

CIVIL SOCIETY AND POLICY ADVOCACY IN INDIA

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Abstract

Can civil society speak truth to power in Indian democracy? In times when civil society is making headlines every day, this working paper considers some questions regarding the process through which civil society does policy advocacy. Defining civil society as medium and large NGOs, this paper raises some serious questions: When does civil society matter? Can civil society influence public policy? If so, how does it do it? When does it fail? What are the areas in which it can influence policy? What are the areas in which it fails to make any impact? This paper suggests that in attempting to advocate policies to the state i.e., in attempting to speak truth to power, civil society—even when defined as NGOs—does a quintessential political act of engaging the state.

Key words: State, Civil Society, NGOs, Policy, Policy Advocacy

Ever since Anna Hazare and his team took up the question of corruption in public life and started fasting at Jantar Mantar in Delhi, the term 'civil society' has become part of colloquial Indian English. The term entered common parlance and every newspaper and news channel started using the term 'civil society'. This has invoked substantial interest at least in the educated middle class circles of Indian society. The more recent attempts by Baba Ramdev and company have also evoked response in some parts of the country. The latter in fact needed to raise more fundamental questions about the definition and limitations of the word civil society itself—which it did not do, at least in the popular media. What these events, particularly the former, have raised for thinking Indians is the question as to can civil society influence governance by influencing public policy. Team Anna Hazare succeeded in forming a statutory committee to draft Jan Lokpal Bill but has also gave sufficient misgivings that the state is not actually interested in drafting a meaningful bill. Team Anna Hazare also said that it is not being taken sufficiently seriously by the government and the state. In this context, the questions this paper addresses are more modest but equally interesting. The paper addresses the very question of whether the state is interested in taking civil society seriously while framing public policies.

The central conceptual question that this paper addresses is how far civil society¹ can influence public policy and governance. Civil society is defined as development NGOs in this paper, that is, reasonably big NGOs with a capacity for policy advocacy. These parameters meet the two criteria given by Anna C Vakil (1997:2062-3) namely, orientation and scale. The main arguments of the paper revolve around the following and are some of the tentative conceptual issues² discussed.

- 1: *Civil society can influence public policy only to the extent that it has past experience, present presence and activity at the ground level. Policy advocacy succeeds only if they can show their evidence of the results on the issue at hand, based on their work at grassroots level. What NGOs can try to do is to advocate what is known as 'evidence based policy'.*

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The civil society organisations gain legitimacy for their policy advocacy if they have considerable grassroots presence. They cannot have sufficient strength to argue a case if they do not have grassroots level presence as well experience or experimentation at the grassroots level. They need to convince the government with sufficient grassroots evidence that the policy they are advocating is based on their work. They say that they cannot simply 'lecture the government' on any issue. The examples are clear that the SHG work in Myrada (the Mysore Resettlement and Development Agency) in Karnataka for example, led to the up-scaling of the concept being taken up by the Union and State governments; so is the watershed policy of Myrada. The policy advocacy by Myrada on appointing Panchayat Development Officers at the Gram Panchayat level too is based on the field experience. Likewise the experience of the CWS (Centre for World Solidarity, an NGO based in Andhra Pradesh) in Andhra Pradesh demonstrates the same. The policy of the Centre for Sustainable Agriculture (CSA), solidarity organisations of CWS, on non-pesticidal management of agriculture and policy against the GM foods is based on their field experience. Likewise, the Panchayat Raj Institutions' capacity development policy of training elected representatives is based on CWS's ground experience. Both CWS and Myrada successfully advocated policies backed by field level work either directly or through partner networks of NGOs and community-based organisations. Both opine that they could not have advocated these policies without grassroots level work on the issues mentioned above.

2: *The credibility of NGOs matters:*

Large NGOs that have proven a track-record in the development sector and have earned credibility by acting upon the commitments that they have taken from the state. The NGO field is mired with organisations that lack upward and downward accountability and do not wield enough credibility to advocate policies to the state. There is a sense of *déjà vu* in this regard. Both the state and academics when speaking of NGOs, often speak of 'good NGOs' and 'bad NGOs'. However, the evaluative criteria reached on these matters, there is often a widespread suspicion that there are black sheep NGOs that only corner funds in the least and are completely black sheep at the most. While this might be true or false, it has become a popular prejudice, is widespread and needs to be considered on its own merit.

