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State – Civil Society Relations in Afghanistan: Forward or Backward?

About APPRO:

Afghanistan Public Policy Research Organization (APPRO) is an independent social research organization with a mandate to promote social and policy learning to benefit development and reconstruction efforts in Afghanistan and other less developed countries through conducting social scientific research, monitoring and evaluation, and training and mentoring. APPRO is registered with the Ministry of Economy in Afghanistan as a non-profit, non-government organization and headquartered in Kabul, Afghanistan with five regional offices. For more information, see: www.appro.org.af

APPRO is the founding member of APPRO-Europe, a network association for disseminating applied research findings from conflict environments, conducting training, and carrying out evaluations. For more information, see: www.appro-europe.net

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“... of the thousands of registered NGOs, no more than 10% are truly active. The rest exist only on paper, or have been formed only to obtain funds, or are a cover for a single person’s activity, or simply a cover for tax free business, or even worse. Civil society is accused of being secretive, manipulative, ineffective, nepotistic, of being an “NGO mafia” who reward each other with trips, computers, and other benefits.” (1)

While the above quote resonates, word for word, with the operating environment of NGOs in Afghanistan, the reference is the Balkans in the late 1990s when there was a massive infusion of development and humanitarian funds accompanied with successive rotations of international experts to fix the many problems of the new countries that rose from the ashes of former Yugoslavia.

There is much to be learned from the collective experience of humanitarian and development aid provision to the Balkans, Afghanistan, Iraq, and South Sudan among countless other countries that have been subjects of reconstruction assistance through international aid. While little learning appears to have been transferred to Afghanistan since 2001, and evidence for learning from Afghanistan’s own experience is thin, the opportunity for learning remains – institutional inertia notwithstanding. In an effort to overcome this inertia, this position paper reframes state – civil society relations in Afghanistan based on findings from ongoing research, monitoring, evaluations and dialogue initiated by APPRO and its partners on state – civil society relations in conflict environments since 2011.

This position paper is based on the proceedings from two workshops conducted in 2017 and 2018 as part of the Afghanistan Rights Monitor (ARM) project, funded by the Dutch Ministry of Foreign Affairs. Additional material includes a review of the literature on state – civil society relations in conflict environments and the discussions during the one-day “Open Forum: Beyond Geneva”, convened by APPRO on September 5, 2018 in preparation for the Geneva Ministerial Conference on November 27-28, 2018.

Background

State-society relations – in any mode – determine the mutual rights and obligations of state and society, negotiation mechanisms for allocation of public resources, and means of representation and accountability for both sides. The state derives its legitimacy through its interactions with citizens based on consensus and rule of law or by use of force, while an organized and active civil society can engage state authorities peacefully and confrontationally and, at times, violently.

State-society relations, based on institutional qualities and principles that underpin mutual dependability and trust, are often referred to as “good governance”. These institutional qualities are performance, adaptability, and stability while the principles are participation, rule of law, transparency, responsiveness, consensus, equity, effectiveness and efficiency, and accountability. (2)

In situations where the state has the will and capacity (and institutional qualities) to deliver its functions, meet public expectations and uphold its obligations to protect citizens’ rights and interests, the population is more likely and willing to comply with laws and regulations, pay taxes, and accept the state’s authority on the legitimate use of force to maintain stability and order.

State-civil society relations can be grouped into four possible combinations: strong state/strong civil society, strong state/weak civil society, weak state/strong civil society, and weak state/weak civil society. (3) The first combination, **strong state/strong civil society**, could mean considerable conflict if each side vied for control of the other, but in many cases the two sides coexist, each in its own sphere, and provide mutual reinforcement that benefits both.

In the second combination, **strong state/weak civil society**, decisions and their implementation are concentrated in the state, leaving the population vulnerable to significant reductions in state capacity. In the third combination, **weak state/strong civil society**, civil society can provide the population a certain level of security and basic services, but cannot substitute indefinitely or completely for a capable state.

In the fourth combination, **weak state/weak civil society**, the situation is volatile and may remain stable for a period, but is highly vulnerable to disruption, and political and social collapse. When both state and civil society are weak, the relations between the two remain in a state of flux, based on changing needs, pressures, policies, and preferences.

