UNIVERSITETET I OSLO
Department of Archeology,
Conservation and Historical studies

Norwegian Development Aid to Civil Society

The Norwegian Bar Association’s Legal Aid Project in Nepal

Master thesis
(60 credits)

Therese Berg Alfsen

May, 2008
Acknowledgements

The process of writing the story about the Norwegian Bar Association’s Legal Aid Project in Nepal started in August 2006, and has been a 2-year long experience filled with challenges, learning and reflection. Many people have provided important contributions to this process, to whom I am very grateful. First and foremost I wish to thank my academic advisor Sunniva Engh who has patiently read and commented my drafts at all stages in the writing process. Her thoughtfulness and sharp insight has been most inspiring, and the countless cups of coffee we have had has made the research and writing a much less lonely process. My gratitude also goes to my uncle, Helge Pharo, who shared his expertise and commented upon my draft at a late stage in the process. His support was most helpful. Thank you also to the Norwegian Bar Association’s development committee which generously provided me with a travel grant, making it possible for me to visit Nepal in the spring of 2007. Vidar Raugland, Knut-Johan Onarheim, and Anton Aarnes have all been very obliging in providing access to all relevant material, and they have answered all my questions patiently. Much thanks also goes to Alf Skogly who received me in his home in order for me to interview him, Arve Opdahl and Eldny Bredde for their time, and Lillan Prestegard at Norad for digging up much useful information from Norad’s archive. Last but not least, thank you to my fellow students and friends at the University of Oslo, who have read countless excerpts of this thesis and provided useful feedback. Your academic, moral and emotional support has been invaluable.

Therese Berg Alfsen
Oslo, 3 May 2008.
Table of Contents

CHAPTER 1 - INTRODUCTION: CIVIL SOCIETY DEVELOPMENT AID AND LAP...... 1
  Analytical framework.............................................................................................. 3
  Historical case study – NBA, NEBA and the Legal Aid Project............................ 6
  Empirical –analytical approach............................................................................. 8
  Primary sources....................................................................................................... 9
  Secondary sources.................................................................................................. 12

CHAPTER 2 - NORWEGIAN DEVELOPMENT AID HISTORY, CIVIL SOCIETY AS A
THEORETICAL PHENOMENON, AND THE HISTORY OF NEPAL.............................. 15
  Norwegian development aid.................................................................................. 16
  Development of colonies...................................................................................... 16
  Missionaries........................................................................................................... 16
  Post World War II and a changing international climate....................................... 17
  Capital formation.................................................................................................... 17
  Human capital and education................................................................................ 19
  Social profile – basic needs.................................................................................. 19
  “Trade, not aid”...................................................................................................... 20
  Free market, structural adjustment, and ‘the NGO decade’................................... 20
  Recipient responsibility......................................................................................... 22
  Human rights and democratization....................................................................... 22
  Civil society: different approaches...................................................................... 24
  Civil society as values and norms......................................................................... 25
  Civil society as a collective noun.......................................................................... 27
  Civil society as a public sphere............................................................................ 28
  Norwegian civil society aid policy........................................................................ 31
  Definitions and primary objectives..................................................................... 31
  Administration of support for NGOs.................................................................... 35
  Nepal – historical background............................................................................. 38
  Geography............................................................................................................. 38
  History.................................................................................................................. 38
  Society.................................................................................................................... 42

CHAPTER 3 - AN EMPIRICAL–ANALYTICAL NARRATIVE OF THE NORWEGIAN BAR
ASSOCIATION AND THE NEPAL BAR ASSOCIATION’S LEGAL AID PROJECT IN
NEPAL....................................................................................................................... 47
  The initiative.......................................................................................................... 48
  Research period..................................................................................................... 50
  The Nepal Bar Association..................................................................................... 54
  Norad’s perspective............................................................................................... 58
  The implementation of LAP.................................................................................. 64
  LAP and international attention............................................................................ 70
  Political turmoil in Nepal – consequences for LAP.............................................. 71
  Political turmoil also within NEBA....................................................................... 75
List of figures

Figure 1 - Civil society as a public sphere ................................................................. 29
Figure 2 - Norad’s support to LAP in NOK from 1988 to 2008. ................................. 63
Figure 3 - Structure of Legal Aid Project (LAP). ....................................................... 66
Figure 4 - Nepalese lawyers carrying banners demanding “Stop human rights violations”, “Stop mass killings” and “Release all lawyers and political detainees” in the streets of Kathmandu, 1990. .............................................................................................................................. 74
Figure 5 - Many lawyers took to the streets.................................................................. 74
Chapter 1

