establishment of a CSO Authority in Bhutan. It was considered relevant to reflect on civil society experience from a select group of countries in South and South East Asia when drawing up modalities for the implementation of new CS legislation in Bhutan. The present paper has been based on internet based research only and therefore should be considered as a brief assessment of topical issues rather than as an in-depth analysis and assessment of recent trends.

The experience suggests that the evolving role of civil society is embedded in wider changes in the political environment. Despite significant cross-country differences the degree of openness towards and inclusiveness of CSOs in the political process has, at least in principle, improved. Nevertheless, while legislation on CSOs has become more encompassing, the actual involvement of CSOs, especially in matters of governance and institutional change, has had its practical limits.

CSOs' role and function in society

In the Philippines government perceives CSOs as organisations participating in the political processes, both at national and local level, and in Nepal, the role of CSOs is stipulated as 'autonomous and independent'. In Cambodia and Indonesia however, the environment is not as open to CSO involvement, as government officials express scepticism towards CSOs being substitutes for public administration, and the population at large remain doubtful as to the dual role of CSOs, both cooperating with government and representing civil society. In Vietnam, the one-party state declares its commitment to popular participation in decision-making, e.g. through popular associations, though the political process remains tightly controlled by authorities.

In all six countries, the CSOs focal areas vary across different sectors, engaging them in both service delivery-oriented as well as advocacy-related activities. It is, however, an issue, that the weak capacity of CSOs limits their ability to effectively engage in lobbying and advocacy activities, and to influence the political processes. Especially in Indonesia and Thailand, the incentive for CSOs to engage at the political level is impeded by strong signals from the government of its lack of willingness to co-operate with their opponents; in Indonesia by way of assaults and arrests of peaceful political activists, in Thailand by way of a restrictive CSO legislation, practically hindering government critical activities.

In Vietnam, the major CSO umbrella organisation receives a large degree of both financial and institutional support from the government, but to the extent that the organisation operates like a state agency, both making it questionable to what degree it represents Vietnamese civil society, and creating dependence on government funds.

Legislative framework for CSOs

While classification schemes and registration procedures differ across the six country cases, complicated and bureaucratic procedures are a common feature, impeding private and local initiatives to establish new organisations. In Nepal, for example, the need for yearly re-

registration and the obligation to register with two different agencies, further constrains the freedom of citizens to establish or continue an organisation. The Thai government not only defines the rules of establishment of CSOs, but also has the right to dissolve organisations that are managed in a manner perceived to be contrary to public order. Again, the Philippines is an exception, being the only country out of the six where registration is in fact not mandatory, and, at the same time, where a broad variety of registration possibilities are available to CSOs.

Relations with government

Most of the six countries have some form of apex body aiming to co-ordinate CSO activities and CSO and government interactions. These institutions vary from being autonomous bodies between the government and the CSO community (Nepal), over government institutions overseeing and co-ordinating activities of CSO's (as in Cambodia), to CSO groupings being so closely associated with the state, that it becomes difficult to distinguish between the two (as in Vietnam). In Nepal, Vietnam, Philippines and Indonesia, legislation further enables the representation of civil society at both local and national government levels.

Relations among CSOs

In all of the country cases, except Indonesia, CSOs are organised to a smaller or larger extent in country-wide umbrella organisations. While this creates an environment for horizontal co-operation between CSOs in the given country, strengthening the leverage of civil society vis-à-vis the state, it also has the potential down-side of favouring CSOs that are part of the umbrella or network, and de-legitimising CSOs that are not, as is the case in Vietnam. On the other hand, as in Indonesia, the lack of an umbrella organisation impedes the government's opportunities of co-operating with civil society sectors or civil society as a whole.

Internal organisation and representation

Finally, a common feature of most of the countries in this study, is the issue of representation and democratic structures within CSOs. In Cambodia and Indonesia, evaluations of the CSO sector draw a picture of CSOs that are based on principles of participation, and which should be representative of civil society or parts hereof, but are in fact limited in their outreach to the broader population. In the case of internal organisation and governance structures, many CSOs are seen not be governed by democratic principles, and many do not live up to principles of transparency and accountability. A related issue is the financial dependence on foreign donors or INGOs; while absolutely necessary for civil society to build and flourish in these countries, the support from outside sources potentially compromises the legitimacy of national CSOs, as they become equally, if not more, accountable to international donors than the people they were originally intended to represent. To address such challenges, in Indonesia, Cambodia and the Philippines, CSO 'codes of conduct' have been formulated, in order to create awareness of these issues and establish common guidelines, for CSOs to follow in their operations. Additionally, in Indonesia, amendments to existing CSO legislation are to ensure better governance and more accountability of CSOs.

2. Vietnam

2.1 Brief overall country description focused on governance

Vietnam is a country applying the Marxist-Leninist model of society which comprises three parts: party, government and the people. A well-known Vietnamese slogan states: 'the party leads, the people rule/govern, the government manages.' In the official view, Vietnamese citizens are permitted to form their own associations, which are viewed as 'of the people' and are officially termed 'popular associations'. Currently, there are about 500 foreign NGOs operating in Viet Nam, majority of which come from Western Europe, North America, and Australia.

The principle "people know, people discuss, people execute and people supervise" which has been repeatedly mentioned in documents and policies of the Vietnam's Communist Party (CP) reflects the wish of the Government to encourage every social organisation and citizen participating in formulating, implementing and monitoring policies. A large part of the CSOs in Vietnam is formed and run under the guidance of the umbrella organisation Vietnam Fatherland Front (VFF), grouping twenty-nine registered mass organizations and special interest groups, which can be classified in: social organisations, political organisations, socio-professional organisations including unions and associations, professional and business organisations, and other informal organisations. All these organisations have branches/units in all provinces, districts and communes of the country. The government provides 100% of the operating costs of all the socio-political organisations. Leaders of these organisations at central, provincial and district levels receive monthly salary and their benefits as government employees. At commune level, key members of VFF, who often are retired government employees with monthly pension, receive a symbolic allowance.

Under VLF, the largest association is Vietnam Union of Science and Technology Associations (VUSTA), established in 1983 with 15 members. Up to 2009, it comprises 114 Associations of which 64 from the Central and 50 in provincial level. VUSTA comprises also more than 400 units for scientific research, development of technology and training as well as 150 magazines, journals, newsletters, special issues. The largest mass organization is Vietnam Women Union with a membership of twelve million and a staff of three hundred across the country. The Vietnam Union of Friendship Organisations (VUFO) under VFLF bears the principal responsibility for aid mobilisation and for relations with foreign NGOs. The People's Aid Coordinating Committee (PACCOM), is the specialized and functional body of VUFO, established in 1989 to facilitate foreign NGOs' activities in Viet Nam.

2.2 Legislation on civil society issues

a. Judicial framework

There exist a number of legal documents relevant to civil society in Vietnam. The documents recognize the existence of traditional CSOs such as the VFF, the key mass organizations and new forms of CSOs. For the new CSOs, most legal documents concentrate on establishment, merger, separation, and dissolution, as well as the process of registration. The documents also provide the mechanisms for umbrella organizations, their organizations, and citizens to participate in the government's policy formulation and policy implementation process.