A strong state and a strong civil society are more capable of reinforcing each other and providing constructive prospects for development than situations where either, or both, state and civil society are weak. The actual or potential strength of civil society organizations and associations is a function of relative autonomy from the state, ability to provide viable strategies of survival to members, meet members’ cultural and symbolic needs, provide financial and organizational resources, and maintain members’ support based on trust over the long term. Variations in these parameters determine varying degrees of associational strength for a given civil society organization.

Optimal operating environments for civil society organizations entail a secure or protected public space within which the organizations of civil society can function and sustained sources of funding. If civil society organizations are entirely oppositional, by choice or necessity, they run the risk of being destroyed or repressed by the state. At the same time, if funding from donors, citizens, and the state ceases to continue, civil society organizations are forced to reduce or eliminate activities that cannot be run without funds but are likely to continue undertaking voluntary activities through self-help groups driven by in-kind contributions of benevolent and concerned citizens.

Examination of civil society and its organizations is best not limited to whether or not civil society exists at all – it always has, albeit minimally under repressive governments or without external funds – but how different forms of independent organization and activities by civil society are on the rise or declining in response to turmoil and/or political repression.

(2) See, for example, UNDP (1997) Governance for Sustainable Human Development. United Nations Development Programme.

(3) This categorization, and the subsequent elaboration, are from: Spalding, N.J. (1996), State-Society Relations in Africa: An Exploration of the Tanzanian Experience, Polity (29:1), pp. 65-96

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Afghanistan Rights Monitor: A Case in Point

Afghanistan Rights Monitor (ARM), funded by the Dutch Ministry of Foreign Affairs, was designed to create an enabling environment for constructive engagement between state authorities and civil society on how best to safeguard fundamental rights of the citizens in sporadic and ongoing armed conflict in Afghanistan. The engagement between state authorities and civil society was to be based on evidence generated through ongoing monitoring and in-depth research by APPRO and others.

A key aspect of the ARM project was to bring together representatives from the state and civil society as a means to generate a shared vocabulary for the two sides, which could then be applied to problem identification, problem solving, and roles and responsibilities of state authorities and civil society in a policy process informed by good governance principles. The first phase in this process was to take stock of the current conditions of fundamental rights in Afghanistan, as of late 2016, share the findings with state authorities and civil society, provide simultaneous training of individuals from government authorities and civil society organization on the policy process, and create opportunities for the trained participants to apply modern policy analysis approaches to address selected fundamental rights issues as identified in research and monitoring by APPRO and others.

... This two-phase process was to generate a roadmap for moving toward meeting the commitments made through “Self-reliance through Mutual Accountability Framework” (SMAF), presented by the National Unity Government to the London Conference on Afghanistan in 2014. While the Dubai workshop did not result in a roadmap, a number of key lessons were learned in the process as follows:

1. Without a systemic (“whole system”) approach, it is at best difficult, and impractical, to develop strategies and roadmaps toward meeting overarching objectives such as those under SMAF or other similar frameworks.
2. Single issue-ism is not an adequate approach for resolving complex, multi-faceted issues such rule of law, gender equality, or corruption.
3. The most practical, but difficult, approach for developing pathways toward meeting SMAF’s overarching objectives is to combine lessons 1 and 2, above, and breakdown each objective into its constitutive components – without losing sight of the full picture – and prioritize which component or components to address based on urgency, practicality, and the risk levels (personal security, financial) associated with the change being sought.

... To address this challenge, it was decided that APPRO would develop a standard approach based on the above three lessons and test it during the second workshop of ARM in Colombo, Sri Lanka in March 2018.

The Sri Lanka Workshop was held during March 17-18, 2018. For better management of the proceedings, it was decided to focus on three ministries and their sectors. These were Ministry of Public Health (MoPH), Ministry of Education (MoEd), and Ministry of Refugees

(4) Sampson (2002:3)

and Repatriations (MoRR). Present at the workshop were representatives from the three ministries, Independent Directorate of Local Governance (IDLG), Office of the Chief Executive, Afghanistan Independent Human Rights Commission (AIHRC), Chair and Deputy of NAC-PP, a representative from the European Delegation – Afghanistan, a representative from Oxfam Afghanistan, three national NGOs with mandates on human rights, and two international experts on human rights and state-civil society relations. The workshop was hosted by APPRO in coordination with National Advocacy Committee on Public Policy (NAC-PP).

