

## **Enabling Civil Society for Improved Policies and Governance**

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Dr. B R Ambedkar said, “It may not be necessary for a democratic society to be marked by unity, by community of purpose, by loyalty to public ends and by mutuality of sympathy. But it does mean unmistakably two things. The first is an attitude of mind, an attitude of respect and equality towards their fellows. The second is a social organisation free from rigid social barriers.” (Dr H. Abdul Azeez, *Democracy, Government and Society: Vision of Dr. B R Ambedkar*). Including civil society in governance is essential to creating such a ‘good’ society to promote and protect the will of the citizens. This paper talks about how the government could engage more closely with civil society organisations (CSOs).

### **A. Engaging CSOs in Policy Formulation, Implementation and Assessment**

Nobel Laureate FA Hayek in his seminal essay, ‘*The Use of Knowledge in Society*’, highlighted that public policy is limited “by the fact that the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess.” While Hayek was cautioning policy makers against the fatal conceit of knowing what is right ‘for the people’, within a democracy one way of addressing this ‘knowledge problem’ is to find several diverse sources of information and knowledge. In the policy making process, the community-embedded, diverse, small and large civil society organisations (CSOs) possess the dispersed bits of knowledge of the unique local circumstances.

The National Policy on the Voluntary Sector, 2007 focuses attention on commitments the government expects from civil society organisations but does not set out an ‘in law’ mechanism for engaging them in the legislative or rule-making process. The Preamble states, “This Policy is a commitment to encourage, enable and empower an independent, creative and effective voluntary sector, with diversity in form and function, so that it can contribute to the social, cultural and economic advancement of the people of India.” The Policy recognizes “three instruments of partnership, viz., (i) consultation, through a formal process of interaction at the Centre, State and District level; (ii) strategic collaboration to tackle complex interventions where sustained social mobilization is critical over the long term; and (iii) project funding through standard schemes.” However, the manner in which these three will be embedded in decision making remains unclear.

At the central level, in the era of the Planning Commission, there was sustained engagement with CSOs. The plan drafting and appraisal process (however ‘on-paper’ it may have been) provided an opportunity for policy gathering and consultation of CSOs in identifying and executing national budgetary priorities. In the non-plan world, it isn’t entirely clear how these interactions and consultations have materialised.

In order to actively embed CSOs in designing and executing public policy, the government needs to commit a specific role to interested and qualified organisations across the range of sectors and geographies. We have the following suggestions:

1. Indian policy drafting typically incorporates a process of public consultation and responses are invited for many proposed Bills in parliament. While many individuals and organisations do respond, there is no transparency on what suggestions and critiques were put on the table since responses of contributors are visible only to the drafting body. It is understandable that the large volume of responses makes it very difficult to physically respond to all suggestions and comments. A simpler solution could be to make all comments public so that interested parties can know what others have proposed, and thereby help facilitate more collaboration among CSOs.
2. We currently do not have an organised culture or mechanism of 'public hearings' of committees of parliament or state legislatures on issues of public interest akin to US Senate hearings or Congressional testimonies. There are other types of forums, where public hearings are deployed successfully such as those conducted by the State Electricity Regulatory Commissions to decide on tariffs and in the case of all category A and B1 projects or activities under the environmental impact assessment procedures. In many countries these are part of an organised process of discovery, investigation and design in public affairs and run the gamut from key executive appointments to subject matter decisions. These should be set up in India.
3. Formal contracting with CSOs on the policy pipeline is thin. Central and state governments now regularly engage with consulting firms on a variety of reform areas. However, there is a principal-agent problem in these interactions, and it is unclear if the quality of advice and action rendered are in the best 'public' interest. While individual experts from CSOs are regularly engaged through these assignments, the overall impact is weak. Several OECD governments have deployed a tool called 'indefinite quantity contracts' (name varies across countries) that allows them to float an umbrella tender for a variety of advisory (and other) services that is neutral between for-profit and non-profit organisations. The vetting process for selecting a small pool of highly qualified advisory service providers under the contract is rigorous and allows them to call on the selected bidders on demand. Currently we only do this for IT and BPM services inside government. An example of the kind of discovery and policy formulation process that took exemplar input from CSOs is the drafting of the bankruptcy code. Different think tanks submitted ideas, each commentary was made available to all drafting participants, and comments on the draft code was made iteratively after discussions, presentations and submissions. Therefore, different CSO services or issues should be classified and a pool of the 'best in class' be set up and paid to advise the government.
4. Civil society could be a strong partner in helping to improve implementation of various schemes and programs. CSOs have exceptional ears to the ground, and are able to bring information to light what escapes traditional data collection. Using CSOs in reconnaissance and commissioning them to run independent surveys and non-quantitative feedback can be priceless. For example, after rolling out the DBT in lieu of foodgrains pilot in the Union Territories, Niti Aayog and Ministry of Food commissioned JPAL to run process-monitoring surveys. These ended up identifying critical issues in processes and showed a strong relationship between quality of implementation and beneficiary preference for the new scheme.
5. All government policies need to be assessed to judge their success and possible modifications that need to be made. CSOs are embedded in communities and have their trust to get them to give honest assessment of the policies. This

feedback loop is critical for policy success and should be used by the government.

