



Shrinking of Civic Space: Drafting of CSOs policies in Nepal

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Background

The notion of civic space is closely associated with the freedom and fundamental rights of people. Though there is no single definition of the term, the global civil society alliance CIVICUS has defined civic space as "the place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly."¹ By forming associations, by speaking out on issues of public concern, by gathering together in online and offline fora, and by participating in public decision-making; individuals use civic space to resolve problems and improve their lives. A robust and protected civic space forms the cornerstone of accountable, responsive democratic governance and stable societies.² The states shape legal and policy space within which people express views, assemble, associate and engage in dialogue with one another and with authorities about issues that affect their lives, from the quality of basic services to better institutions and respect for fundamental freedoms.³ The states are obliged not only

to respect and promote these rights but also to protect them from infringement by both state and non-state actors.⁴

Nepal has a long tradition of civic space and civil society engagement in society and politics. In their modern forms, they are closely related with the works and activities of the Civil Society Organizations (CSOs), including NGOs and INGOs that emerged in the mid-20th century but flourished after the democratic restoration of 1990. Before 1990, the political regime had policies that discouraged registering organizations and did not protect the freedom of speech and freedom of association. As a result, there were limited numbers of NGOs/CSOs in existence.⁵ After the 1990's democratic transition with the constitutional guarantee of the freedoms of speech, assembly, and association; the number of CSOs began to rise. Nepal also acceded to the International Covenant on Civil and Political Rights (ICCPR), accepting all the international obligations under the treaty that further facilitated the entry of international non-government organizations (INGOs) into the country.

1 CIVICUS n.d.

2 Ibid

3 OHCHR 2020

4 CIVICUS 2014

5 Upreti 2011

There are several types of CSOs in Nepal, including: NGOs, religious organizations, trade unions, social and cultural groups, identity-based associations, professional associations, networks, federations and trusts.⁶ A landscape study in 2019 had estimated 300,000 CSOs existed in the country and some 50,000 (17%) of them are registered.⁷ The CSOs have contributed significantly to democratization in Nepal and played an important role in social welfare, community development and human rights and become alternative vehicles for social change and service delivery. Nepal's civil society evolved into a vibrant movement for defending democracy and human rights during the people's movement in 2006 A.D., while the political parties were taking a back seat in the King's autocratic regime.⁸ Despite enormous contributions and longtime involvement, CSOs continue to suffer from the misconception of being cunning, donor-driven "dollar harvesters." Instead, they are often criticized for being non-transparent, donor-driven, and unreliable. This perception gives impetus to those who want strict regulations and restrictions on the CSO operations. Significantly, some CSOs are blamed for working to spread Christianity, a damning accusation in the non-Christian Nepali culture.⁹

Nepal was declared a federal republic in 2008 and the political transformation was institutionalized through the adoption of a new constitution in 2015. Article 17 of the Constitution guarantees an enabling environment for civil society by protecting freedom of opinion and expression as well as the freedom to form associations and political organizations as fundamental rights. However, the charter also allows for laws to "impose reasonable restrictions" to protect national interests such as national sovereignty, national security and harmonious relations between different federal units, communities, and identity groups. Under the "policies regarding social justice and inclusion", the Article 51 (j) (14) the constitution aims at adopting a "single door policy" for the establishment, endorsement, engagement, regulation, and management of NGOs and INGOs and states to involve the "NGOs and INGOs in the areas of national needs and priority by making the investment and role of such organizations accountable and transparent."¹⁰

As the country transitions to a federal system with three

tiers of governments, the environment in which the civil society organizations (CSOs) operate is also changing.¹¹ Hundreds of laws are being drafted to align with the new constitution. In the meantime, issues were raised, how such legal changes would impact the civic space and CSOs, including I/NGOs. This study assesses how such policies would affect the civic space and CSOs in Nepal. Though the civic space and CSOs covers broad areas and get affected by various policy measures, this study is basically based on document reviews and consultations with the stakeholders, and confined only the federal level laws, policies and draft bills. The study argues that despite the constitutional guarantees of the freedom of opinion and expression, and the freedom to form associations and peaceful assembly; most policies that have either come into force or under consideration have offered discretionary powers to authorities to control the civic space and restrict CSOs' activities. Drafting of such new laws on CSOs have been widely criticized by the stakeholders, that have resulted to abandon the steps taken by the government to opt for new solution in drafting the CSO policies in Nepal.

