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Proactive Functions of CSOs in Post War Situations: Importance of Having Branded CSOs (Learnings from Sri Lanka)

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Background

State sovereignty is the concept that states are in complete and exclusive control of all the people and property within their territory. In Sri Lanka, both natural and man-made disasters (tsunami and armed conflict) created a pathway to question sovereignty, and weakened existing systems by creating dependency on welfare supports/response. And also, this situation has significantly damaged existing social protection agencies which have been already seen as politicized. Further, the overlap strategies of state agencies, line ministries, national authorities, police, law and enforcement unit centres have confused the general public. Though there is an umbrella organization called NGOs Secretariat established by the Government of Sri Lanka, many INGOs, NGOs and CBOs remain as

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unregistered but engaged in implementing several humanitarian projects for more than 25 years.

In 2016, the state re-established the NGOs Secretariat for coordinating all NGOs' work in Sri Lanka. But NGOs in Sri Lanka highly rely on foreign funding for their plans and activities. Thus, the rules and controls were slightly changed to accommodate more investment and income through humanitarian aid while ensuring non-interference into the internal affairs (state sovereignty).

However, little consideration for changing the paradigm of the civil society organizations was considered in the past 30 years other than centralization. This trend of state personality created because of two reasons:

1. The Government of Sri Lanka (GoSL) tightened the acts of NGOs in November 2006 when the GoSL and Liberation Tigers of Tamil Eelam (LTTE) has announced their withdrawal from peace negotiations and commenced the war.
2. Though certain activities of the NGOs are connected to the subject matters which have been devolved¹ to the sub-national level state authorities in Sri Lanka, almost all the NGOs and their acts were fully controlled, well-coordinated and monitored by a central authority.²

By citing these, two different case studies describe the past and deal and spell out the possible role of CSOs in the Transitional Justice and Peace Building process. Further, those two case studies elaborate on the dynamics of civil society in situations of armed conflict or natural disasters and look at how the international community and donors can ensure their policies adequately empower citizens and civil society in all stages of peacebuilding and development.

¹ Accordance to the 13th amendment of the Constitution of Sri Lanka.

² NGOs Secretariat and Presidential Task Force for North & Eastern Provinces specially to monitor the development projects implemented in Northern and Eastern provinces.

Case Study One: State Recognition of the Civil Society Organizations in Sri Lanka

Sri Lanka³ is a country that is recognized as a free, sovereign, independent, and the democratic socialist Republic; further, the constitution assures that sovereignty is in the People and it is inalienable which can be exercised and enjoyed in a certain manner specified in the constitution. This manner should be exercised or enforced through the supreme body such as a parliament. Sovereignty includes the powers of government, fundamental rights and the franchise.

In the past several decades, it should be noted that many laws introduced by the government concerning NGOs work; they mainly introduced to govern NGOs or the community-based local civil society organizations (CSOs/NGOs).

Registration of such organizations comes under the purview of the government agent (district or divisional level), or Ministry of Social Services at the provincial level. However, it is expected that all the NGOs must be registered under the NGOs Secretariat. The NGOs Secretariat was established in 1996 under the purview of the Ministry of Health, Highways & Social Services; in November 2020, the National Secretariat for Non-Governmental Organization function under the purview of the Ministry of Defense; shifted back to the Ministry of Defense from Ministry of National Co-existence, Dialogue, and Official Languages.

This is to ensure a conducive environment for national and international communities to contribute to the relief and development activities and also for better coordination among NGOs, government sector institutions and with the people who require the services of the NGOs. All those changes were made by the president through his executive power.

Although, there was a reason for such a move, the acts of NGOs were carefully monitored and screened. As NGOs provide analysis and expertise, serve as watchdogs and help agencies to monitor and implement international agreements, the interlinkage between NGOs Secretariat

³ Known as the Democratic Socialist Republic of Sri Lanka Article 1 of Sri Lankan Constitution.

and Ministry of Defense is considered a challenging environment. NGOs' relationships with offices and agencies were watched carefully by the state with the name of national interests and security. Between 2009 and 2012, the situation worsened, as the NGOs projects had no interconnections with international law, human rights, and defending the equal rights philosophy of the United Nations system.