The issue of mutual accountability between state authorities and civil society organizations was briefly raised during the Dubai workshop in early 2017. In period that followed and leading up to the Colombo workshop, ARM's activities tended to heavily concentrate on state-civil society relations in the arena of fundamental rights in Afghanistan. During the same period, the public discourse in Afghanistan on state-civil society relations became more confrontational – partially due to a statement by President Ashraf Ghani about the lack of accountability to the government by NGOs funded directly by the international donor community.

Subsequent statements by the President gave recognition to work by some NGOs and softened the confrontational stance of the government regarding NGOs. However, the President's misgivings about lack of accountability by NGOs appear to represent a wider perception among government officials of NGOs acting as either competitors for international funds, or spoilers of the government's efforts to manage development efficiently, effectively, or accountably.

Multiple Meanings of Civil Society Organizations

There are multiple views of what constitutes civil society. The broader definitions of civil society include non-profit, peaceful and voluntary institutions, associations, religious centers, youth groups, unofficial unions and academic entities. In many countries government establishes institutions for propagating its views officially and unofficially. A more inclusive approach would include even some of the institutions established by the government.

Key distinguishing characteristics of civil society organizations are norms and standards consistent with the common good and welfare of society, including a clear commitment to human rights and fundamental freedoms. Civil society organizations with these characteristics often take part in discussions on norms and practices and advocate for change in the public sphere. These types of activities sometimes annoy governments, particularly when governments are targets for criticism and advocacy by civil society, and result in limitations being imposed by governments on civil society organizations and their activities.

Good Governance and Civil Society

In most developed countries such as Canada and Scandinavian countries, civil society activities constitute between 7-10% of the GDP. Governments also support civil society organizations as providers of supplementary services and views, with significant impacts on social and economic welfare indicators. Historically, assessments of state-civil society relations have been based on three main criteria. These are: 1) Funding framework for civil society organizations, 2) Involvement of civil society in developing public policy, and 3) Manner in which dialogue between civil society and government takes place.

It is common for governments in less developed countries not to provide financial assistance to civil society organizations and disapprove of civil society organizations of receiving funds from foreign sources. The main contentions between state and civil

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society organizations tend to be concentrated in health, education, and refugee affairs sectors. Governments argue that as NGOs receive foreign funding they undermine the work and legitimacy of the government.

One response by the proponents of civil society to this charge is that if the government attracts foreign funds for investment in the country to promote private sector development, NGOs should have the same right in attracting funds to support non-profit activities to benefit marginalized groups or causes and in pursuit of the common good. In a democracy, the government is obliged to protect the right of civil society organizations to consult and hold dialogue with stakeholders.

Some civil society organizations cooperate with governments while others criticize and confront. In all cases the general understanding in a democracy is that there shall be no threat, damage, revenge, persecution or prosecution of civil society organizations by the government or its agencies. Registration of civil society organizations should be merely a technical issue and information on civil society organizations shall not be provided to the security sector unless civil society organizations commit crimes or undertake illegal activities.

Government in a mature, stable, and *civil*, society is open to criticism, much of which originates from a strong network of civil society organizations with stakes in different policy making processes and, by extension, the political discourse. In a democratic mode of governance or system of government, civil society must have its voice, resources to sustain it, and an established position in society. Civil society's right to have independent voice and the right to disagree with government policy and approach from time to time is fundamental to maintaining democracy and complying with the principles of good governance.

Less-Good Governance and Civil Society

From time to time, there have been attempts by governments to limit access and resources for civil society, prosecute civil society leaders, and defund and deregister civil society organizations for political reasons. De-registration results in isolation while defunding often results in a complete collapse of an organization. De-registration and isolation deprive civil society organizations from having access to their constituents, officials, networks of other organizations, and funds.

Under repressive governments, members of civil society are prosecuted, persecuted and in some cases thrown into prison where they may be subjected to mistreatment, including torture and even death. This happens because civil society dares to speak truth to power and strive for freedom of speech and assembly, equality of women, rights of minorities and the persecuted, or rights of immigrants.

For countries emerging from conflict or dictatorship, the social relations, the structures through which they take place, and the power relations therein, tend to persist long after the conflict or the dictatorship has ended. These very same, inequitable, social relations and structures tend to sustain inequality, exclusion, discrimination, exploitation, corruption, and various forms of violence.

