

CONTRACTING OUT PUBLIC SERVICES TO NGO PRACTICES IN ASIAN COUNTRIES

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Abstract: *In Asian countries, contracting out public services to Non-Governmental Organization (NGO) has been recognized as usual practice to support government function. This study found that their contractual agreement with the government strikes the nature of NGO as self-governing institutions, non-profit orientation, and independency.*

Keywords: NGO, public services, and Asian Countries

Introduction

The term of “Non-Governmental Organization” or generally abbreviated as NGO has been firstly recognized as universal designation for private and independent organizations working for non-profit outcomes since the enactment of the United Nations Charter 1945.¹¹⁰ Up to present, the works of NGO are diverse in many areas not only limited with their involvement in the United Nation’s forum. They even play an essential role in social and economic development of a state.

Activities of NGO must be independent from any government’s influence. They shall not work for political and commercial advantages. Yet, since there has no basic boundaries of their structure and role, many NGOs work to carry out government functions and it has been practiced in some Asian

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¹¹⁰ See article 71 the United Nations Charter 1945. In the charter, the term of ‘NGO’ is actually to differentiate with the term “specialized agencies” as organizations with varying degrees of independence that agree to coordinate their work through agreements with ECOSOC.

countries like China, Pakistan, Cambodia, and Indonesia. Unfortunately, contracting out certain public services to NGO challenge their nature as independent organization.

1. Relationship between Government and NGO (Practice in Asian Countries)

The nature of NGO activities is basically neither operating by government nor driven by profit goals. With this characteristics, most scholars agree to personalized them as 'the agent of development'¹¹¹ to fix the problems that have befallen the development process.¹¹² Because of refusing government influence¹¹³, NGOs have distinct mind sets and attitudes that lead them to be more flexible in tackling multi sector issues of development with the grass-root movement or even direct actions that have an impact upon government policy-making. Their voice which usually speaking out against the government policy also have legitimacy in the eyes of public. Public legitimacy, the greater source of NGOs spirit to survive, naturally exists from their pure mission to stand up with public interests.

In the developing world, NGOs are also often in partnership along with the government working to increase development through different channels and activities. Their opposing position against deviate policy of the government indeed reflects the balancing effort for true democracy. However, in certain circumstances NGO substitutes state presence in protecting social rights and other vulnerable segments such as reducing carbon emission, protecting wild animal, peacebuilding mission, and etc. A good cooperation between NGOs and government is potential motivation to increase the development of state while the NGOs fill the gap on the

¹¹¹ Some scholars also specified NGOs as agents of the democratization. See J. Clark, *Democratising Development: The Role of Voluntary Organizations* (Earthscan, London, 1991), p. 5. Alan Fowler, 'NGOs as Agents of Democratization: An African Perspective' (1993) 325 *Journal of International Development* 5 (3). Jenny Pearce views NGOs as facilitators of development process rather than as agents of change. See Jenny Pearce, 'NGOs and Social Change: Agents or Facilitators?' (1993) 222 *Development in Practice* 3 (3), p. 224.

¹¹² See Micheal Edwards and David Hulme (eds.), *Beyond the Magic Bullet: NGO Performance and Accountability in the Post Cold War World* (Kumarian, Hartford, 1996), p.3.

¹¹³ William F. Fisher, 'Doing Good? The Politics and Antipolitics of NGO Practices' (1997) 26 (1) *Annual Review of Anthropology* 439, pp.439-442.

government's failure to target major societal problems.

Generally, a state has obligation to provide public services to the society but sometimes their services could not reach effectively to the society because of common bureaucracy obstacles (such as less productivity, financial constraint (inefficient), and lack of qualified governance). This study found that in some Asian countries, contracting out public services to NGO has been practiced as preferential tool to reach the public sector objectives. In Pakistan, the lack of government capability to provide healthcare services is the leading ground of the government to outsource the administration of primary health care services to NGOs. The contracted NGOs to carry out public health care services in the district of Rahim Yar Khan demonstrate their ability to improve the utilization of the existing Basic Health Units (BHU), physical conditions, availability of drugs, and staff punctuality.¹¹⁴

Since 1990 contracting out social services to NGOs has been carried out by local governments in China mostly in urban areas (Shanghai, Beijing, Guangzhou, and Shenzhen).¹¹⁵ The Purchase of Service Contracting (扩大购买服务 - *kuodagoumaifuwu*) has been increasingly applied to meet demands of public services including education, public health, elderly services, handicapped services, community services, employment, city planning, as well as cultural activities¹¹⁶ that shifting the role of the government in public services from being a direct provider to a public resources coordinator. For instance, in Shanghai, NGOs are performing as the operator of socialized elder care affairs and the performer of community elder server while at the same time the local government is acting as policy maker, service designer, public financial supporter, and

¹¹⁴ World Bank, *Partnering with NGOs to Strengthen Management: An External Evaluation of the Chief Minister's Initiative on Primary Health Care in Rahim Yar Khan District, Punjab* (South Asia Human Development Sector, Islamabad, 2006). See Tanzil S., Zahidie A., Ahsan A., Kazi A., Shaikh BT, 'A Case Study of Outsourced Primary Healthcare Services in Sindh, Pakistan: Is this A Real Reform?' (2014) 14 BMC Health Services Research 277, p. 277.