3. *Spaces within the state matter:*

The state is not a monolithic entity. It is a complex ensemble of organisations, institutions and individuals. These can be defined as spaces within the state. Positive and favourable spaces within the state matter enormously for policy advocacy. The departments such as that of rural development and those such as environment or social welfare have more space for policy advocacy. In addition, individuals occupying critical space in the state too matter for policy advocacy. The senior bureaucrats may take a cue from the NGO experience and champion some policies in favour of the NGO. Some departments and individuals within the state may be more willing to listen to the NGOs' views. The fact that some policies are more amenable to civil society intervention needs to be taken seriously. The policy process in areas such as defense, law and order or foreign relations are completely closed for the influence of the civil society. The state has monopoly of decision making on these matters and, perhaps, with some valid reasons. Therefore, in the context of Indian democracy and state, civil society cannot

intervene in every area of the state action and attempt to advocate policies. The same holds true for specific key individuals within the state who can make a difference by taking a more benign opinion towards civil society and public policy action than others.

4. *Spaces within the policy matter:*

Not all state policies have similar space for NGO action and advocacy. Some state policies are more hospitable to NGO interventions. The decentralisation policy or SHG policy for example gives more room for NGO action, advocacy and intervention than say, mining policy. Therefore, NGOs that are basically oriented towards development can affect policies in areas where the state policy is open to advocacy and intervention. Many crucial matters of state policies are closed to any sort of intervention from outside.

5: *Relations between civil society and the state are porous. Civil society organisations adopt many strategies to manage their relations with the state -- via the bureaucracy at higher levels, inviting them into different organisational structures and by maintaining a close relationship with them.*

It is often assumed that civil society and the state are two strictly compartmentalised spheres. However, in reality that is not true. That is certainly not true for large NGOs at the intermediate level. Often they permeate each other. For example, civil society organisations accommodate retired or functioning bureaucrats of the government in their organisational structures at different levels. They attempt to leverage the state by providing space for the state personnel in their organisational structures. On the other hand, the state too invites civil society organisations to participate in its activities, but this is mostly in the implementation of programmes. However, it is also done in a selected manner at the policy formulation level. Thus, state and civil society have on specific issues certain *quid pro quo* to influence each other. It is often a question of two-way traffic. Nevertheless, the individuals and groups involved in these interactions are limited. Therefore, the capacity of civil society to influence the state in crucial policy decisions vis-à-vis development policies appears to be limited.

6: *Civil Society's capacity to influence governance is issue-based. On certain matters such as watershed or natural resource management, they are successful. However, on issues such as devolution to local government and related matters they are not successful.*

The capacity of civil society organisations to influence public policy is often issue-based or sector-based. Firstly, policy advocacy never raises fundamental questions about the policies at a broad level. For example, whether the state should liberalise the economy is never questioned by the civil society organisations. Instead, civil society organisations attempt to influence public policy largely *within* the space provided by the state. For example even on topics of interest to civil society such as decentralisation of governance, civil society cannot force the state government to devolve all the mandated functions, resources and personnel to local government institutions. This is because the matter in question is crucially political and deals with power and the powerful. However, in areas such as watershed management or micro-finance schemes for women the state does provide much space for civil society organisations. Often there are no consistent and well-established channels through which

civil society can influence governments at any level. Therefore, policy advocacy of the civil society organisations remains issue-based and more often than not *ad hoc* in scope. The state still retains the upper hand at the level of policy idea, formulation, discussion and decision-making. For example, in the State of Andhra Pradesh, which comes under the Panchayat Extension to Scheduled Areas Act of 1996, the civil society organisations had only limited influence to implement the Union Government's law in true spirit and letter. Many such examples can be provided which point to the fact that State governments often retain the upper hand in different policy cycles. Therefore, we can say that the role of civil society, as defined in the sense used in this study to influence the government, remains limited to specific issues at specific junctures.

7. *Timing of advocacy matters. Using the opportunities provided at an appropriate time matters. This refers to the stage in the policy process and the moment in the policy process. Civil society intervention at the right moment in the policy process requires adequate timing of advocacy towards any policy.*

It comes out clearly from the discussions with the officials of the organisations that policies cannot be advocated at any time by the NGO. The timing of advocacy is crucial. When a certain policy is already on the agenda in the policymaking process, the stand of civil society either for or against that agenda can be critical. NGOs at that point can make difference. For example, the NGO advocacy against GM crops was done when the Union Government was adopting a policy on the issue. It was the case with the seed policy. Thus, policy advocacy by NGOs and its success also depends on the opportune moment within the policy cycle.