Existing policies that guide CSOs

There are numerous policies and laws that directly or indirectly affects civic space, freedom of expression, association and the overall governance of CSOs. Some of them were enacted during the autocratic Panchayat regime (1960-1990), while others came into force following the democratic transition of 1990. The National Directive Act of 1961 is one of the earliest policies relating to CSOs. The Act allowed government to issue orders and instructions to CSOs registered under the Act to conduct their activities as deemed appropriate. Likewise, the Association Registration Act (1977) is another Panchayat-era law that regulated I/NGOs. The Social Welfare Act 1992 was the first such law after 1990's change that aimed to regulate non-governmental organizations. The law states that the CSOs receiving foreign funding were required be affiliated with the Social Welfare Council (SWC). The Company Act 2006 has some safeguards against

6 Ibid

7 British Council 2019

8 Ibid

9 Upreti 2011

10 The Constitution of Nepal 2015.

11 British Council 2019

arbitrary denial of registration of any company even though it has some operational requirements for non-profit companies which do not apply to for-profit groups. The multiple registration steps and numerous entities regulating CSOs have made registration and aspects of CSO operations quite burdensome in Nepal. Such legal framework might have been the impetus for the “one-door policy” in the 2015 Constitution.¹²

After 2015's constitutional change, only the International Development Cooperation Policy 2019 has been issued.¹³ Aiming to mobilize international development assistance to fulfill the national aspiration of “Prosperous Nepal, Happy Nepali”, the policy aspires to achieve a balanced development of all regions, classes and communities, by mobilizing international development aid in areas prioritized by the government. Such areas are identified mostly the infrastructure and agriculture projects and other ‘hardware activities’ with less prioritization on human rights, democracy and inclusion. As per the policy, INGOs and NGOs require to report about their funding and programs to the Aid Management Platform at the Ministry of Finance (MoF).¹⁴ This shows a large-degree of control over expenditure of the funds and further allows the government to pick and choose areas of focus.¹⁵ A positive aspect of this policy is seeking international consultancy services by CSOs only when such expertise is not available in the country. This may be helpful in addressing the issues of excessive charge for international consultancy services and exceed overhead costs of CSOs. However, it could also give undue power to the authorities to influence

hiring process of human resources of CSOs.

Proposed CSOs policies and its implications

After 2015, many laws and policies relating to CSOs are being drafted to align with the new Constitution. Some of which are under consideration at various committees of the Federal Parliament, while rest are either pending or in review process after the strong backlash from the stakeholders, including CSOs, media and international community. One such policy was the Bill for the Social Welfare and Development Act, 2016, which was drafted by the erstwhile Ministry of Women, Children and Social Welfare. Aiming to replace the existing Social Welfare Council Act 1992, the bill proposed to classify the CSOs based on their nature of works, and geographical areas of their workings. It also had provision to collaborate between CSOs and private sectors, and reward individuals or organizations on the basis of their contribution for social welfare and development. Despite such provisions, the Bill included several provisions giving authorities’ power to control CSOs’ operation and activities. There were provisions such as INGOs need to secure permission from the Foreign Ministry, dissolution of NGO possible on orders of local authorities, NGOs need to get prior approval from Social Welfare Council (SWC) to receive funds from development partners; and the power of SWC to suspend or dissolve the

