

Legislation generates conflict and opportunity for Asian non-governmental organisations

Over the last two decades, donors working in the health sector have increasingly favoured non-governmental organisations over governments. This has led to competition for funding and legitimacy. Governments have responded in different ways with legislation that can either restrict or help non-governmental organisations.

The shift in donor policy towards non-governmental organisations (NGOs) has led to tension between NGOs and developing country governments. NGOs fear that state intervention threatens their freedom and independence. Governments question the accountability of NGO health projects, and restrict NGO activities that threaten to divert resources from the government or challenge state ideology.

Analysis of these policy responses can improve NGO-government relations, according to research from the London School of Hygiene and Tropical Medicine, UK. This research draws from case studies of NGOs working on reproductive health in four countries: Nepal, Bangladesh, Cambodia and Vietnam. It compares regulations on the registration, project approval, financial monitoring and dissolution of NGOs, and reveals a wide range of policy responses.

The research acknowledges that legislation can restrict NGOs – through unnecessary bureaucracy, high fees, membership restrictions and by allowing government interference and limiting access to judicial review or media. Regulations on NGO accountability is primarily to donor agencies and governments. National regulations in Nepal, Bangladesh, Cambodia and Vietnam are concerned with increasing accountability to government. NGO accountability to their beneficiaries is weak.

Key findings include:

- In each country, NGOs have to register with a government body to gain a legal identity and access to foreign aid and tax exemptions.
- Only Bangladesh and Nepal have established central bodies for NGO affairs.
- Officially, ‘non-government’ organisations do not exist in Vietnam: most function as private business organisations and are headed by Communist Party members.
- In Cambodia, NGOs tend to align themselves with politicians in order to gain acceptance.
- Bangladesh, Nepal and Vietnam have formal project and programme approval procedures; Cambodia does not.

- The governments of Vietnam and Bangladesh perceive NGOs to be competing with them for finance, and tightly regulate foreign funding.

Legislation also provides opportunities. It can give NGOs the political space and legitimacy to operate. Many are currently inhibited by lack of legal recognition. Legislation can enhance accountability of NGOs to national governments and local beneficiaries. Negotiation is necessary for legislation governing NGOs to be successful, notably in Bangladesh where NGO-state tensions are increasing.

The author calls on donors and international agencies to support development of the following for the effective negotiation of legislation:

- government accountability and capacity to develop and enforce policy
- a competent and independent local NGO sector able to legitimately represent civil society
- political will to debate issues in an open and constructive manner.

Source(s):

'Hegemony, Politics and Ideology: The Role of Legislation in NGO-Government Relations in Asia' The Journal of Development Studies, 41 (5) pages 727-758, by Susannah Mayhew, July 2005

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