8. *Financial independence from government matters. NGOs cannot take money from the government and yet try to influence policy.*

By depending on the state for financial viability the NGO may lose the critical edge in its policy advocacy. Therefore, policy advocacy crucially depends on the advocacy policy of the NGO. The related point is also that civil society might avoid the state if the issue at the hand involves becoming a dependent partner of the state i.e., if the state is too overwhelming in the partnership and has a controlling role in that particular issue.

While the civil society organisations always work within the larger policy framework provided by the state, they also have to be concerned about their autonomy. This may not be full autonomy from the state but they would like to retain relative autonomy from the state. If a particular question involves becoming too dependent on the state, the NGOs resent it. This is truer with intermediate level civil society organisations rather than with grassroots level, small scale NGOs. The grassroots level NGOs are often resource-strapped and are dependent on the state for the implementation of one development programme or the other. This is not true with the intermediate level NGOs that have the skills, capacities and expertise to leverage monetary and non-monetary resources from international donors. In fact, the bulk of the work carried out by these organisations is funded by various multi-national donors and not by the state. Therefore, often these organisations are evaluated and are accountable to

multi-national donors. At the same time they are also accountable to their grassroots partners and the partner-networks that they fund and participate with in developmental work.

9: *Civil society constantly attempts to influence the state and governance process but the results depend on the above variables. The crucial dilemma is that they need to work and influence the state without losing their ground level partners and relative autonomy.*

The above point also underscores one of the major dilemmas of the intermediate level civil society organisations. They have to constantly maintain their moral high ground, their accountability and legitimacy and yet function with the state in an influential capacity. This is crucial also with the grassroots partners and civil society networks that they work with. The intermediate level civil society organisations are constantly accountable to multinational donors while working with the government and yet be critical of the state and society to foster policy change in particular and social change in general. Therefore, this requires a difficult balancing act for the civil society organisations. One fundamental fact, however, is that they cannot question the basic principles or precepts of state policy. They often also cannot question the baggage that comes along with donor community. For example the donor community may be extra-favourable to market oriented reforms and the civil society organizations often have to accept that baggage whether they like it or not. Often donors from the first world countries operate with a worldview that has markets, state and civil society as the three important sectors. The organisations that are favorably inclined towards this tri-partite arrangement of sectors and their development may or may not get the funding. The important point is that the legitimacy of NGOs and civil society as far as the donors are concerned ceases not when the civil society questions the state but when the civil society questions the primacy of the market as one of the drivers of socio-economic change. Therefore, civil society cannot question the triumvirate of market, state and civil society paradigm.

Nevertheless, civil society organisations also have the necessity to be critical of the state at different levels through dialogue and with advocacy of critical points. This also safeguards their legitimacy as autonomous – certainly as relatively autonomous -- civil society that can question the state where necessary. Nevertheless, to a large extent intermediate level civil society organisations construct their critique of the system within the limits that are acceptable to the state at different levels. As far as the markets are concerned, civil society can ill afford to question them.

10. *Still, the civil society organisations in India can stick to various levels of contestation and collaboration with the state.*

The above point brings to bear the point that the relationship between the NGOs and state can range from being fully collaborative to fully critical or to a range of points of contestation and collaboration in between. Therefore, it is not reasonable to expect either only contestation or only collaboration from the NGOs towards the state. Both are possible on different issues at the same time and over different periods of time. Nevertheless, the adverse relationship is as much a reality as is policy acceptance as far as policy advocacy is concerned.

11: *Even big NGOs that work, for instance, in more than two states also can influence policy only partially. This may not substantiate the proposition on governance as envisaged by the paradigm of governance-through-networks.*

The point that we wish to make is that in Indian democracy civil society organisations, even those that have the capacity to work in more than two states, have strict limitations on the capacity to influence the policy of the state. They surely cannot question the fundamental assumptions of development policies *though they have room for experimentation with alternatives* However, this experimentation has to be within the boundaries prescribed by the Indian state and governments at different levels. If they succeed in this experimentation they may advocate that particular issue with the state—alternative sustainable rural development or/and organic agriculture—for example. These development issues can be important and of crucial significance to the lives and livelihoods of the poor at the grassroots level. Civil society organisations, despite the monumental significance of the development and social change and even empowerment/political questions that they address, are still not as encompassing and overwhelming in their presence as the state. We need not build a straw man out of civil society and then demolish it. Civil society organisations do as good work as they do on different fronts but have limited capacity to influence the state. The Indian state has powerful instruments such as the Foreign Contributions Regulatory Act (FCRA) and the Income Tax Act and other procedural instruments to control the NGOs and civil society. Therefore, all these limitations have to be recognised before we can assess civil society of the type mentioned in this paper³. Public policy in India is largely determined by the state and/or agencies of the state.