Table 1: CSOs policies pros and cons

Proposed Bills/Policies	Strength	Weakness
The Bill for the Social Welfare and Development Act, 2014	<ul style="list-style-type: none"> ▪ Aims at directing development works of NGOs, monitoring, evaluating and regulating them. ▪ Classification of NGOs/INGOs based on their working areas, themes and geographical areas ▪ Provision to reward individuals or organizations contributing to social welfare & development ▪ Proposal to have collaboration between CSOs and private sectors 	<ul style="list-style-type: none"> ▪ Discretionary authority to renew or not to renew CSOs to the Chief District Officer ▪ Dissolution of NGOs possible on the order of local authorities ▪ SWC has the power to suspend or dissolve the Executive Committee of NGOs if engaged in activities contrary to their constitution, the prevailing law of the country ▪ Provision to obtain prior approval from SWC by NGOs to receive funds from development partners

¹² ICNL 2017

¹³ Nepal Government Ministry of Finance 2019

¹⁴ Pokhrel 2016

¹⁵ Singh et al. 2020

<p>The National Integrity and Ethics Policy, 2018 (OPMCM)</p>	<ul style="list-style-type: none"> ▪ Aims to promote transparency and accountability of CSOs ▪ CSOs need to enact own code of ethics and implement them strictly ▪ INGOs would be banned if they tried to engage in proselytisation ▪ Limitation of family members (only one person) to remain in executive post of CSO ▪ Judiciary, constitutional bodies and security agencies should not receive assistance directly from I/NGOs 	<ul style="list-style-type: none"> ▪ Strong vigilance over the non-government and private sectors, burdensome reporting and procedural requirements, increased restrictions on scope of activities as well as access to funding ▪ INGOs would not be allowed to engage in projects that influence the drafting of laws and policies in the country ▪ Acceptance of foreign aid only through the national budgetary support, and NGOs have to get their budget and programmes approved by the Ministry of Finance ▪ INGOs are barred to send their reports to the country they are headquartered in without permission of the Nepal government
<p>The Bill to Amend and Consolidate Laws Relating to Establishment, Registration and Operation of Social Organizations, 2019</p>	<ul style="list-style-type: none"> ▪ CSOs can renew their terms for five years ▪ Classification of CSOs into 13 different functional categories based on the nature of their works (Section 18) ▪ INGOs need to align with the local CSOs/NGOs to work in Nepal (Section 24) ▪ Financial transactional through banking system (Section 26) 	<ul style="list-style-type: none"> ▪ Discretionary power to reject the registration of CSOs (Section,7) ▪ CSOs are directed to choose only one areas of work among 13 functional categories. This may be inappropriate provision as most of the CSOs, including many research-based CSOs are working in cross-cutting issues and functional categories. ▪ Though the provision to appoint Nepali experts and other workforce for Nepali citizens, it may not be always relevant and international experts may deem necessary
<p>The International Development Cooperation Policy, 2019 (Approved)</p>	<ul style="list-style-type: none"> ▪ Aims to mobilize international development assistance to fulfill the national aspiration of “Prosperous Nepal, Happy Nepal”. ▪ Focus on the balanced development of all regions, classes and communities while mobilizing development cooperation ▪ International consultancy services will be mobilized only when such expertise is not available in the country 	<ul style="list-style-type: none"> ▪ Emphasis on budgetary support for foreign aid mobilization ▪ Government would mobilize, implement, monitor and evaluate international development cooperation resources; and such funding would give emphasis on infrastructure development, agriculture sectors etc.

Executive Committee of NGOs if engaged in activities that contravene their own charter, or prevailing laws. The bill has remained pending after widespread criticism from the CSOs and other stakeholders.

Meanwhile, the Office of the Prime Minister and Council of Minister introduced the National Integrity and Ethics Policy 2018¹⁶ that also became controversial due to its provision to have strong vigilance over the non-governmental and private sectors along with burdensome reporting and

procedural requirements, increased restrictions on scope of activities as well as access to funding for the CSOs¹⁷.

The policy had stringent provisions that included the local NGOs and groups need to seek permission from the government to receive foreign grants, INGOs are proposed to be banned from advocating on policy issues and from making ‘inappropriate allegations’, ‘spreading ill will’, or doing anything to ‘jeopardize the Nepali civilization, culture, social relationships and harmony’.