¹¹⁵Jia Xijin and Su Ming, *Final Report on Government Procurement of Public Services People's Republic of China* (Asian Development Bank, June 2009), p.6.

¹¹⁶Chak Kwan Chan, "Rebuilding a Welfare System for China's Mixed Economy", in Kinglun Ngok and Chak Kwan Chan (eds.), *China's Social Policy: Transformation and Challenges* (Routledge, New York, 2015), p. 10. See also Jessica Teets, 'Reforming Service Delivery in China: The Emergence of a Social Innovation Model' (2012) 17 Journal of Chinese Political Science 15, pp. 17-20.

public elder services buyer.¹¹⁷

Having position as the poorest and least healthy countries in Southeast Asia¹¹⁸, to increase the access of affordable health care starting 1998 Cambodia tendered management of government health services to NGOs.¹¹⁹ Moreover, funded by the Asian Development Bank and the World Bank, Cambodia established a pilot policy 'Contracting of Health Service Project' undertaken between 1999 to 2003 to provide district health services in selected districts that encompassed 1.26 million population.¹²⁰ A study conducted by Jarrah (2008) found health centers that contracted out by NGOs were achieved a higher percentage of the catchment population's need. In addition, she also argued that contracted health centers, whether located in rural or urban areas, performed better than the non-contracted government facilities.

2. Dilemmas in Contracting Out Public Services to NGOs

As previously discussed, we do understand that contracting out public services to NGO provides greater advantages and effective achievements.¹²¹ However, tendering public services to NGOs through a contractual agreement will result legal dilemmas that undermine the nature of NGO. This contractual agreement has no profit gain but in fact threatening their independency. In water service contract practices, for instance, NGO is under pressure with the contractual requirements. The pressure is on NGOs to become increasingly commercial in order to

¹¹⁷ Kai Yu, 'Diverse Participation and Orderly Guiding: The Establishment Policy strategies of the Community Socialized Elder Care Service System in Shanghai, China' (2014) 2 Open Journal of Social Sciences 152, p.156.

¹¹⁸ Jacobs B. and Price N., 'Improving Access for the Poorest to Public Sector Health Services: Insights from Kirivong Operational Health District in Cambodia' (2006) 21 Health Policy and Planning 27, pp. 27-39. David I. Levine and Rachel Gardner, *Health Care in Cambodia* (Briefing Paper, University of California, Berkeley, 2008), p.1.

¹¹⁹ Anil B. Deolalikar, Shikha Jha, and Pilipinas F. Quising, *Governance in Developing Asia: Public Service Delivery and Empowerment* (Cheltenham - Northampton, Edward Elgar Publishing, 2015), p.170.

¹²⁰Indu Bhushan, Sheryl Keller, and Brad Schwartz, *Achieving the Twin Objectives of Efficiency and Equity: Contracting Health Services in Cambodia* (ERD Policy Brief Series No. 6, Asian Development Bank, Manila, 2002), pp.1-3.

¹²¹ For example: conflict and disaster situation.

implement their contracts efficiently.¹²² The position of NGO in doing such commercial activities would questioning their position as voluntary organization. The output of contracting out to deliver certain services to NGOs would make them prefer to reach quantitative requirements under the contract than the qualitative objectives of their mission to increase community development.

It must be noted that Government Organized NGO (GONGO) in China is absolutely not independent¹²³ because they are formed by the government or Communist Party Organizations.¹²⁴ The Chinese government also extend their control to NGOs created by individuals dissociate from government or party organization.¹²⁵ In practice the Government prefer to tender their public services to GONGO than the private NGO under the reason of easy to control their activities but a study¹²⁶ found that GONGO has lower control from the government than the other kinds of NGO (see table 1 below). Though their activities are getting less control from the government, GONGO itself usually acknowledged as the puppet of the government that could be spared from ethical standards of bureaucracy just because to follow the order of the government.

In general, the tight control over NGOs in China presumably endangers NGO work as independent organization. Particularly the high level control for certain NGOs working in sensitive areas will pressure them to limit their work¹²⁷ in accordance with the authoritarian government political goals.