6. In addition to help improve implementation and assess the impact of policies, CSOs could be an overall watchdog - the fifth pillar of our democracy. They could focus on overall accountability, transparency and performance of the state. For example, they could analyse central, state and local budgets and keep the focus on allocations and outcomes, monitor service delivery through report cards, citizen charters and design and implement grievance redressal systems for the public services. (Radesh Tandon and Ranjita Mohanty, *The Role of Indian Civil Society: Ensuring State Accountability*).

This watchdog function should also be performed on the private sector - compliance with laws and regulations, corporate governance, grievance redressal, unjust and unfair treatments of workers/ employees and shareholders. Reliable and independent information on the private sector is also critical for overall governance.

Some of these deliberations and processes may slow down decision-making. But is critical to a healthy democracy to ensure that government projects, decisions or policies are for the general benefit of all stakeholders. Ways could be developed to ensure that these deliberations are time bound and do not drag on unnecessarily affecting the viability of good projects.

## **B. Engaging CSOs to Build Trust and Collaboration**

Today we are inundated with news through various channels - social media and traditional media - and it is difficult to sift through all of this to decipher what is fake and what is not. Furthermore, the world is getting divided into two extreme groups of people – those for and those against an issue. The middle ground seems to have disappeared.

Civil society could be an effective facilitator of dialogue among diverse stakeholders. It is very important that there be proper dialogue between the citizens and the government, which includes the politicians, the bureaucrats and the judiciary. And also dialogue between different groups of citizens. Some of these forums exist today, but they are often opaque and non-transparent.

There should be more interactions between elected officials (Members of Parliament and Members of Legislative Assemblies) and the citizens. These formal or informal meetings should not be about personal favours, but should instead be about policy issues. This also gives the citizens the opportunity to appreciate the constraints facing these elected officials and the bureaucracy. It would also help in rebuilding the trust between the citizens and the government, something that has deteriorated over the years.

We live in an increasingly polarized world. Citizens, including politicians, take extreme views and the middle path is not an acceptable path. We need to recapture that middle ground. Newspapers and TV have moved away from reporting news to taking strong points of view, based on their political or social biases. And this problem gets accentuated on social media where alleged facts are broadcast instantaneously across to millions of people, with limited accountability.

The government recently decided to set up a Social Media Hub. The Supreme Court has asked the government whether this monitoring of WhatsApp messages will lead to a

surveillance state. Therefore, is there a role for self-regulating bodies and other civil society structures to ensure more responsible news and information dissemination?

Recent signals point towards a larger role for civil society in this area. For example, the Prime Minister recently intervened to disband the guidelines of the Ministry of Information and Broadcasting and said that the Press Council of India will be responsible for print media and the News Broadcaster Association will be responsible for the electronic media. These are important arms of civil society. In addition, the creation of indendently-financed forums to disseminate neutral, fact-based news will help society in the long run. Hence, initiatives like the Independent and Public-Spirited Media Foundation are to be encouraged. IPSMF is committed to promote excellence in independent, public-spirited and socially impactful journalism.

### **C. Regulating CSOs to Facilitate their Growth**

To perform all of these roles at scale, civil society needs a facilitating regulatory regime. Governing 1.3 billion people democratically and effectively cannot and should not be done by the government alone. Viewing CSOs patronisingly or suspiciously is a myopic way of interacting with them. The government needs to think of civil society as a partner in nation-building. The goveremnt should rethink the draconian laws like the Foreign Contribution (Regulation) Act, 2010 (FCRA) and expand the scope of supportive laws on the CSR by corporates.

Private companies are free to accept foreign funding, the government has been taking grants and loans from multilater agencies, and political parties have no restrictions on receiving foreing contributions. Why single out CSOs? If political parites are not compromised by foreign funds, what is the rationale to think otherwise for the people? It is time to remove the FCRA. It is better to have more transparent and accountable system of annual reporting of activities and accounts, as we do with publicly listed companies.

The current CSR guidelines of the government allow the funding of goods and services to beneficiaries. It should also include the type of work that civil society could do that we have discussed in this note - policy formulation, implementation and assessment building trust and collaboration.

Civil society in India is diverse and vibrant and it can fulfill its mission more effectively if the state provides an empowering regulatory system.