16 The National Integrity and Ethics Policy 2018

17 Pradhan 2018

Likewise, INGOs are proposed to get approval for their annual programs and budget from the Finance Ministry and barred to send their reports to the country they are headquartered in without permission of the Nepal government. The CSOs, civil society and development partners criticized the policy cautioning it would control the civic space and limit the CSOs activities. Stakeholders took these policies as efforts to “impose restrictive laws against civil society organizations (CSO)¹⁸ and that left only three ways forwards for all CSOs operating in Nepal: Exit, raise voice against the oppression or pledged loyal to the government for their existence¹⁹.

A replacement Bill for the Social Welfare and Development Act 2016 was again introduced in the Federal Parliament by the Ministry of Home Affairs in 2019. The new “Bill to Amend and Consolidate the Laws Relating to Establishment, Registration and Operation of Social Organizations, 2019²⁰ aimed to replace three existing laws relating to CSOs’ governance: the National Direction Act 1961; Association Registration Act 1977; and Social Welfare Council Act 1992. The bill was drafted by the Ministry of Home Affairs, an agency meant to deal with the internal security and maintain law and order. As per the bill, the NGOs should be register at Registrar’s Office and INGOs need to get registered and approval from the Central Registrar’s to operate in Nepal. As per the existing laws, CSOs need to be registered at the District Administration Offices and affiliated with the Social Welfare Council (SCW). Like in the previous bill; this bill has classified the CSOs into 13 functional categories and proposed them to confine their activities only one of the 13 functional categories. These categories consist of awareness promotion; policy advocacy; social welfare; social service; ecology protection; social justice; social development; governance, democracy, gender justice and inclusive development; protection of consumer’s interests, research, promotion and protection of professional interests, religious or cultural promotion, infrastructure development and among others. Indeed, there basically of two types of functional areas allotted for NGOs and INGOs: One, development related works, widely known as “hardware”, which includes activities such as infrastructure development, agricultural support etc. Another is the advocacy, awareness, and rights-based programs etc. known as “software” activities.

18 GoGo Foundation 2019

19 Ibid

20 Nepal Law Commission 2019

Though the Bill have not clearly stated what portion funding CSOs needs to allot in either sector; SWC and the government officials used to describe the ideal distribution of foreign funds receipts as 60 per cent for ‘hardware’ and 40 per cent toward ‘software’²¹. Such policy could ultimately force all NGOs and INGOs receiving foreign funds needs to allot most of their funds in developmental sectors, irrespective of their objectives. This would grossly affect CSOs’ ongoing engagements in areas of advocacy, capacity building, awareness campaigns and other rights-based activities. The provision to limit CSOs’ involvement in only one of the 13 proposed functional categories would severely impact CSOs’ activities as most of the CSOs have more than one functional categories and have been involved in multiple and cross-cutting issues.

Several provisions of the bill also matched with the provisions stipulated in the National Integration and Ethics Policy 2018. These include the provision to conduct financial transaction through banking channel, recruiting foreigners as an experts, advisors by the CSOs only if there lacks Nepali experts; and getting prior consent from the authorities to receive funds from the international organizations and development partners. Though the idea of financial transactions through banking channel was a positive as it may help address the issue of financial transparency of CSOs, the condition to get advance approval for receiving funds from the funding partners is impractical and it could give undue power to the authorities to dictate their terms. The proposed functional categories CSOs-- religion or culture promotion-- is controversial given the vagueness of the term as well as the sensitivity of the

issue. In a country Nepal with people associated with so many cultural groups and follows many religions, the idea to involve CSOs into such areas would be consequential for broader social and religious harmony. With the provision of discretionary power given to the authorities from rejecting CSOs’ registration, renewal or funding to dissolving its executive committees in the Bill; stakeholders have dubbed the Bill as an attempt to restrict civic space and control the CSOs’ in the country.