Introduction: civil society development aid and LAP

The Norwegian Bar Association (NBA) has over the past 20 years been engaged in a development project in Nepal. The project is conducted in cooperation with the Nepal Bar Association (NEBA), as a so-called twinning project, and it focuses on providing legal aid to the population in Nepal.¹ The Legal Aid Project (LAP) is supported by Norwegian authorities through the Norwegian Agency for Development Cooperation (Norad) and its department for civil society. Norad’s webpage states that:

A broadly-based and dynamic civil society is essential to the development of a democratic society that serves the interests of all its members. Civil society gives people the right and opportunity to influence societal development, improve their own circumstances and provide support for the poor and underprivileged so that their voices are heard and their interests are brought into focus.²

The basic idea that provides the basis for Norwegian development aid to the civil society in the South is that through an active civil society people will become aware of their rights, and they will be able to organize themselves. By organizing themselves, their voice will be stronger and will be heard by the authorities. This will have a democratizing effect, which in turn will help improve the peoples’ living conditions. Democracy and improved conditions will, in the last instance, facilitate economic growth, and help the country rise above extreme poverty.

Norwegian authorities work to strengthen civil society in the South through Norwegian development aid, often channelled through Norwegian or international NGOs. This thesis investigates one such civil society development project, channelled through a Norwegian NGO. It will, through the narrative of the history of LAP, provide insights into some of the problems and challenges encountered, as well as some great successes that civil society projects can achieve. This thesis aims at understanding the development, changes and achievements of a small civil society development project (LAP), within the strategic framework of Norad.

¹ "Twinning project” is a term used on close cooperation projects between two similar organizations in a developed and a developing country.
The thesis is divided into 4 chapters. This first chapter provides an introduction to the project in question and clarifies the analytical framework which will be used to analyse the empirical material. It will also introduce the sources and methodological problems related to the research. The second chapter gives a historical background of Norwegian development aid, and particularly deals with the upsurge of development aid to the civil society in the late 1980s and 1990s. It also gives an introduction to the theoretical ideas of civil society that shaped this turn in Norwegian development aid policy. In addition, the chapter gives a short historical background of the history of Nepal. The third chapter provides an empirical-analytical narrative of LAP from the time the idea of engaging in development work was born in NBA in the early 1980s, up until today. The fourth and final chapter reflects upon some general questions or dilemmas that LAP and other civil society projects face.

To ensure a structured presentation and a meaningful analysis of the history of LAP, the thesis uses some of Norad’s key assumptions about development aid to the civil society sector to construct an analytical framework. The assumptions are used as hypotheses which are tested against the empirical evidence, thus the empirical material will provide insight into the process of establishing a fruitful development project under the guidance of Norad. The assumptions are all extracted from Norad’s strategic documents, and their official website, which establishes the principles of Norwegian development aid to the civil society. Some key elements have proven to be dominant in the civil society thinking during the past 20 years, and they are summed up in a memo that was written by Norad as a basis for an evaluation of Norwegian development aid through volunteer organizations submitted to Norwegian development authorities in 2006.

Using a current document as starting point for an historical analysis embodies some problems; terms and phrases might have had different meaning in the past then what they do now, thus the analysis may be shaped by the current context rather than the context in which the events took place. The memo, which is a “summary” of important aspects of civil society thinking within Norad, is both a historical document in itself, as well as a document telling a story about Norwegian civil society development aid. The coherence in the historical narrative presented in

---


the memo may seem peculiarly in tune with the current thinking, thus there is reason to ask whether the memo actually sums up the civil society thinking as it was, or whether it is coloured by the current thinking about the subject. Despite these problems, it is fruitful to use the assumptions presented in the memo as a starting point for constructing an analysis of LAP, as they provide interesting questions that guide the historical investigation. Using current Norad assumptions as a starting point also increases the analysis of LAP’s relevance when considering its applicability in more general terms; it may for example be of use in the case of establishing similar twinning projects.

**Analytical framework**

The analytical framework is constituted by four assumptions that have been guiding principles of Norwegian aid to the civil society over the past 20 years. The first assumption is that *development aid to the civil society, performed by Norwegian NGOs, is based on a high degree of volunteerism and idealism at home.* Norad’s webpage informs:

> It is also important to Norad that organisations involved in various types of development cooperation in the South focus on promoting understanding and respect for conditions in developing countries and for North/South cooperation in Norway. In this context, it is important that these organisations, and their members and support groups, together represent a large percentage of the Norwegian population.