The Vietnam Government has issued a Decree (No. 88) on "Regulations on the Organization, Operations and Management of Associations". These regulations have been awaited for some time, as both the 1957 Law on Associations and the 1996 Civil Code have long contemplated that

comprehensive regulations would be forthcoming. The regulations apply to all associations operating in Viet Nam with the exception of religious associations and the key umbrella organisations. The 1996 Civil Code describes and defines two types of not-for-profit legal persons—“socio and socio professional organizations” and “social and charitable funds”. The regulations are designed to more fully articulate the rules applicable to the first type, and not to deal with social and charitable funds. The regulations also deal with all aspects of the corporate life of an association, including its establishment, division, separation, affiliation, merger, and dissolution.

Another Decree (No. 151) on Organization and Operation of Collaborative groups issued in 2007 stipulates the organization and operation of collaborative groups based on cooperation agreements amongst at least 3 people who contribute assets, labour to implement specific work, share benefit and responsibility together, certified by Commune/ward/town People’s Committee.

For VFLF, there is a Law on the Organization and Activities of the Vietnam Fatherland Front, 2002, which details the structure, activities and dialogue mechanisms between the VFLF and the Party, the VFLF and the government, and the VFLF and the National Assembly.

The current Ordinance on Grassroots Democracy approved in 2007 is to ensure public and social stability, protect the interest of the state, organisations and individuals, promote transparency, and to promote respect the *right of people to know, comment, decide, implement and monitor*.

b. Governmental/judicial organisation and institutions engaged with the civil society

The Ministry of Home Affairs is the government institution charged with outlining the legal framework for organisations and permitting associations to be established. The Committee for Foreign NGO Affairs (COMINGO) established in 2001 brings together key government ministries and other bodies to assist the Prime Minister in guiding and addressing issues relating to foreign NGOs in Vietnam.

The VFF is the largest political united front in Vietnam, consisting of political organizations, socio-political organizations, social organizations, and individuals. Both state management agencies and the Party gather information through the VFF to formulate legal documents. Additionally, the VFF participates in the electoral process, proposes the formulation of legal drafting, and participates in supervisory work for the government. It is financially supported by the government. Despite its popular connotations, VFF operates like a state agency. This is a major source of its limitations.

c. Implementation (de facto situation within the legal framework concerning civil society)

There are multiple ways to register an organisation, but all involve long and complicated procedures. Regarding the new association regulations, the process for establishment of associations is considered complex and involves a huge amount of government discretion. In addition, the legal framework concerning civil society provides favour to associations which are merely offshoots of the government or semi-independent organizations to help government accomplished its tasks but not to foster private initiative.

On the other hand, the positive features of the regulations include: i) government’s assistance to associations to access to needed financial resources; ii) the creation of advocacy / lobby environment where associations are allowed to deal with government policy issues in fairly direct ways, by dialoguing with government officials who work in their areas of expertise; and iii) encouragement to generate income from service deliveries and absorb aid, both domestically and internationally.

On balance, the association regulations do not permit much freedom for citizens of Viet Nam to establish and operate their own associations, and this failure is not overcome by the positive features they contain.

The framework overly emphasizes the registration process and leaves undiscussed the possible role of CSOs and its internal governance. Although CSOs in Vietnam are allowed to expand their economic and political space, the size of these economic and political spaces varies from one policy area to another. The space for social welfare involvement and engagement in gender issues are broadened, while the CSOs' participation in institutional change remains narrow. Overall, the existing legal framework is more favorable to the VFF, the mass organizations, and umbrella organizations. Among umbrella organizations, the VCCI and VUSTA are among those receiving more space. Most of the smaller CSOs need to operate through the umbrella organizations, their effectiveness depending on the internal governance structure of each umbrella organizations.

2.3 NGOs

a. International NGOs

Since 1991, a Directory of INGOs has been published as a resource providing information on INGOs working in Vietnam, co-ordinated by the VUFO-NGO Resource Centre in Hanoi with assistance from the People's Aid Coordinating Committee. There are more than 120 INGOs in the listing, classified according to sectors and locations.

INGOs work with line ministries, technical agencies, local authorities, local governments and mass organisations for women, farmers, workers, youth (central to commune level) to deliver various forms of development assistance.

During the late 1980s and early 1990s, most INGOs working in Vietnam focused on humanitarian assistance and relief. The next ten years, INGOs had developed and implemented longer term projects and programs focused on poverty eradication, sustainable development and capacity building. The scope of INGO activities has broadened, and local initiatives have been scaled up, for example in the development of early savings and credit activities into support for larger microfinance programs. INGOs have also increasingly focused on issues such as environment, gender, and advocacy through partnership with government bodies and domestic beneficiaries.

b. National NGOs

VNGOs are usually small organisations. The estimated number of VNGOs differs depending on the source, but it is in the range of 1,300 to 2,000. VNGOs are often considered more innovative than other CSOs in terms of their programmes and methodologies, but are limited in impact and have very limited funding. The development-oriented VNGOs are particularly dependent on foreign donor funding.

The main types of VNGOs include, roughly:

- 1) organisations which deliver social services for the government in health or education, often charity based;
- 2) NGOs carrying out research;
- 3) organisations that carry out social work programmes;
- 4) organisations that try to reach marginalised groups and use new approaches; and
- 5) organisations that work in the manner of consulting companies for the government or donors to help, for instance, implement PRAs, prepare programmes, etc.

Community-based organisations (CBOs) comprised in 2005 an estimated 100,000-200,000 groups. They are formed for purposes related to people's livelihoods or neighbourhood groups, cultural groups, recreational groups. These groups are small; some are self-generated, but others are also created around the activities of donors, INGOs or VNGOs.

c. NGO Umbrella organisations

The Vietnam Union of Friendship Associations is the official agency in charge of 'people-to-people diplomacy'. It controls the PACCOM that regulates and monitors all international non-government organizations (INGOs) working in Vietnam.

VUSTA has developed into one of the most important umbrella organisations for many of the professional associations and VNGOs. Some are registered directly with VUSTA at the central level and others register with one of the provincial VUSTA organisations. Others register under a ministry, and some research NGOs register with a university. As for the CBOs, they can register in accordance with the Civil Code, but it is also possible to register with one of the mass organisations, such as the Red Cross or some of the other organisations under the Fatherland Front, or with an agricultural cooperative.

2.4 Donor support to CSOs

There is a large number of donors operating in Vietnam and supporting a wide range of governance-related programs.

However, official donors in Vietnam do not have an explicit approach or strategy for engaging with civil society organisations. In addition to some small grant schemes which provide the organising framework for engagement with civil society organisations, donors like the United Nations Development Program (UNDP) and the World Bank came to Vietnam with the explicit aim of supporting civil society through partnerships with local counterparts. INGOs also included the promotion of civil society as part of their mission statements in order to attract government funding for their overseas activities. In sum, organizations that were part of the UN system, as well as foreign aid donors and INGOs, quickly engaged at various levels with mass organizations and their affiliates even through these organizations were not true NGOs in the western sense of the term.

3. Cambodia

3.1 Brief overall country description focused on governance

The number of international nongovernment organizations (INGOs) in Cambodia has reached about 300, up from 25 in the early 1980s. The first local NGO were established in 1991. Since then, the number of local NGOs and associations has increased exponentially. An estimated 1,000 organizations are currently registered with the Government of Cambodia, but only about 300 are operational (*in some other source, the figure is even 2,000 registered NGOs*). In addition, more than 60 NGO working groups organized by sectors, issues, or geographic areas have been formed by umbrella organizations such as the Cooperation Committee for Cambodia (CCC) and NGO Forum.