Similar developments are there with regards to the freedom of press and independence of media. A

21 Pokhrel, A.R. & Kafle, P. (2016, October 27). ‘A Critique on Proposed Social Welfare and Development Act, 2073 of Nepal’. <https://www.linkedin.com/pulse/critique-proposed-social-welfare-development-act-2073-pokhre>

number of bills were pushed forward with restrictive provisions that curtailed freedom of press, freedom of opinion and expression and further squeeze the civic space. The proposed bill for the Media Council Act, 2019 has given the authorities power to issue hefty fines (up to Rs. 1,000,000) for violating the code of ethics, and the government more say in the hiring and firing of the council members. Despite backlash from media fraternity; an amendment proposal has been filed in the Bill with the provision of issuing license to the journalists. The Bill has already endorsed by the upper chamber of the Parliament. Besides, the proposed bill for the Mass Communication Act, 2019 has even restrictive measures with hefty fine up to Rs. 10 million and a maximum 15 years' imprisonment if journalists are found 'publishing or broadcasting contents deemed to be against sovereignty, territorial integrity and national unity.'²² Aiming to replace the existing Electronic Transaction Act (ETA) 2006, the government has also worked out on the Information Technology Bill 2019, which has also become controversial due to its sweeping power to the police for the vigilance on citizens' engagement in social media. There was a growing demand to replace the ETA as it has often been misused to prosecute online journalists as well as government critics.²³ However, the wide-scope nature and the vague language used in the replacement Bill has drawn criticism from the stakeholders as it could give power to the authorities to block social media platforms if they are not registered in Nepal, curtail freedom of speech online as well as increase surveillance of personal data. The Bill has prescribed a hefty fine up to Rs1.5 million and/or five years imprisonment for individuals who post online contents to sexually harass, bully or defame others.²⁴ The Bill has already been approved by the Development and Technology Committee of the House of Representative. Media professionals and stakeholders have raised voices against all these bills and said that these Bills, if implemented in their current forms, will have severe consequences on press freedom in the country.

Discussion and analysis

Despite the constitutional guarantee for the freedom of opinion, freedom expression and freedom to form associations and organizations (Article 17) along

with the international obligations to create conducive environment to exercise such fundamentals rights (UDHR, ICCPR etc), the Nepali state has introduced policies and bills with restrictive provisions that could shrink the civic space and control the workings of CSOs in the pretext of regulating them. Some policies have already been endorsed despite backlash from the stakeholders, while most of them are under discussion or pending at the Parliament and the Ministries. The CSOs related policies should be framed with the objective of implementing the fundamental rights. However, it has been appeared that most of them were pursued in line with the state policy of the Constitution – that is establishing “one-door policy” for the CSOs registration and renewal and orienting the NGOs and INGOs “only in the national need and priority sectors” [Article 51 (J) (14)]. Though the single door policy for the governance of CSOs is a significant step towards ending the existing arduous process to register, renew and get approval of CSOs' programs.²⁵ The provision to orient the CSOs' activities “only in the national need and priority sectors” can be taken as the Nepali state's over fascination for mobilizing CSOs for infrastructure development and disenchantment towards their ongoing advocacy, awareness and rights-based engagements. The SWC and government officials have described the ideal distribution of foreign funds receipts as 60 per cent for 'hardware' activities (that focuses on infrastructural development, agriculture projects etc) and 40 per cent toward 'software' activities (advocacy, awareness, rights-based programming etc.).²⁶ This has been further reflected in the International Development Cooperation Policy 2019 with its objective of mobilizing international assistance to fulfill the national aspiration of “Prosperous Nepal, Happy Nepali”. Utilizing foreign aid for national development is not a bad idea but confining their engagements in the infrastructure development is contrary to the very objective of civil society and CSOs in a democracy.