Norway has a long tradition of volunteer engagement and grass root activism on the civil society arena. Norad claims that "[t]he Norwegian model – or more correctly the Nordic model – based on a tradition of broad volunteer grass roots participation through a varied organizational life, has created a welfare state with systems for cooperation in all areas of the society." This model of volunteer engagement in Norway has roots stretching back to missionary work and workers unions in the 1800s, and is seen as an integrated part of the society. An important characteristic of the Norwegian civil society arena is therefore the high degree of volunteerism and idealism on the organization level. Volunteer work through civil society organizations and NGOs has a high level of legitimacy in Norway, and the organizations play an active part in shaping Norwegian politics. In a development aid perspective, the assumption is that this volunteerism and idealism, combined with grass root legitimacy, impact the work these organizations do abroad. By

---

1 Norad’s WebPage, URL: [www.norad.no](http://www.norad.no), collected 27 February 2008.
channelling development aid through Norwegian organizations which have a thorough foundation or basis in the people in Norway, the aid is thought to create a similar foundation in the recipient country, thus contributing to positive changes in the South, towards democracy and growth. Having a clear “basis in the people” is seen as crucial in bringing about real change on the civil society arena. The thesis will test, against the empirical material, whether NBA and the work they have performed in Nepal was based on volunteerism, either in the form of mass grass root connections or at the level of commitment among those actively involved.

The second assumption to be tested in this thesis is that aid aiming at developing the civil society in the South, channelled through Norwegian NGOs particularly facilitates, and particularly needs, partnerships based on equality between the donor NGO and their cooperation partner in the South. The basic thought is that local partners initiate and execute the projects, as well as perform the actual work, while the Norwegian civil society organizations function as administrative and financial solicitors. The idea of partnerships and close cooperation with organizations in the recipient country is closely linked with the ideas of local ownership of development projects and recipient responsibility for these, and also revolves around the question of volunteerism and idealism in the recipient country. The initiative as well as the execution of the projects should be in the hands of the partner organization in the recipient country. This is intended to ensure the local legitimacy and ownership that is seen as crucial to bring about real, fundamental change on the civil society arena, much like it happened in Norway. This way of organising development cooperation also gives a large degree of responsibility for the projects to representatives of the people whom they are supposed to help, something that has been given great emphasis since the principle of recipient responsibility became significant in Norwegian development aid policy at the beginning of the 1990s. The Norwegian donor organization will thus function as a facilitator, financially and administratively, helping and cooperating with the organization in the recipient country, to ensure that the project functions well and reaches the people in its target group. The partnership principle is a stronghold in many areas of Norwegian development aid, but is (perhaps) particularly important within civil society development aid, due to the increasing importance of local legitimacy and ownership. This thesis will test as a hypothesis, the degree to which the partnership between NBA and NEBA through the LAP cooperation may be termed a partnership based on equality. Questions that will shed light on this somewhat vague term

8 "Local ownership” and "recipient responsibility” are terms frequently used in the development debate. They refer to the idea that development should be owned and driven by people in the developing country themselves, to avoid aid dependency and lack of sustainability. The terms will be discussed in greater detail in chapter 2 of this thesis.

equality are: Did the two bar associations have an equal impact on the decision making process regarding LAP? Did both bar associations contribute equally to the LAP in the form of initiatives and administration of the project, or did one of the two have a larger impact?

The third assumption behind civil society development cooperation, which also is a guiding principle for all Norwegian development aid, is that it should have a primary emphasis on women, the poor, and marginalized groups. These are groups that in many developing countries are particularly discriminated against. They have fewer opportunities, are generally poorer and have a lower educational level. Norad’s webpage states that one of Norwegian development aid’s primary objectives is to “[c]ontribute to the promotion of equal rights and opportunities for women and men in all arenas of society.”10 The civil society arena is regarded as particularly well suited as a channel for reaching women and the poor due to the NGO’s (assumed) close proximity to these target groups.11 NGOs are thought to contribute to the strengthening of these groups by helping them gain a voice that is heard in the society. In addition, NGOs can function as service providers in areas where the state fails to reach these groups with the services they need. Norad writes that “Another important goal is to contribute to ensuring that basic social and financial services are available to poor and underprivileged target groups.”12 The historical narrative in this thesis will investigate whether LAP has particularly emphasized women and the poor as a target group, how they reached those groups, and what effects it has had.

The fourth and last assumption that will constitute the analytical framework for this thesis is the fundamental idea that strengthening the civil society in the South will have a democratizing effect. As introduced previously, the idea is that by giving people and organizations the tools and knowledge to organize themselves, they will be able to speak up against injustice and undemocratic regimes. Thus, civil society will be an active arena through which organizations promote people’s rights and advocates for justice and democracy. Democracy is seen, in addition to being a goal in itself, as a prerequisite for economic growth, which again will contribute to reaching the UN’s millennium goals of reducing the world’s poverty by half by 2015.13 This thesis will consider to what degree LAP has contributed to a democratic development in Nepal over the past 20 years.