12. *Change in the political regime matters crucially for policy advocacy by civil society.*

Finally changes in the political regime matters crucially for policy advocacy. Some regimes are more open than others to listen to civil society. Some regimes, even in liberal democratic set up, may be extremely cautious in their policy process towards civil society and may fear civil society as threatening power centre in evolution⁴. James Manor (2006) discusses such experience in a comparative study of Ghana and two Indian states. In a dynamic and evolving democracy, it is natural that the power of political parties alters and regimes change. In such a dynamic context, three things matter crucially: a) the overall dispensation of the existing political regime, b) the openness in the spaces within the policies and c) change of key individuals in the positions of power. Regimes are subject to change at regular intervals, policy spaces may become either more open or closed and individuals may change, retire or perish. A dynamic understanding of the factors discussed above helps understand the capacity of civil society to conduct policy advocacy. This is true in India both at the Central and State levels. However the 'moral project' (Kaviraj, 2001 and Hawthorn, 2001 use this phrase in a different sense) of civil society however continues even while the above changes happen. The moral project of civil society in countries like India is both political and social. Therefore, however disappointing are the regime changes the civil society retains its *raison d'etre*.

Anna Hazare may or may not win his battle for the Jan Lokpal Bill. The point made by his interventions need to be taken seriously. That civil society has severe limitations in influencing the state, less still when it comes to markets. However, the silver lining of the story is that within the

constitutional limits of our democracy civil society can very well raise issues of public concern, conduct public education and enhance public reasoning on issues that pertain to them. The focus of ubiquitous civil society on enhancing participation of the marginalised in the society and state for example is a valuable contribution of the civil society in India. In addition, Indian society being what it is, civil society can make enormous contributions even without taking up a combative stance with the state. Civil society can garner realisation of rights for the marginalised. Therefore, it is not entirely true that the concept and its practice do not stand with other conceptual supports⁵.

To the question what determines the choice exercised by NGOs between contestation or protest on the one hand and taking on a constructive or developmental role on the other, the answer is that it depends on the capacity of NGO to do so. Smaller NGOs operating at the grassroots level, constantly strapped for funds and dependent on the state, cannot question the state or its policies at any level. As Anna Vakil points out, it is the orientation and scale of the NGO that matters. Likewise, even among the bigger NGOs there are organisations that are totally the mouth-pieces of the government; do the job that government allots them and do not question its policies. A number of factors determine the choice between the contestant or collaborator stance with the state. The ideology of the NGO; its capacity to withstand the pressure from the government to accept the latter's policies and its independent strength to mobilise resources in spite of the government or state in general. International donor-support and the extent of that support are crucial for its contestant stance. Is it true that while the former role imparts prominence and good press to the NGO, the latter can bring more funds? This is not entirely a correct view of the public engagement of NGOs because NGOs see the press as a strategic partner in advocacy and which it often is. Therefore, good publicity of a cause is not a bad thing for the cause itself. In addition, we should also note that NGOs are more often at the receiving end of the press for their wrongdoings as well. It is also doubtful whether being collaborator can procure for the NGOs good funds. Often the state and governments see NGOs in an entirely instrumental fashion and as dependent partners and even if an NGO declared complete allegiance to the state it is not sure that it will get good funds. On the contrary, a contestant stance may fetch funds in social audits and social evaluations. Being contestant can assure respect from the state as well as the public. Therefore, most NGOs appear to choose a combination of contestation and collaboration depending on their ideology and independent strength to survive without state patronage. Often for the kind of NGOs that we have discussed in this paper there is no conflict in the two roles. This combination will also not determine the effectiveness of the NGO or civil society because the issues for which they are doing advocacy are only strengthened by the willingness to collaborate. It is true that NGOs do try to balance between their critical stances and collaborative efforts and have sufficient flexibility. This is done by keeping the contestatory stances within the 'acceptable limits' of the state and the system or by being too collaborative with the state on other matters. Both the roles carry weight in influencing the government depending on the issue at hand, and all the other aspects discussed above. Usually NGO contestation with the system and the state is always within 'acceptable limits' and by way of constructive criticism.