Some positive aspects can be noted in these CSOs related policies and draft bills, including the financial transaction through banking channel, barring CSOs in the activities related to the religious conversion. However, many provisions are there that express the state's biasness and suspicions towards the broader NGOs and INGOs community as if all of them are

²² Ghimire 2019

²³ CIVICUS 2021

²⁴ Rai 2019

²⁵ GoGo Foundation 2019

²⁶ Pokhrel, 2019

involved in the so-called dollar-kheti (dollar-harvesting) and untoward activities. The misconception about the NGOs and INGOs that they are engaged to influence local policies and carrying forward donor's agenda have been reflected in many draft bills and policies, including in the National Integrity and Ethics Policy 2018 with the provision of barring INGOs to send their reports to the country they are headquartered in without permission of the Nepal government and to engage in projects that influence the drafting of laws and policies in Nepal. Such policy measures could limit the INGO's civic and humanitarian duties when the state itself involves in cases of serious human rights violations. If the INGOs are barred to report about such happenings and let know the wider international community, such incidents could remain under the carpet forever.

The provision to confine NGOs/INGOs into only one of the 13 proposed functional categories would also be consequential on their activities as most of them have more than single objective and are involved in cross-cutting issues simultaneously. For example, this provision wouldn't be applicable for research-based NGOs which is simultaneously involved in multiple functional areas at once. Getting prior consent from the government to receive funds from INGOs and development partners is equally worrisome. This provision is impractical during the emergency response situations and against the principle of the CSOs rights to manage funds. Instead, the CSOs should be required to inform about their funding and financial details once they receive it from the funding partners and make them public. Seeking prior consent to receive funds may give power to the authorities to dictate their terms and could limit CSOs' activities. Likewise, the functional category of CSOs—the promotion of religion or culture—is controversial due to the sensitivity of the issues as well as the vagueness of its language. A secular country like Nepal shouldn't involve CSOs in religious or cultural promotion as it could be consequential for social or religious harmony. The provision of the discretionary power to the authorities to reject CSOs' registration, renewal or funds and to dissolve its executive committee could be misused by the government to restrict or control the civic space and CSOs' engagement in the country. Many have attributed the ruling Nepal Communist Party and their authoritarian ideology behind such restrictive policies, while some

others have inferred the overwhelming spiral of CSOs in Nepal so that the state wants to limit their numbers and engagement. Whatever the reason, the stakeholders have become suspicious on the very intention of the state as CSO-related policies were drafted by the Office of the Prime Minister and Council of Minister (OPMCM) and the Ministry of Home Affairs (MoHA)—which are the authorities to rule the nation, and deal with the internal security. Earlier, the CSO policies used to be drafted by the Ministry of Women, Children and Social Welfare in consultation with the SWC and other stakeholders. Officials claim that there is no difference in bringing policies by any of the state organs. The takeholders, including CSOs and SWC, however, argue that the authorities like OPMCM and MoHA should refrain from drafting such policies.²⁷ In a democracy, policies relating to the civic space and the CSOs should be framed with the aim of regulation them and facilitating their works, instead of controlling them.

Of course, there is a need to regulate the CSOs. However, such regulation shouldn't happen at the expense of compromising fundamental rights, constraining the civic space and restricting the CSOs' basic principles. Though most of the policies are yet to come into force; early signs are there that the civic space is being squeezed or controlled, especially after the formation of the new government in early 2018. Within a few months of the government formation, the Ministry of Home Affairs issued a notice declaring "no-protest zone" in certain areas in the Kathmandu Valley, including Maitighar Mandala and designated some lawns and open spaces as 'protest zone', that includes Khulla Munch—which had been used as a bus park for years.²⁸ Journalists, writers, artists and right activists are also harassed when they criticized the government. The Prime Minister and ministers are also frequently heard instructing supporters and party cadres to defend government's controversial decisions and counter public criticism in media and on social media. Greeting with black flags is an expression of civil defiance, which used to happen

even during the autocratic Panchayat period and the King Gyanendra's direct rule. But in recent times, many activities, human rights defenders and campaigners are arrested on charges of showing black flags to the

27 Jitram Lama, President, NGO Federation of Nepal and Pushkar Khati, Member-Secretary of Social Welfare Council said during a discussion program organized by CMR-Nepal on 25 June 2021.