Capacity building of local NGOs requires long-term attention to ensure that they remain viable and less dependent on external assistance. A challenge facing NGOs is helping empower people to voice their own concerns and effectively engage in dialogue with their respective local governments.

Donor assessment of Cambodia CSOs that had emerged since sees civil society as fragile and still structurally weak. Most CSOs were non-profit NGOs with their origin, structure and objectives strongly connected with international funding. The organisations had low levels of voluntary participation and little popular support, an absence of democratic structures, low levels of sustainability and limited outreach, especially in the field of democratic governance. The number of CBOs, unions and professional organisations are growing and these are less dependent on outside support.

While most CSOs continue to advocate such values as democracy, transparency, accountability, participation, non-discrimination and non-violence, only some of these values inform their internal operations. Many CSOs do not have a membership base with influence over the organisation, and to which their leaders are ultimately responsible. Accountability is primarily to their international donors rather than people they are established to serve or advocate in behalf of. A worrying trend is that several international donors are increasingly utilising CSOs to implement specific projects developed by donors themselves, running the risk of undermining more organic organisational development and growth.

3.2 Legislation on civil society issues

a. Judicial framework

The Constitution of 1993 stipulates that Cambodia adopts a policy of liberal democracy and pluralism and that Khmer citizen shall have the rights to establish associations and political parties. The government expressed a liberal attitude towards CSO's as embodied in the Rectangular Strategy.

There is currently no law regulating NGOs. But NGOs are required to register at relevant authorities of government, particularly the Ministry of Interior. Local NGOs register with the Ministry of Interior. INGOs must register with the Ministry of Foreign Affairs, and may also have cooperation agreements with particular line ministries, such as the Ministry of Health. INGOs are required to submit quarterly activity and financial reports to the Council for the Development of Cambodia (CDC). CDC grants permission for duty-free purchase/importation of vehicles and equipment or materials used for NGO supported projects.

There are two pieces of pending legislation that are relevant to partnership with the government and CSOs. One is the Draft Civil Code that has been developed, since 2001 with technical assistance

from Japanese legal academics at various universities in Japan through a JICA grant administered by the International Civil and Commercial Law Centre Foundation. The other is the so-called “NGO Law” which was initiated in 1996, but is now being reconsidered for discussion and adoption.

In 2004, CCC's NGO Good Practice Principles (NGO GPP) Pilot Project, in cooperation with Star Kampuchea, began facilitating the development of the *Code of Ethical Principles and Minimum Standards for NGOs in Cambodia, based on the original Code of Ethics for NGOs and People's Organisations in Cambodia issued in 1995*. The code includes 9 guiding principles and 25 practical minimum standards for good organizational practice.

b. Governmental/judicial organisation and institutions engaged with the civil society

An advisor to the Council of Ministers has served as the Government's chief focal point on NGO matters, liaising with the CCC on matters of interest to NGOs operating in Cambodia. The CDC/Cambodian Rehabilitation and Development Board (CDC/CRDB) is the only national-level government organization coordinating NGO activity across sectors. Cooperation between CSOs was regarded quite limited.

c. Implementation (de facto situation within the legal framework concerning civil society)

The government have consolidated political power rather than expanded the multi-party system, and decision-making in Cambodia's public sector is still characterised as “top-down” or “ruling, not serving, the people”. Senior public officials still maintain deep scepticism about the true motivations of NGOs, suspecting that some seek to substitute themselves for public administration. Within the limited environment, the emergent civil society in Cambodia is gradually influencing the dynamics of decision-making in the public sector.

3.3 NGOs

a. International NGOs

International NGOs began working in Cambodia in 1979, supporting the relief and rehabilitation efforts of Cambodia. INGO activities in Cambodia can be broadly classified into five main categories:

- large-scale service delivery dependent on bilateral and multilateral funding and implemented by large NGOs with experience in reconstruction and infrastructure development;
- service delivery in conjunction with government institutions working through local structures and providing institutional capacity building, especially at the provincial, district, and commune levels;
- community development activities carried out by well-established NGOs with experience in working at the village level to tackle the basic causes of poverty;
- development of local NGOs and community-based organizations, encouraged and directly supported by INGOs, and including direct funding and capacity building through training and mentoring;
- and research and other analytical work and related advocacy activities covering a range of development topics/issues.

b. National NGOs

Cambodia's local NGO sector began in 1991 with the formation of the first human rights groups (Khemera and ADHOC). Local NGO activities in Cambodia similarly can be broadly classified into five main categories:

- democracy and human rights organizations committed to promoting democratic principles and respect for human rights through policy, training, and other advocacy work as well as good governance and anticorruption measures;
- development organizations involved in education, health, credit, income-generating, and other rural and urban development activities to improve the lives of the poor;
- support organizations focusing on human resource and organizational development training activities, as well as facilitating networking and related advocacy activities;
- community-based organizations and associations that take an active role in participating and directly managing their own development processes; and
- research and other analytical work and related advocacy activities covering various development issues.

c. NGO Umbrella organisations

NGOs participation is active in various donor-government working groups. NGOs have close relations with Ministries in various sectors, which provide an opportunity for direct input into sectoral policy dialogue. The NGO's Commune Council Support Project has an NGO Liaison Office located within the Ministry of Interior.

Cooperation Committee for Cambodia (CCC)

The Cooperation Committee for Cambodia (CCC) started in 1991. CCC is a membership organization of NGOs of over 100 member NGOs committed to facilitating information exchange among members of the development community in Cambodia. CCC's members include both Cambodian and International NGOs that operate across all sectors of development.

CCC produces a wide range of information on, about, and for NGOs in Cambodia. Distributed to member organizations, government departments, and other organizations in Cambodia, these publications include a directory of Cambodian NGOs, an agency personnel listing, and security briefing reports. CCC maintains a resource centre with an extensive collection of documents. The centre is one of the few libraries available to NGOs, students, researchers, government staff, and the general public.

CCC provides advice on government accreditation, registration, and protocol, NGO personnel policies, salary and benefits, and NGO operations in Cambodia. For several years, CCC has played a coordinating role on NGO input to the Cambodia CG meetings and other forums of funding agencies. CCC has taken a lead in compiling information and recommendations on various development issues of interest to NGOs, preparing NGO statements, and selecting NGO representatives to meet with development partners. CCC holds monthly meetings.

NGO Forum on Cambodia

The NGO Forum on Cambodia consists of more than 60 organizations, including local and international NGOs with experience in humanitarian and development assistance to Cambodia. The Forum exists to advocate issues of concern to Cambodians; and to enhance economic and social justice, respect for human rights and democracy, peace and nonviolence, sustainable use of resources, respect for cultural diversity, and development with equity. The Forum has an important role in highlighting the impact of development processes and economic, social, and political changes on Cambodians. The NGO Forum has close ties with NGOs in Australia, Europe, Japan, and North America, which assist and support its advocacy agenda.

3.4 Donor support to CSOs

Interaction between donors and civil society interaction has been characterised by dependency of CSOs on foreign sources of funding. Therefore, donors have a lot of say in the design and implementation of projects.