The civil society organizations and key personalities from civil society that become parts of post-dictatorship or post-conflict, democratic governments have shown a tendency or vulnerability toward being captured or coopted by the pre-democracy networks, social relations and structures to become the new autocracy. This has certainly been evident in South Africa, Myanmar and, to some degree, Egypt. In these countries, soon after democratization, civil society felt that the new government was out of step with the collective ideals and demands of civil society on such issues as widespread poverty and

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Cooperation with and helping the state require well-established and independent civil society organizations and networks, dedicated mechanisms for structured interaction between state authorities and civil society organizations, and clearly defined roles and responsibilities to ensure transparency and mutual accountability.

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Faced with these outcomes, many of the un-captured and un-coopted civil society organizations and activists distance themselves from the government and resume their activities to pursue and fight for fundamental rights under the new government. This resumption of activities can be seriously constrained by the new autocratic government limiting freedom of speech and assembly, not supporting civic activities, and disallowing external funding for national NGOs and other civil society organizations operating independently of the government.

Civil Society-Government Interface

A vibrant and active civil society typically reassesses its operating environment and develops new strategies for constructive engagement with government authorities. There are three related approaches that may be adopted by civil society:

- Cooperation with the government, to the degree to which this cooperation serves the constituency of civil society organizations in terms of fundamental rights and freedoms
- Peaceful demonstrations, including petitions, to alert government authorities to policies or issues adversely affecting civil society, and
- Legally contesting government decisions and actions that undermine fundamental rights and freedoms.

Cooperation with and helping the state require well-established and independent civil society organizations and networks, dedicated mechanisms for structured interaction between state authorities and civil society organizations, and clearly defined roles and responsibilities to ensure transparency and mutual accountability. Cooperation also requires legal provisions for social, economic, and political rights, legitimate access to information, semi-governmental entities such as “Chapter 9” institutions in South Africa (with mandates gender equality, human rights and public accountability, for example) and Independent Human Rights Commission in Afghanistan. In both countries, provisions for these semi-governmental entities are made in the Constitution.

However, it cannot be assumed that even under these conditions, the selection of civil society individuals to work with government authorities is always equitable, transparent, and representative of the population at large or that these arrangements keep the government in check.

Peaceful demonstrations and group objections, mechanisms focusing on economic and social rights, and social audits by trained local community members of local governments’ work draw attention to specific actions of the government that undermine fundamental rights of the citizens or demand that the government act to address an issue of importance to the community.

As a last resort, civil society may opt to use the formal legal system to challenge government decision or action. The success in the use of legal proceedings against the government is a function of a reasonably independent and transparent formal justice system, such as South Africa’s and unlike Afghanistan’s. Using litigation against the government is, nevertheless, time-consuming, costly, and causes significant damage to mutual trust between state and civil society, making it generally more difficult for civil society to re-engage the government using less confrontational approaches. There is also the danger that decision of the court is ignored due to lack of capacity or resources.

Civil Society, Government, and SMAF

There is a range of challenges associated with monitoring activities relating to SMAF deliverables. First, SMAF deliverables are broad, making the task of developing SMART indicators near impossible. Second, some of the programs under SMAF had already started before the Brussels Conference in 2016, making it difficult to identify which activities or projects were direct results of attempts to implement SMAF commitments. Third, there is a general lack of technical expertise in field of monitoring and evaluation among CSOs, including the CSOs tasked to work closely with the government toward meeting SMAF commitments.

State-civil society relations in Afghanistan are generally considered as symbolic without a clearly defined mechanism for the two sides to interact and collaborate. State-civil society interface is mostly limited to international and national conferences. Typically, there is an invitation from the government for CSO representation, in response to which a few CSOs regularly nominate each other to represent civil society at large. The manner in which this handful of CSOs monopolizes the process of representation is a major concern for the vast majority of the excluded CSOs and cause for dissatisfaction and alienation for most.

Another major feature of state-civil society interactions in Afghanistan is that the interactions tend to be more tokenistic than consequential. The CSOs that manage to include themselves in consultation processes complain that their recommendations are invited prior to major national and international events but that no effort is made by state authorities after the events to follow through on the joint agreements and recommendations. This failure to follow up also applies to SMAF deliverables and the follow up activities that need to have been initiated by the government and immediately after the 2016 conference. At the same time, there is recognition by civil society of the value of other initiatives by the government to work more closely with civil society, particularly the “Open Governance Partnership” initiative, to promote and effect better, more inclusive, governance.