The aforementioned move and changes question in reality the context of sovereignty of the parliament. As described in Diceyan view, parliament is supreme, and supreme body⁴ which makes laws for people. This can be further illustrated in two ways. One is the principle nature of the Diceyan view of "parliament as a law-making body" and second is the check-in balance plus functional elements of the state organs. Though, the PTF (as a mechanism to control NGOs) is considered as a parallel mechanism introduced by the president, while the parliament's legal unit (NGOs Secretariat) paralyzed due to the interference of other state organ. Meanwhile, the NGOs Secretariat also has taken measures to interfere with certain subject matters by establishing district level coordination bodies with a state officer appointed as the coordinator paid by the government. There was not a system to prevent one branch of government from having more power over another; instead, the government would be controlled by one group of people. It would not be fair to the people of Sri Lanka. No, any NGOs raised their strongest voice collectively to discipline state organs in this regard.

Case Study Two: State Personality and Strategic Plan

Globally, the corporate sector's partnership, NGOs' involvement and public-private partnerships are considered as the main pillars for sustainable development. Such groups, agencies, committees and institutions should be allowed to work independently. To ensure better-coordinated service delivery, coordination with the line ministries expected, however,

⁴Firstly formulated by John Austin in his book, titled as *The Province of Jurisprudence Determined*, published firstly in 1832 and then detailed by Dicey.

non-inference into each other's discretion must be assured. This situation was changed in 2010, when PTF gave instructions to NGOs and UN agencies, and facilitated and guided for the development of joint action plan.

The guidelines⁵ for developing Joint Action Plan by NGOs and UN for 2011, restricted by a circular issued by PTF, letter dated 26 November 2010, sent by PTF. All the NGOs and the UN agencies were requested to adopt the guidelines, and short deadlines were given to submit their joint action plan for 2011 in a template, under those subtitles.

Evidence has been proven as described earlier for the NGOs and CSOs were supervised and monitored by PTF or by the GoSL. Especially, it should be noted that a major strategic review of NGOs' work during the Tsunami period laid down several challenges, including listening to the community more, helping them promote themselves and become independent, and helping CSOs hold donors and GoSL to accountable. Almost ten years on these empowering ideals still present several different challenges for GoSL and raise questions about how it collaborates and builds relationships with others. Sri Lanka joint with the Open Global Partnership (OGP)⁶ in 2016 and actively get engaged through the Ministry of External Affairs and other cabinet ministries. OGP was launched in 2011 to provide an international platform for domestic reformers committed to making their governments more open, accountable and responsive to citizens.

In addition, the Consortium of Humanitarian Agencies (CHA) and National NGO Action Front are other two national platforms established collectively by NGOs to work collaboratively. Though, they have raised voice (muted or well-tuned) for the benefits of the civil society organizations in general, not on those challenges listed. In summary, the national forum or any other CSOS association couldn't imagine or support to act proactively. Instead, it started to function as implementing agencies of institutional donors or funding agencies. The frequent changes at the ministry level—the inevitable breakdown of systems that occurs in conflict situations—deeply damaged the functions of civil society. The

⁵“Guidelines to Plan Action Programs for the year of 2011”.

⁶<https://www.opengovpartnership.org/participants>.

dilemma of political impartiality is an ongoing challenge for all development actors in situations of conflict, with CSOs speaking about it very differently, depending on the context. This situation has been considered as so weaken in those locations affected by armed conflict as the people who are associated with the CSOs have also been affected by the conflict and were not in a position to overcome and then to work for the betterment of the people.

Due to those issues listed earlier, fear prevents people from speaking out and, in turn, also reluctant citizens or civil societies' participation in decision-making processes. CSOs in 2009 and 2010 are requested to report to the district coordinator at the district secretariat. But the approval process were centrally managed. In the meanwhile, the district level council of NGOs in many parts of the country had their own forum. All three levels have experienced with weak political systems, lesser supervised projects, and high levels of bribe/corruption have been most significant for getting approval, leaving negative long-term effect on civil society during the time of armed conflict/post armed conflict.

Conclusion

Therefore, the two case studies highlight the importance of promoting country-level strategic partnerships among state actors and civil society groups to downsize the negative consequences on the lives of the people especially the ones who have gone through severe traumatization in the past. Further, this partnership should be built for the realization of social harmony (which may give a pathway for peacebuilding). And also, the CSOs and NGOs must be capacitated immediately not only to prepare themselves in line with the gradual move towards developing nations but to proactively function towards the betterment of the general public and rule of law, and to fight for the better realization of human rights.