4. Indonesia

4.1 *Brief overall country description focused on governance*

Indonesia is a middle-income country, but poverty still remains an important issue, and of its 223 million people an estimated 6,7% live below the poverty line of USD 1 per day and 45% below USD 2 per day. Until 1998, Indonesia was governed by a military government. Since then, the country has had three different presidents until the current president Susilo Bambang Yudhoyono was elected at Indonesia's first direct presidential election in 2004. Indonesia is secular, though smaller parties and groupings have tried to implement sharia law. This has been done partly at a local level, but has been rejected at central government level. In 2008, Indonesia suffered from political turmoil, as some groups did not acknowledge the result of some regional and local elections. Furthermore, religious conflicts have increased in both numbers and intensity. The government has not proved itself capable of solving these conflicts, probably since they in some cases have restricted the room for manoeuvre for some organisations

The democratisation process of Indonesia is often categorised as one step forward, two steps back. Though the space for basic freedoms in Indonesia dramatically improved when General Suharto resigned in 1998 and thus transformed the country from an authoritarian state to a democracy, there is currently a loss of momentum and needed reforms are either at a standstill or even backtracking. The country faces problems in relation to lack of capacity, terrorism and a paternalistic culture. Indonesian civil society is generally apathetic towards the political system, as politicians are perceived to never having delivered their promises, and the spread of democratic values in society, which was expected from NGOs, intellectuals and student movements, is still waiting to occur, one reason being that civil society actors suffer from weak capacity and management skills, and a lack of networking abilities and general ideas. Indonesia has also seen repeated incidents of abuse, police torture and violation of several human rights, especially freedom of religion and expression. The UN Human Rights Council investigated Indonesia in 2008 and expressed their concerns about continuing impunity, torture, arrests, detention of peaceful political activists and human rights violations. These circumstances point to a poorly organised civil society, subject to constraints from the political system, as well as its own internal weaknesses.

4.2 *Legislation on civil society issues*

Indonesia's constitution dates back to 1945 as a temporary measure immediately following the country's independence. However, a new constitution has never been developed which many see as an obstacle to the consolidation of democracy. The existing constitution has been amended several times since the transition to democracy, especially in terms of reducing the power of the President.

Others, however, argue that Indonesian civil society is flourishing and that there is a momentum for negotiating the balance of power between the state and its citizens and that the NGOs play an important role in this process, enforced by the continued freedom of assembly and press.

a. Legal framework

Non-profit organisations are legally divided into two kinds of entities; foundations ('yayasan') and associations ('perkumpulan'). Foundations were already acknowledged under Dutch colonial rule in 1870, but the law surrounding these foundations has been abused for purposes different

from religious, social, educational or humanitarian which is the normal objectives of such organisations. For example, military businesses have hid behind the legal status of a foundation. This is why the law was ratified in 2001, adding the category of ‘associations’, differing from foundations as they are established by a number of people to serve the interests of their members. The legal entity of an Indonesian association is obtained through the Ministry of Justice and published in the State Gazette. The promulgation of *Law 16/2001* has, amongst others, made organisations reconsider their legal status and especially whether they should change to become an association, which is perceived as more accountable and democratic governed than the foundations:

The new law is an important breakthrough for good governance of the non-profit sector as it has restored the *yayasans*’ functions as pursuing religious, social and humanitarian goals.

The *yayasans* are obliged to issue an annual programme and financial reports. When receiving more than USD 55,000 in funding, they publish their financial reports in an Indonesian language newspaper and must be audited by a public accountant.

b. Governmental/judicial organisations and institutions engaged with the civil society

Cooperation between government and CSOs in Indonesia is unstable, however, some institutional mechanisms are in place. Under the Ministry of National Planning and Development, the Department of People Participation has been set up, with a mandate to seek ways to motivate people, including NGOs, to participate in Indonesia’s development processes. One NGO has also been closely involved with the same Ministry in the planning and implementation of the strategic Poverty Alleviation Program. The Ministry of Forestry, among others, seeks inputs from NGOs before issuing and implementing new policies in the forestry sector, and on the regional level, informal dialogue forums between regional governments and NGOs have been established with the purpose of exchanging views and evaluating development processes.

c. Implementation (de facto situation within the legal framework concerning civil society)

Though the importance of a vibrant civil society has been recognised by the Indonesian Government, it still has difficulties in establishing strong partnerships with the NGOs. One reason for this is the rapid growth in numbers of active NGOs, but also the lack of an umbrella organisation, which makes it difficult to gather inputs from the CS sector.

4.3 NGOs

a. International NGOs

A forum for cooperation between Indonesian NGOs and foreign NGOs has existed since the late 1980’s, currently under the name INFID (International NGO Forum on Indonesian Development). Since 1992, when INFID was established, cooperation has especially been with Japanese NGOs, mainly on issues of human rights, and with the aim of collecting information on foreign donor support.

International NGOs in Indonesia refer to certain ministries, and thus depend on government support to carry out their activities. However, the Indonesian government has been sceptical towards the cooperation between Indonesian and foreign NGOs, especially after it became possible to establish *yayasans*, as some foreign NGOs have had plans to establish their own *yayasan*, allowing them to avoid government oversight of their activities (ADB, 1999).

b. National NGOs

Indonesian NGOs rely heavily on foreign aid and many has reduced activities or closed when donor funding has not materialised. The majority of NGOs has a long way in proving their efficiency towards their constituents, donors and the government, which is not eased by the heavy competition of the rapid growing number of NGOs. In this case quality suffers under quantity as the number of NGOs increase *too much, too fast*. Unfortunately many NGOs established since the democratic transformation has been involved in malpractice and the media has written about the 'billion rupiah business of NGOs'.

As such there is doubt among the public what the role of a NGO really is and what functions it should perform. For example the dual role of cooperating with the government on poverty issues and service delivery and at the same time acting as watchdog should be more explicit. There is a need for information to the public and for a code of conduct for Indonesian NGOs.

c. NGO Umbrella organisations

There is currently no NGO umbrella organisation, but lately the NGO community has taken important steps to address the issue of NGO governance.

A *NGO Code of Governance* has been formulated on matters related to accountability and transparency, independence, gender equality, and financial management, including accountability to external parties. It is especially important to improve NGOs' accountability and transparency as non-profit organisations, including: a) an NGO is not established for the purpose of profit making for its founders; b) an NGO is not established in the interests of its founders but is intended to serve the people and humanity; c) all information related to its mission, membership, activities and financing are basically of public nature and is therefore available to the public; d) an NGO utilizes bookkeeping and financial systems that are in accordance with acceptable accounting standards.

A *NGO Certification Programme* has been launched by an NGO active in education, training and management consultancy. The NGO has the vision of establishing democratic, responsible, transparent, sustainable, trustworthy NGOs supported by the society and the mission of helping NGOs to be more ethical and responsible, to achieve good performance levels, gain better access to resources and be widely accepted by the society. Its activities include the establishment of solid instruments, procedures and certification standards; a public campaign for NGO certification; the establishment of an NGO Certification Agency; advocacy campaigns for tax law reform and laws for the non-profit sector; and a program designed for NGO capacity building and implementation of various types of necessary technical assistance.

Another NGO has used the CIVICUS *Civil Society Index* exercises to assess the role of CSOs. More than 400 CSOs participated in a discussion facilitated by the NGO, which concentrated on the five issues of:

- 1) the political, social-economic context as the external environment in which civil society operates;
- 2) the scope of CSOs, including the breadth and depth of citizen participation within civil society, its interrelations and resources;
- 3) values, norms and behaviours being promoted by CSOs;
- 4) the relations of CSOs with the state and the market; and

- 5) CSO contributions to the solutions of social, political and economic issues confronted by the nation.