Remaining Challenges

Difficulty in Monitoring SMAF Deliverables: SMAF deliverables are too broad for serving as the basis on which to develop specific activities, the implementation of which could be monitored using accurate indicators. Also, there is no information sharing mechanism for the government to report on achievements and challenges in the implementation of SMAF deliverables.

Lack of Expertise: There is a lack of technical expertise among NGOs in design and implementing monitoring and evaluation systems. There is little appreciation or practical use by the government of the steadily rising volume of findings from applied research and monitoring, and there is a misconception of advocacy among civil society organizations and the government, as being about civil society battering the government on its failings while the government having to constantly defend itself.

Insecurity: The government’s progress on SMAF and similar other commitments is slow, to a large extent because of the deteriorating security situation.

Exclusivity in State-Civil Society Interactions: State-civil society interaction in Afghanistan usually involves a handful of NGOs interacting with select governmental arms periodically and mostly symbolically, without clear, permanent and transparent mechanisms for constructive and ongoing dialogue.

Interface Among CSOs: The lack of trust and collaboration among civil society organizations and competition by NGOs in jockeying for a place in the few consultation

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events that occur, deprives the government and its international donors from receiving multiple views from civil society and underserves the public.

Corruption Among NGOs: Non-payment of taxes and other forms of corruption, such as nepotism and favoritism, among NGOs is a major deterrent for the NGOs to be taken seriously by the Government of Afghanistan and, increasingly, the international donors.

Negative Perception of NGOs: NGOs in Afghanistan are not held in high esteem due to their nascency and thus insufficient acceptance and credibility, receiving funding from international donors and accused of not sharing the funds with the government or the citizens.

Lack of Access to Information: The Access to Information Law of 2014 has yet to be enforced by government agencies and fully utilized by civil society. If fully implemented the Access to Information Law could act as a powerful tool for transparency and accountability in state-civil society relations.

Ways Forward

Sharing Technical Knowledge: There are many NGOs in Afghanistan with expertise in applied social research, monitoring and evaluation. These NGOs should work closely with the government to develop specific, measurable, attainable, realistic, and time-bound (SMART) objectives and SMART indicators as the means through which to monitor and evaluate action by government and civil society in moving toward delivering on SMAF commitments.

Security: The security conditions are not likely to change in the short to medium term and thus the responsibility to meet SMAF objectives or similar commitments cannot rest with the government only. This fact must be recognized by the public, NGOs, and international donors. The public needs to be made aware of the limits to expectations of the government. NGOs must find a way of supporting the government in its genuine efforts to effect positive change. International donors must also reduce their expectations of what the government can do, while supporting NGOs in finding ways of supporting the government without compromising their role as independent voices of civil society.

Evidence-based Advocacy: Civil society in Afghanistan continues to lack capacity in evidence-based advocacy, crucial in making convincing and undeniable demands for government action on its high-level commitments. Efforts should be made to utilize in-country expertise for capacity building on applied research for policy and evidence-based advocacy.

Inclusiveness in State-CSO Interactions: The process of state-civil society interactions will remain vulnerable to monopolization by opportunist NGOs and INGOs as long as the government remains unaware about the extent and types of activities undertaken by NGOs in Afghanistan. The first step for increasing inclusiveness is for the government to take stock of the activity areas, and contributions, of all NGOs and work transparently to include them in the various forms of consultation.

Constructive and Informed Engagement between State Authorities and Civil Society: CSOs need to structure and institutionalize their coordination efforts among themselves, but also to develop clear engagement strategies with the government based on evidence and recognized competence in a given sector. In this respect, effective mechanisms would include sector-based civil society networks addressing key sectoral needs through constructive engagement with the government, while maintaining their independence.

Information Sharing and Transparency: Information sharing by the government improves the image of the government and increases trust in the government by civil society. Legal instruments such as Access to Information Law and initiatives such as Open Government Partnership should both be applied to SMAF deliverables to report on performance and seeking input from civil society to effect improvements.

Increased Trust between CSOs and Government Ministries: SMAF should be viewed by all parties as an opportunity for creating forums through which state authorities and civil society carry out systemic and systematic problem identification, search for possible solutions, and decide on allocation of resources, responsibilities and mutual accountability mechanisms.

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