28 Pandey 2018

prime minister, ministers and politicians.²⁹ Also, the proposed bill for the Federal Civil Service 2019 has barred the government employees—whether in office or after the retirement—to make comment or criticize the government through mass media or on social media.³⁰ Of course, civil servants need to follow disciplines and free from making political activism. Nevertheless, the motive behind barring them to criticize the government even after their retirement would be against the fundamental rights of freedom of speech.

Despite the enabling constitutional provisions for the vibrant civic space and rights to form associations and peaceful assembly, subsequent policies have intended to curtail the civic space, restrict funds of the CSOs and control the activities and silence the dissents. Following the strong backlash from the stakeholders, including the CSOs, media and reservations of from the SWC; the government has now realized the need to withdraw the proposed Bill for Social Organization Act 2019 and introduce a new replacement bill. As consulted by the Ministry of Women, Children and Senior Citizens (MoWCSC) with the relevant stakeholders, the new bill, to be called the Integrated Social Development Act— will be drafted by the Ministry with due consultations with the stakeholders³¹. Though erstwhile Social Organization Bill of 2019 has not been formally withdrawn; but the MoWCSC has already taken consent of the Ministry of Law, Justice and Parliamentary Affairs to this effect.³²

Conclusion

Despite ensuring the freedom of speech, freedom of opinion, freedom to form associations and peaceful assembly as fundamental rights; many policies relating to the CSOs are framed based on a provision of the state policy that is to “involve NGOs and INGOs in the areas of national needs and priority.” As infrastructural development has been set as priority area for foreign assistance; this reflects the state’s disenchantment of advocacy and rights-based activities of CSOs in its very constitution. These laws rather should aim at achieving the fundamental rights, rather than misguide the state

policy, which shall not be challenged into the court of law even in absence of its implementation. The state’s hidden bias and suspicion on CSOs’ and their workings has been reflected in many policies as if most of them are involved in so called “dollar-harvesting” & anti-state activities (i.e., religious conversion). Overall, the need to regulate the CSOs is not only the need of the hours, but also essential as hundreds of CSOs are there across the country with different nature, objectives and overlapping working areas. However, the need of better regulation shouldn’t be aimed at restricting and limiting the civic space, controlling CSOs role and silencing public criticism and dissents. Many policies were drafted without wider consultations among the stakeholders that have drawn flak from multiple quarters, including media, CSOs and international community. As most of the bills are pending or sub-judice at the Parliament and elsewhere, the government’s realization to change the proposed bill for the Social Organization Act 2019 is a very positive. This is a step that needs to be followed in other controversial policy formulations relating to the CSOs.

Recommendation

- The policy formulation process, including the drafting of the bills should be based on wider consultation with the stakeholders
- The process to register and renew the CSOs and get approved its funds should be simple, less cumbersome and hassle-free.
- Local authorities— (i.e. Chief District Officers, Registrar’s) — should not be given discretionary power to register and renew CSOs’ and approve their program funds.
- Provision to get prior approval for the program and its funding from the government should be scrapped. Instead, CSOs need to be asked to inform about their funds once so is received.
- Policies should be drafted in line with the international standards, including the CSOs-related provisions of the Universal Declaration of Human Rights (UDHR) 1948 and the

29 Onlinekhabar 2020

30 Pradhan 2019

31 Jitram Lama, President, NGO Federation Nepal and Pushkar Khati, Member-Secretary of Social Welfare Council discussion program organized by Center for Media Research Nepal on 25 June 2021.

32 Ibid

International Covenant for Civil and Political Rights (ICCPR), 1966.

- Policies should not aim to squeeze or constrain the CSOs' rights-based and advocacy-related activities.
- Wider consultation is required among the stakeholders, while policy drafts. Without the stakeholders on board, no laws can be implemented and bring good results.
- Policy formulation process should be open, transparent and based on wider consultation with the concerned stakeholders, including the government, bureaucracy, CSOs and media.

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