A coalition of NGOs established the Consortium for the Development of Civil Society (KPMM) to avoid the establishment of organisations who misused the new legal framework and window of opportunities for NGOs. Focusing on establishing standard ethics and operations the consortium wish to improve accountability. However, some NGOs have left the consortium as they found it to strict and only a few new ones have joined.

4.4 Donor support to CSOs

Whereas donors favoured the NGOs during the authoritarian regime, there is more criticism towards them today. In general, foreign donors point towards four areas of improvement in the Indonesian NGO sector. Firstly, the internal governance of NGOs needs to be improved, in terms of internal decision-making processes and accountability mechanisms, and secondly, NGOs should rather be accountable to the government or the public, than international donors. As mentioned above, the lack of an umbrella organisation is also a point of criticism from foreign donors, as this would enhance the relations between NGOs, and improve their networking and alliance-building abilities, which is crucial when it comes to engaging in advocacy activities. Finally, Indonesian NGOs could improve their management skills, in terms of strategic planning, programme development, and financial and human resource management.

5. Nepal

5.1 Brief overall country description focused on governance.

In 1990 the Panchayat monarchic regime was overthrown and replaced by a parliamentary democracy and constitutional monarchy operating as a bicameral legislature functioning until 2002 when a state of emergency was declared lasting until 2005. Nepal has suffered from a decade of armed and violent conflict between the government and the Communist Party of Nepal (CPN-M). In 2006 the two conflicting parts signed a peace agreement. This was especially due to the initiatives and persistence of the civil society who brought the seven largest political parties including the Maoist together. In April 2008 the CPN-M won more than a third of the assembly's seat and formed a coalition government. The former king was deposed and Nepal was declared a democratic federal republic.

After years of political turmoil the country now have a fair chance of establishing peace and democracy and a broad range of donors is supporting the Nepali Government in its efforts of doing so.

Compared to other South Asian countries, Nepalese NGOs have a relatively short history. Until the fall of the Panchaya regime in 1990 all society activities was controlled by the government and it was illegal to engage in development activities without the permission of the government. Even the activities of the INGOs were controlled by the Queen who was the Chair of the Social Welfare National Coordination Council (SWNCC), which handled funding agencies. From 1960 to 1987 the number of NGOs increased vaguely from 10 to 37.

A bit more than twenty years ago there was only 37 active Nepali NGOs and though the number has increased massively to about 60,000 this country has undergone the interesting and important process of *getting aware* of the importance of a civil society. In the Nepali case and quite a lot of parallels can be drawn to the case of Bhutan, the crucial thing is not how civil society can solve poverty issues, but how civil society or the poor interact with the state and participate in state-building. How do poor people understand citizenship, how do they experience and practise it, what barriers do they face and how do they think these could be overcome?

The most recent poverty survey the Nepal Living Standard Survey conducted in 2003/04 shows that out of the 28 million Nepalese an estimated 24% live below the dollar-per-day poverty line and 69% live below the two-dollars-per-day line.

5.2 Legislation on civil society issues

a. Judicial framework

When 'democracy' was established in 1990 two key issues changed in relation to NGOs:

1. The SWBCC was reorganised into the Social Welfare Council (SWC), which became a government agency under the Ministry for the Social Sector, composed of representatives from government agencies.
2. Funds could now flow directly to the NGOs, instead of through the Government treasury. This has, amongst others, increased the number of NGOs to about 60,000.

Regulations remained strict. First an NGO had to obtain official approval from the local government and register at the District Administration Office (DAO). The registration was to be renewed on a yearly basis. If the NGO received direct funds it also had to register at the SWC and renew this registration every year also by submitting accounts audited by an approved auditor.

In relation to INGOs the regulations became stricter, than under the Panchayat regime. Visas for INGO representatives was no longer free, and some representatives was only provided with tourist visas why they where forced to leave the country every 150 days. Furthermore, the representatives were restricted to keep within certain areas.

The new government of 2008 has agreed on the following so-called minimum programme and as such the legal framework is currently under development, also in relation to the civil society.

On the previous legislature three major acts governed both domestic and international NGOs, with additional legislation governing activities at the local administrative level:

The Societies Registration Act (SRA) (1977)

This act defines an NGO as an institution with the following attributes: A legal established entity; Organised sector; Corporate in structure; Nonprofits in nature; Social-service oriented; Voluntary based; Autonomous and independent; Democratic structure (with open membership); and Community-based organization (CBO).

Registration of Associations Act—Sangh Samstha Ain (amended in 1991)

Any seven or more citizens may apply to register an NGO, specifying the name of the institution, its objectives, names and addresses of the management committee members, sources of funding, and office address at all 75 chief district offices. NGOs are required to present audited accounts each year for registration renewal. Registration with the SWC is not mandatory for NGOs, but allows tax deductions and facilitates access to local and international funding. INGOs must obtain permission from the SWC to work in Nepal. Most NGOs are registered under this act, although many are registered under the Company Act as not-for-profit organizations.

Social Welfare Act (1992)

This act restructured the SWNCC into the SWC, and assigned the SWC the following functions:

- Promote, facilitate, coordinate, monitor, supervise, and evaluate NGO activities;
- Create the possibility of assistance for establishing, promoting, extending, and strengthening NGO activities;
- Function as the coordinating body between the Government of Nepal and NGOs;
- Advise and provide recommendations to the Government in formulating plans, policies, and programs related to social welfare and the service sector;
- Establish trust funds for social welfare activities and encourage others to do the same;
- Conduct training and undertake studies and research on social welfare issues;
- Carry out physical supervision of the property of NGOs in Nepal; and
- Use national and international NGO assistance effectively.

Under the act, the member secretary of the SWC indicates the appropriate ministry for the registration of any new NGO. As the SWC initially was established as an umbrella organization for

NGOs involved in welfare activities, some NGOs have suggested dealing directly with the appropriate line ministry rather than registering through the SWC. The Government introduced a Social Welfare (first amendment) Ordinance in July 2005. The Ordinance gives the Ministry of Women, Children, and Social Welfare authority to issue directives on NGO activities.

Local Administrative Legislation

The District Development Committee (DDC), Village Development Committee (VDC) and Municipality Acts (1991), and the Local Self-Government Act (1999) outline the Government's plan to devolve authority to local bodies and allow them to mobilize NGO resources more effectively. DDCs and VDCs coordinate NGO and INGO activities in their respective areas to provide grants to NGOs and to enter into agreements with them for conducting programs and projects. DDCs also list NGO activities in their periodic plans. VDCs are authorized to demand the plans and programs of NGOs operating in their areas. NGOs need to obtain clearance for their projects from VDCs and, through them, from DDCs. The eighth government plan emphasizes local coordination of NGO activities and states that the Government will not regain control of or interfere in the programs conducted by NGOs.

c. Implementation (de facto situation within the legal framework concerning civil society)

The relationship between the previous Nepalese Government/Kingdom and the NGOs was distinguished by distrust and lacks in the understanding of each other's roles, a situation worsened by the competition for development funds. The suppressive character of the previous regime however caused a clear tendency of donors supporting the NGOs directly. NGO operations thus increased simultaneously with a decrease in government development activities. The legal framework concerning civil society organisations was tightened, as the King feared these organisations were supporting the communist resistance movement. He was right; out of the 2,000 politically active NGOs, 1,800 were aligned with the Communist Party and the rest are aligned with the Nepali Congress.