¹²² In water service contracts practice, NGO is under pressure with the contractual requirements. The pressure is on NGOs to become increasingly commercial in order to implement their contracts efficiently. Andrew Clayton, *Contracts or Partnerships: Working through Local NGOs in Ghana and Nepal* (Water Aid, London, 1999), p. 20.

¹²³ See also Jean-Philippe Beja, 'The Changing Aspects of Civil Society in China' (2006) 73 (1) *Social Research* 53, pp.53-74.

¹²⁴ John Brothers, *Rebalancing Public Partnership: Innovative Practice Between Government and Nonprofits Around the World* (Burlington, Growing Publishing Company, 2015), pp.174-178.

¹²⁵ Qiusha Ma, 'Defining Chinese Nongovernmental Organizations' (2002) 13 (2) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 113, pp. 113-130.

¹²⁶ Kin-man Chan, 'Commentary on Hsu: Graduated Control and NGO responses – Civil Society as Institutional Logic' (2010) 6 (3) *Journal of Civil Society* 301, pp.301-306. Xiaoguang Kang and Han Heng, 'Graduated Control: The State Society Relationship in Contemporary China' (2008) 30 (1) *Modern China* 36, pp. 50-55.

¹²⁷ Jonathan Schwartz, 'Environmental NGOs in China: Roles and Limits' (2004) 77 (1) *Pacific Affairs* 28, pp.40-45.

Table 1

Graduated Control of NGOs in China¹²⁸

Business Nature	Main Funding Sources	Scale	Level of Control
Category I: service delivery	Government, GONGO, official foundations	Small NGO based in residential community	Low
		Medium to large NGO, across communities	Medium
Category II: service, public outreach, and advocacy in non- sensitive areas	Domestic enterprises, domestic private foundations	NGO and/or cross-regional network	Low to Medium
	Foreign source of funding		Medium to High
Category III: advocacy in political/religious/ ethnic and/or other sensitive areas	Private donations, international NGO, and foundations	NGO, informal groups, and/or network	High

The successful experience of contracting out health care services to NGO in Cambodia and Pakistan also increased the public transaction cost to the government when compared to the direct public services. Understanding that staff motivation as the key challenge it needed to overcome, the NGO contractors applied additional salary and performance-based incentives for their staff.¹²⁹ The government in fact must also allocate time to directly monitor the performance of contracted NGOs and ensure the delivery of public services in an efficient, effective, and fair manner. Thus, contracting generates higher cost and time consuming to the government which usually serve as huge burden for developing and least developed countries.

Indonesian practice on government-NGO relationship seems reliable and closed to the ideal concept. Under the Indonesian law, NGO has an

¹²⁸Fengshi Wu and Chan Kin-Man, 'Graduated Control and Beyond: The Evolving Government-NGO Relations' (2012) 3 China Perspectives, pp.9-17.

¹²⁹ Bloom E. et. al., *Contracting for Health: Evidence from Cambodia* (Brookings Institution, Washington, 2006), p. 11.

important place to support government role to provide public services to its citizens.¹³⁰ Noting that contracting out such services will lead to higher cost and time consuming thus partnership between NGO and government provider services work together under the 'Memorandum of Understanding' (MoU) which is not legally binding between them but giving guidance the role and function of NGO in the service delivery. For instance, MoU between local health provider and MoU usually positioned NGO as the controlling party to supervise the delivery service not as the direct provider. In natural disaster or armed conflict situation, NGO has possibility to be contracted by the government to provide public services but only in short period to recover such crisis situation while the government has lack human and financial resources.¹³¹

Conclusion

Contracting out public services to NGO has been raised many critics in particular about their independency. This study found that even though in Pakistan and Cambodian practice of contracting generates advantages in certain areas but the cost of service delivery is higher than the direct service expenses. Additionally, NGO is under pressure under the public contract to become increasingly commercial in order to implement their contract efficiently.

With contracting or not, the Chinese government has been established the tight control over the NGOs that presumably strikes NGOs work as independent organization. Preferring tender public services to GONGO, as commonly refer as the puppet of the government, keep them at the distance of democratic values.

Indonesia has a distinct practice of contracting public services to NGO that only applied in crisis situation and short period of contracting. Though partnership between NGO and government guaranteed by the Indonesian law but the substance of contracting is not to make them to be service provider, merely as controller of service delivery. Aware with the cost of contracting, the Indonesian government prefer to enter into Memorandum

¹³⁰ Act No. 32 Year 2004 about Local Government, article 195.

¹³¹ For example, in Tsunami disaster in Aceh (2004), Merapi Eruption in Yogyakarta (1994 and 2014), and internal humanitarian conflict in Poso (1998-2001).

of Understanding with NGOs which creates certain guideline of functions but has no financial and legal obligation.