What determines the success of the NGOs in both roles, particularly in poverty eradication? A simple answer to this question is that while constructive activity and collaboration with the state may

serve the purpose of poverty removal to the limited extent, contestatory advocacy can perform the role of opposing poverty creation as it happens via many ill-conceived policies of the state. What influences government policy in associating or collaborating with NGOs in constructive activities often is the simple instrumental role that the government perceives for the NGOs. Often the culture of government functioning is not participatory. Therefore, the government hopes that the NGOs can carry out development programmes in a more participatory rather than top-down manner. In addition, the distance between the government and the communities can be far wider than the local NGOs and the local communities. This is the reason why the government associates NGOs with constructive collaboration. Often in the process, the NGOs also become dependent partners of the government and lose their critical edge. It is to some extent possible that such collaboration may make the implementation of poverty eradication and such other programmes corruption-free, democratic and effective. This, however, depends largely on the nature of the programme, the NGO and the government. The latest trend in NGO-government relations is that in order to avoid even NGO involvement, the governments create their own NGOs. These are often known as GONGOs. The poverty eradication GONGO, Society for Elimination of Rural Poverty (SERP) in Andhra Pradesh and the Sujala Watershed Project in Karnataka are two prominent examples of how governments create their own registered societies and NGOs to implement poverty alleviation programmes. However, dealing fully with this is beyond this paper; these two GONGOs are headed by IAS officers on deputation, the handmaidens of the state and heavily and solely funded by the World Bank. Therefore, should we call these NGOs civil society or government? It is another problem of classification of NGOs.

Civil society has an entire continent of social issues to address—even if by which it does political work indirectly—even while leaving the state alone. It is desirable for the state policies to be influenced and for civil society advocacy to succeed. Even otherwise, civil society in India has sufficient and many valuable moral reasons for existence.

Notes

- ¹ The definitional issue is quite an important one in the context of civil society. There are theoretical and empirical definitions for civil society. The definitional questions also raise other questions: How do definitional issues help us discuss the emerging realities in the context of contemporary India? If definitional issues are significant, then how to take the baby without the bath water? This is surely not by-passing the issue. The working definition adopted in this paper is that of civil society as medium and large non-governmental organisations that do not owe any allegiance to any political group, covertly or overtly, and have capacity for policy advocacy, and either conduct policy advocacy with the state or aspire to do so. Some useful surveys of the concept: from a theoretical point of view see Carolyn Elliott (2003) 'Civil Society and Democracy: A Comparative Review Essay'; and introductory essay by N Jayaram (2005) 'Civil Society: An Introduction to the Discourse'; the concept in its empirical usage see Thomas Carothers and William Brandt 'Civil Society' in *Foreign Policy*, No. 117 (Winter 1999-2000) pp 18-29.
- ² These conceptual issues are derived from a study comparing two State level NGOs in Karnataka and Andhra Pradesh. These NGOs are intermediary in nature and do work with grassroots partners at the ground level as well as with state and multinational donors at a more metropolitan level. These NGOs also have their own policy advocacy components in their agendas. Many of the conceptual issues discussed here are derived from the experiences of these NGOs.
- ³ Finally, *inter alia*, we should consider at the end the fact that while civil society can be defined as a cluster of organisations, as we did in this paper, the concept also connotes the larger reality. For example, the recent spontaneous protests in Tehrir Square in Egypt: It is of course a widely noted fact that the east European Velvet Revolutions in 1989 were always considered as examples of the spontaneous action of the 'people' i.e., civil society, against the state. There is a need to discuss *spontaneity* in such contexts as one of the most important aspects of civil society.

- ⁴ Examples of political regimes fearing civil society existence and action are not far to seek. The Chandrababu Naidu-led TDP regime in Andhra Pradesh is supposed to have been most hostile to civil society fearing that the latter may emerge as alternative power centre. Another example at the Centre is Mrs Indira Gandhi's dealing with avowedly Gandhian civil society organisations before and during Emergency. Often it is also possible that the political regimes want to promote their own variety of civil society organisations. Right wing governments in India for example have been hostile to civil society organisations promoted by other religions while promoting their own 'civil society' organisations.
- ⁵ Sudipta Kaviraj's point is not applicable in this rationale for the civil society. Kaviraj for example says, 'civil society' appears to be an idea strangely incapable of standing freely on its own. It always needs distinctive support (i.e., support by being one half of a distinction) from a contrary term. It is defined through its opposition to 'natural society' of 'state of nature' in early modern contract theory (for instance in Hobbes' and Locke's use); against the state in the entire liberal tradition, and contrasted to *community*(*Gemeinschaft*) in a theoretical tradition of modern sociology(particularly Tonnies)' (Kaviraj, 2001:288-9)

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