Nepal is recovering from a decade of armed conflict, meaning that government services has been very limited and restricted to urban areas. The new government has heralded significant changes and public expectations are high. The Government has brought renewed commitment to democracy, but to a country where principles of participation, accountability and transparency remain weak and where the emphasis on citizen rights has not been balanced by a sense of citizen responsibility.

What is interesting is that the Nepalese when asked about which individuals and agencies that represent the state for them, the most common response was the local VDC chair, followed by ward chairpersons and the District Development Committee (DDC) chair. Though not necessarily satisfied with these, the population is supportive and has high expectations to local governance. Central government did not enjoy this popular imaging.

When asked, the poor of course would appreciate material benefits, but what is interesting is how they also value exactly the abovementioned interaction with the state. This might be difficult to tackle through national prescriptions, but nonetheless crucial if citizens are to execute their citizenship, as needed a modern democracy. When asked how the interaction could be improved the poor identified the following areas of respect; improved communication and access to information; supportive brokers; and representation in public office.

5.3 NGOs

a. National NGOs

The Nepali NGOs are engaged in a broad range of activities and it is common that individual NGOs are involved in multiple activities, not limited to a single sector. This opens up the possibilities for funding and furthermore many NGOs have included income generation or savings and credit components in their programs to promote community participation.

While the importance of the role of NGOs as key partner in reducing poverty was recognised in the current Nepali 5-year plans, the majority of the NGOs suffer from weak capacity and dependence on funding agencies. There is definitely the will to act, but no capabilities realise it. Domestic NGOs needs to upgrade their professionalism, especially those working with technical issues. As the situation is now, INGOs and donors prefer to support other INGOs in these areas. The more successful NGOs are the ones with dependable local resource bases, active in income generation, microcredit and savings and credit programs. Advocacy NGOs are more prominent and better organised than service delivery NGOs.

The total number of NGOs is a roughly 60,000 registered and unregistered. 2,200 are members of the umbrella organisation NGO Federation of Nepal (NFN).

The Nepali NGOs can be classified as follows: National NGOs, District- and village-based NGOs and Local self-help groups/CBOs

There is no comprehensive NGO Directory available. However the SCW list registered INGOs and NGOs at their website.

In general it can be said, that many NGOs was engaged in criticising if not overthrowing the previous regime, why the political active NGOs now face a period of reformulation. However, as it is the case with many revolutionary changes, it is not given that the new government will be more attentive to the civil society that the previous.

b. International NGOs

Before the new government came into office, INGOs was primarily engaged in offering technical support, funding, support services and gender issues. In regards to sectors the INGOs were mostly active within health services, community development and child welfare. In 2005 107 INGOs were registered with the SWC and some 50 of these were members of the Association of INGOs in Nepal (AIN). Today the member list of AIN contains about 87 organisations including Save the Children, Oxfam, , International Alert, DanChurchAid, Care and Action Aid.

INGOs are contributing significantly to Nepalese development through both needs and rights based approaches. The AIN members have agreed to join efforts on the following areas of; human rights and social justice; social inclusion; reconciliation; civil society governance; INGOs' image building; and legal framework.

c. NGO Umbrella organisations

The NGO Federation of Nepal (NFN) has 2,200 members and has regional committees in the country's five development regions and 63 districts. It works as a national forum, lobbies, performs a watchdog role, monitors NGO activities, organise capacity-building activities and strengthens the autonomy of the NGOs. As mentioned above there is the Association of INGOs in Nepal (AIN) and the Nepal Participatory Action Network (NEPAN).

6. Thailand

6.1 *Brief overall country description focused on governance*

Though one of the higher developed countries Thailand has suffered from dramatic political turmoil the last couple of years. In 2006, prime minister Thaksin Shinawatra, was overthrown in a military coup after months of civil protests and accusations about corruption and abuse of power. A transition government was inserted, who formulated a new constitution laying the ground for the 2007 election.

During the past decade Thailand has made significant advances in democratisation, most notably through the Constitution of 1997, the charter of which set out to re-engineer the political system in order to reduce the power of the bureaucracy, make politicians more responsive to the popular will, and to undercut old monopolies in business and government (Pathmanand, 2001). However, this was succeeded by a new and less democratic constitution in 2007 written by a junta-appointed group of drafters. While it was approved by a public referendum, it was made illegal to publicly criticize it. Controversial features in the 2007 constitution include a partly-appointed Senate and amnesty for the leaders of the 2006 coup.

As compared to other countries in the region, human rights are respected to a relatively large degree in Thailand, however, basic human rights such as the freedom of expression and the freedom of the press have been harassed and violated by both the government and anti-government groups.

Civil society has historically played an important role in Thailand in terms of providing social support to disadvantaged groups, and this role has within the past three centuries changed into a role of criticising and contesting government policies. Especially during the 1990s, civil society in Thailand gained in strength and was able to challenge the old socio-political order, and CSOs contributed to a large extent to the democracy movement that in 1992 led to the end of military rule and a return to democracy. Though Thailand, as the majority of this region's governments traditionally has exerted strong legal control over the NGOs, Thailand has in recent years sought to create a more supportive environment for CSOs, and it is the general view that Thai civil society has grown in strength during the 1990's onwards.

6.2 *Legislation on civil society issues*

a. Judicial framework

The role of civil society was explicitly recognised in the 1997 Constitution, in terms of critically ensuring government accountability, and assigning it a formal role in shaping national policy. While this role has been maintained in the 2007 Constitution, criticism has been raised, for instance, that the role of civil society in appointing members to national commissions, such as the National Human Rights Commission and the Commission on Corruption, is no longer secured in the new constitution.

In Thailand, NGOs only come under the legal control of the state once they register as legal persons. If this is not the case, the state has no means to control NGOs as long as they operate as informal groups and do not contravene domestic laws. There are two ways to register as an NGO in Thailand; either as an association or a foundation, both regulated under the Civil Code. An association is a collective of individuals, with corporate status, that does not pursue profit as

its goal. A foundation is a corporation which possesses assets beyond a statutory threshold, has the pursuit of the public good as its purpose, and does not have the intent of dividing profits among its members. In 1979 it was decided that foundations should state in their articles of association that they would not conduct any political activities, and even as this has formally been removed with the 1992 amendment to the Civil Code, a manual issued in 1997 still retains this clause.

The Office of the National Culture Commission (ONCC) is in charge of screening and approving the corporate status of NGOs, while the registration as such is handled by different government agencies, depending on the geographical location of the group and the category the group falls into. The National Police Office Bureau has responsibility for the establishment and oversight of associations, and the Ministry of Interior is responsible for foundations.

The ONCC and the registration office hold the power and duty to monitor the activities of associations and foundations. The registered groups are required to send in annual activity reports to be checked by ONCC, but in practice, only about one third do this, and even with this amount of reports, the monitoring exercise seems impossible, as only three officials are assigned with this task.

b. Governmental/judicial organisation and institutions engaged with the civil society

Co-ordination and interaction between NGOs and government is established through a number of councils and committees. The National Council of Social Welfare was set up in 1960 to co-ordinate development efforts of NGOs and the government sector, and the National Council of Buddhist Youth Association and the Office of the National Committee on the Promotion and Co-ordination of Youth Affairs facilitate the dialogue between the government and NGOs in youth development efforts. The Department of Public Welfare (DOPW) plays a central role in the cooperation between state and civil society in areas of social policies. Dating back to 1940, the department, in its dealing with servicing children, youths and disabled persons, is today amongst others in charge of supporting private charity groups, and helps to publish NGO directories. In 1999, 57 per cent of the government's NGO support was given to organisations falling under the auspices of the DOPW.

c. Implementation (de facto situation within the legal framework concerning civil society)

The rather cumbersome approval and registration procedure described above is likely to work as a negative incentive for the establishment of new civil society organisations in Thailand. What is more, the fact that the approval of a foundation or association largely relies on the discretion of the officers in charge, is at least in principle a hindrance for organisations that do not have, for instance, well-known and distinguished members of their board. However, this has not seemed to be a problem in practice, but it is evident that this set-up maintains a control system where the state can intervene at its discretion in activities by social groups.

The major problem for CSOs in Thailand is this dual role of one agency to both acknowledge and approve the CSOs mission statements and at the same time oversee their activities. As such, the government controls which CSOs are permitted to exist, and the existing regulation hinders both NGO activities against or critical to the government and reduces the independence of NGOs.

The government and the NGOs are currently cooperating on developing a more appropriate legal framework, however the government retains its right to dissolve CSOs for being managed in a manner contrary to public order, good morals, or the security of the state.

Historically, Thai NGOs have emerged in parallel to the government, as a response to the limited scope of social services, and as an attempt to help the large part of the population that were left

economically and socially disadvantaged, in spite of the economic growth in the country from the 1970's onwards. Although NGOs have not always been welcomed by changing governments, these parallel development endeavours have not been repressed. However, the change in NGO self-perception from the 1980's onwards has led to more direct clashes between NGOs and government, as NGOs have explicitly opposed and tried to change government policies from the outside. The lack of participation in formal decision-making procedures, can nevertheless not be ascribed only to a lack of cooperation willingness from the side of the government, but should rather be seen as a characteristic of Thai civil society organisations, not perceiving themselves as actors in a political system, which possibly reflects that the existing political system lacks the basic mechanisms to respond to people's needs and demands.

6.3 NGOs

a. International NGOs

Over the past 1-2 decades the number of international NGOs operating with local branch offices in Thailand have declined – partly because of the country's middle-income status and the dropping inflow of ODA. Some INGOs are now raising funds locally rather than relying on overseas donations. INGOs can apply to become foundations or associations, with a Thai citizen or organisation as their representative, however, a majority of the INGOs operating in the country are not registered, and organise seminars or training courses in the name of a Thai counterpart agency as this process of registration is relatively simple.

Registered INGOs receive permission for a period of two years to undertake their activities, with no requirement to be linked to a Thai organisation, and refer to the NGO Co-ordinating Committee, which specifies procedures for the activities of the organisations. The Committee can further request a revision of this agreement, and has the power to cancel activities or terminate the entire programme, if the committee's recommendations for revision are not followed. INGOs are further to submit an evaluation report detailing the progress of any given project or programme every six-months.

b. National NGOs

This type of development NGOs emerged in Thailand in the 1960's, both addressing the needs of the socially vulnerable and disadvantaged, and criticising the development policies of the state. The latter role especially took its form during the 1980's, when NGOs, as mentioned, realised that it was insufficient to support civil society in parallel with the government's policies, and that changes in the government's redistributive policies were necessary .

In Thailand, the number of registered associations and foundations has been increasing constantly since the early 1940s. In 1989 there were over 8.000 non-profit organisations and approximately 3.000 foundations were registered with the ONCC. Today, more than 14.000 NGOs operate in Thailand.

c. NGO Umbrella organisations

NGO networking in Thailand is seen to be rather loose and ad hoc, as NGOs work together on specific issues and cases, but split up once these issues have been dealt with, and go back to working individually within their specific areas. Some of the NGOs with stronger ties have, however, formed groups, such as the NGO Coordinating Committee on Development (NGO-COD - previously NGO-Cord), the Thai Volunteer Service Foundation, the Local Development Institute (LDI), the Local Development Foundation (LDF) and various informal networks.

Despite a large number of umbrella organisations and networking in special sectors, most of the grassroots level NGOs are working in isolation. Their limited financial and human resources, and their local-based interests prevents them participating in a collective development and are also left behind in NGO-Government co-operation.

The NGO-COD, formed in 1985, is the largest NGO coalition in Thailand, however, is not regarded as a nation-wide representative of the NGO sector. It has actively participated in the formulation of government policies, amongst others the sixth and seventh National Development Plans (1986-90 and 1991-95), and has served as a member of several working groups and sub-committees on various development issues.

6.4 Donor support to CSOs

Funding is a problematic issue for most Thai NGOs, and this has particularly been the case from the 1990's onwards as ODA inflows have declined. After the Student Revolution in 1973, the NGO movement took off with strong support from foreign donors, but this availability of foreign funds back then may have kept Thai NGOs from exploring possibilities of domestic funding. When Thailand was declared by foreign donors to be 'well on its way' in economic terms, foreign donors to a large degree withdrew their support to Thai NGOs, and consequently, some NGOs began to mobilise domestic funds, with mixed results, others tried to develop sources of earned income, while others downsized or withdrew.

The financial sources of Thai NGOs are not well researched, but it is a fact that national CSOs are supported both financially and knowledge-wise by INGOs, and rely to a large extent on external funding, to the degree that the previous Thai prime minister in fact tried to discourage donors from funding civil society. The 1997 NGO directory indicated that the largest group of NGOs, in terms of financing, was those relying on foreign funding. However, quite a few receive contributions from domestic sources. Today, it is no longer rare to find groups receiving funds from the government or relying on membership dues.

7. Philippines

7.1 Brief overall country description focused on governance

The Philippines is a middle-income country with a population of about 90 million out of which 43% lives on less than USD 1 per day. Having been under both Spanish and American colonial rule, the Philippine civil society has been affected heavily by first the Roman Catholic Church, which established the first welfare organisations in the Philippines such as orphanages, schools, hospital etc. During American rule, the boundaries between the provisions of public goods, religious philanthropy and private non-profit organisations was delineated and the government was generally supportive of civil society. The law of 1906 recognises NGOs, and during this period, INGOs such as the American Red Cross set up branches in the colony.

In 1965, when Ferdinand Marcos was elected president, the CSO enabling environment began to suffer. This administration was associated with suppression of human rights, why such related organisations fled underground, joined armed struggles against the administration or affiliated with either universities or religious institutions. Nevertheless, when the dictatorship came to an end in 1986, the NGOs were in a strong position as they had built up strong relationships with the poor. The post-Marco governments partnered up with the NGOs within both service delivery and public policy and several laws favourable to the civil society and its development were passed. Government line agencies opened NGO-liaison offices and the NGOs were permitted to negotiate bilaterally. The number of NGOs mushroomed, paving the way for expansion of civil society efforts, but unfortunately also for NGOs with more questionable intentions. This provoked the establishment of the Caucus of Development NGO networks (CODE-NGO). Established in 1991 by the 10 largest NGO networks the CODE-NGO aims to promote professionalism amongst and within NGOs. Gloria Macapagal-Arroyo was elected president in 2001 and again in 2004. She has improved the NGO-government relations after the presidency of rather unpopular Joseph Estrada. Macapagal-Arroyo declared state of emergency in February 2006 due to suspicion of a coupe. The Supreme Court later overruled this and the President's popularity has thus been on a decline. Furthermore the military is, according to the UN Special Rapporteur on Extrajudicial Killings, responsible for a significant number of deaths. This has also been concluded by an independent mission lead by a former Supreme Court Justice and Macapagal-Arroyo has condemned the killings.

The Philippines was ranked second within the ASEAN member countries in the recent Worldwide Governance Indicator dataset submitted by the World Bank in regards to 'voice' and 'accountability'. The percentile of 41,3 for 2008, however, is significantly lower than the 60,6 rating it received just 10 years ago. Furthermore, the country was rated as the second most politically unstable one among the member states. Only exceeded by Myanmar and thus even worse than Thailand which experienced tremendous political instability during the previous and the current year and Laos. Among the ASEAN-5 countries, the Philippines and Indonesia compete for the position as the poorest performer, but whereas Indonesia has progressed, the Philippines have regressed in four out of the six categories of the governance indicators.

7.2 Legislation and organisation on civil society issues

Philippine civil society organisations can be categorised into NGOs and People Organisations (POs), or what is generally referred to as CBOs. NGOs are intermediaries between the state and the POs, being grassroots, working voluntarily. The NGOs work to strengthen the POs by providing financing, establishing linkages and undertaking advocacy, and are generally assessed as efficient in relation to networking, coalition building and overall in their joint efforts to reach their objectives.

Philippine civil society is categorised as unique due to three factors. Firstly, because political activism plays a larger role for Philippine organisations than elsewhere, and secondly because of the clear distinction between welfare activities emanating from the NGO sector and the religious or state-initiated sector, stemming from the fact that Filipino civil society has had a secular foundation since the country was under American rule. Finally, for more than past two decades NGOs have benefited from administrations generally supportive of civil society, which has resulted in one of the most well-developed and institutionalised civil society sectors in the developing world.

a. Legislative framework

Three articles of the 1987 Constitution institutionalise the role of NGOs and POs in Philippine development. In its Article II, Section 23 it is made clear that “The state shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation”, and Article XIII further describes the role of CSOs in formulating that the state shall respect their independent role, “to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means”. Article XIII, Section 16 emphasises the right of people and organisations to participate “at all levels of social, political and economic decision-making”, and further stipulates the state’s obligation to “facilitate the establishment of adequate consultation mechanisms.”

The Local Governance Code (LGC) of 1991 furthers the Constitution’s aims by establishing a role for ‘people power’ at the local level. The LGC establishes a process of accreditation of NGOs and POs at the local level, as well as a local governance infrastructure composed of five special bodies, one of which (the local development council) must be formed at the village level, and where at least one quarter of the local development council’s membership must come from civil society or the private sector. The LGC also includes provisions for the establishment of other local committees, such as cooperatives, and stipulates the right of the people to amend, revoke, and enact ordinances through referenda.

The LGC is a reformulation of the so-called ‘barangay’ (village) system of local governance, existing before the Spanish colonial rule and though highly influenced by both the Spanish and American administrations, the Philippine civil society environment is thus also grounded in the national and traditional society. The barangay transfers 40% of power, resources and responsibilities to the local from the national government through the principle of devolution.

Registration of organisations is not mandatory, but only registered organisations can open a bank account, hold a legal identity, accept donations and participate in government programs.

b. Governmental/judicial organisation and institutions engaged with the civil society

CSOs can register at either the Securities and Exchange Commission (SEC), which register nonstock, non-profit corporations such as organisations established for religious, charitable, scientific, athletic, cultural, and social welfare purposes; the Cooperative Development Authority (CDA), registering cooperatives; and The Department of Labour and Employment (DOLE), which registers labour unions, labour federations, and rural workers’ associations. Additionally, non-profit corporations and associations intending to perform social work and to function as mutual benefit associations and trusts for charitable purposes obtain licenses from the Department of Social Welfare and Development, and the Insurance Commission, respectively. Non-profit educational institutions and health organizations obtain permits to operate from the Department of Education and the Department of Health, respectively.

From 2007, the President directed the following institutions to engage in the administration of CSOs; the Department of Social Welfare and Development; the Department of Science and Technology; the

Philippine Sports Commission; the National Council for Culture and Arts; and the Commission on Higher Education.

7.3 NGOs

a. National NGOs

Estimates of CSOs in the Philippines rank as high as 500,000, although only a fraction of these are registered. In regards to development-oriented NGOs the number is about 3,000-5,000 and all in all, the Philippine civil society sector is large by developing country standards.

The Philippine NGO sector is known for its vast experience and expertise and its ability to promote social accountability is one of its defining features. Of course there is always a need for capacity-building and the Philippine needs are identified as planning, strategic management, program design, implementation, staff development, fundraising and financial management.

A problematic area is, as it is the case in many other developing contexts that the NGOs rely on strong or visionary leaders and profiles and thus suffer when these persons seek employment elsewhere. Furthermore, there is a lack of coordination and many organisations target the same population groups.

b. NGO Umbrella organisations

The Philippine NGO sector is distinguished by its self-regulatory skills, and the growth of NGO networks in the Philippines has also been significant. The networks can be divided into associations with formal membership, and coalitions built around common issues or agendas.

The largest network, CODE-NGO, was established in 1991, and is actually a network of NGO networks. Today, CODE-NGO consists of seven national networks and four regional networks representing more than 2,500 NGOs, POs, and cooperatives all over the country. It works as an effective forum for discussion and consensus building of issues among its members, and its function is amongst others to represent its members vis-à-vis government and donor agencies and to advocate for the concerns of NGOs.

In 1991, the CODE-NGO established a *Code of Conduct for Development NGOs* which more than thousand Philippine NGOs has signed, as the first Asian NGO network to do so. In 1998, the six largest NGO networks established the Philippine Council for NGO Certification (PCNC), one of the only government recognised NGO certification systems in the world, and a model cited as an example of good practice elsewhere.

7.4 Donor support to CSOs

The larger part of NGOs rely on financing from international NGOs and bilateral aid agencies, while government agencies, other national NGOs, multilateral agencies, and churches, in that order, are also important contributors. Most NGOs rely on one or two foreign donors for most of their funding, which is most often provided in grants, covering 70-100 % of administrative and program budgets. Funding tends to be short-term (less than three years) and often is result-oriented and provided on a project basis, with the consequence that some projects are defined more in relation to the funding agencies than to the constituencies of Philippine NGOs. As ODA is in decline, there is an urgent need for a more reliable resource base. When not funded by foreign donors, NGOs are funded through membership fees, donations, subsidies and revenues.

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Further information

CIVICUS – World Alliance for Citizen Participation: www.civicus.org

UNDP's site on democratic governance: www.undp.org/governance/

The World Bank's civil society page: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,pagePK:220469~theSitePK:228717,00.html>

Asian Development Bank's website on NGOs and civil society: www.adb.org/NGOs/default.asp

ASEAN Socio-Cultural Community: www.asean.org/18770.htm

International Center for Civil Society Law: www.iccsl.org