13 Norad’s WebPage, URL: www.norad.no, collected 27 February 2008. Reducing poverty in this case means to reduce the number of people living on less than 1USD pr day by half.
Historical case study – NBA, NEBA and the Legal Aid Project

The historical case in this thesis is, as already introduced, the Norwegian Bar Association’s Legal Aid Project (LAP), which is run in cooperation with the Nepal Bar Association. The project began in 1988, however the initiative and process towards establishing a development project emerged within NBA as early as 1981. Over the years, LAP has provided legal aid to many individuals and groups. During the first 10 years of the project, it handled 5920 litigation cases, 3815 counselling cases, 5292 court cases and 2314 people had attended legal literacy seminars. The project’s primary focus is on legal aid and litigation in general, legal aid particularly aimed at women and legal literacy courses where people can learn about their rights under Nepalese law. The project has a Women’s Wing (WW) which particularly focuses on women’s issues, and LAP is responsible for publishing NEBA’s bar journal, the Nyayadoot.

Through its 20 years of operation, LAP may be seen as having contributed to several positive developments for NEBA, and also for Nepal. A bar house, with a library and offices that house both NEBA’s administration as well as LAP’s central office, was built during the early 1990s, partly with funding from Norway. The house is located in central Kathmandu, close to the Supreme Court, the Ministry of Justice and the Parliament, and contributes to the consolidation of the organization. The Legal Aid Act that the Nepalese government approved in 1997 is another indicator of the influence LAP and NEBA has gained through the cooperation with NBA. This Act ensures free legal aid to all Nepalese citizens, and the intended implementation of the law is modelled on the legal aid structure already established by LAP.

However, the cooperation between NBA and NEBA, NBA and Norad, and LAP as such, has not always been problem free. Political turmoil has hindered NEBA from performing all the planned LAP activities, both in the early 1990s and in the 2000s, due to the ongoing civil war. Cultural differences have also influenced the communication between the two bar associations, sometimes making efficient decision making and policy development difficult. Lack of knowledge about the society in which LAP operates has caused some incidents where particularly Nepalese women have been overlooked within LAP and the program, thus failing to reach one of the main recipient/target groups.

The historical narrative of LAP provides insight into the dynamics of incidents and actors in this small development project, working within the framework and guidelines of Norad and Norwegian authorities. The story about LAP has, in addition to being an example of a small NGO development project, a historical value in itself. Firstly, the story about LAP has not been told before. It constitutes a small part of Norwegian development aid history, nonetheless, it is an important part that contributes to the full historical picture of Norwegian aid history. Secondly, LAP was established as a civil society development project several years before civil society had become a buzz word on the development agenda. The narrative about LAP illustrates the historicity of civil society theory as an aspect of Norwegian development policy. Ideas do not appear or become a part of people’s thinking in a blink; it is a process where different actors influence each other over time. LAP provides an example of a project that was influenced by new ideas at an early stage, thus it can provide important knowledge about the process of the evolvement of new ideas over the 20 years that the project has functioned.

The idea of development aid through NGOs was not new as such, but previously NGOs had been used in development aid as providers of services where the state failed, rather than as a channel for strengthening of the civil society, which in the 1990s became a meta-justification for this type of development aid in itself. An important aspect of civil society cooperation is the idea of partnerships between equal partners in the donor and recipient country. The lawyers in Norway and the lawyers in Nepal cooperated on the basis of having a shared interest, a shared academic field, and thus somehow a shared language which eased communication. This idea constituted an important element in the cooperation between NBA and NEBA already in the 1980s, but it has not been emphasized among scholars and politicians until an evaluation of aid through Norwegian volunteer organizations in 2006. Other aspects that are important in civil society thinking are local ownership and capacity building, both essential elements in LAP that will be touched upon through the empirical analysis of the project.

In sum, the story about LAP is both interesting in itself because it is a part of Norwegian development aid history, and it is interesting as an example of how the development of a new way of thinking emerged in Norwegian and international development aid— that a strengthening of the civil society will create development and growth. In addition, Norwegian historical research has

---

15 Rattsø, Jørn, et.al. *Nye roller for frivillige organisasjoner i utviklingsamarbeidet*, Utredning fra utvalg oppnevnt av Utenriksdepartementet, overlevert 15 juni 2006. The evaluation committee used the term “natural partners” to describe this form of partnership, based on a common set of values and/or interests. The committee recommended this form of cooperation, but it has not become a major part of new development thinking in Norad. The term “natural partner” will be reflected upon in the last chapter of this thesis.
not previously produced a thorough micro analysis of a twinning project like LAP. Thus, this thesis fills a substantial gap in the total story about Norwegian development aid.

Through telling the story about the past as an historical narrative, based on critical analyses of the empirical evidence, the historian can provide important insights into how the subject in question developed and changed over time. There are many perspectives on how to provide explanations for why and how historical developments took place. The explanations can be actor oriented, or they can focus on how structures in societies influence and determine what happens. Different theories emphasize different elements and models of causality when explaining the past. Common for all historians is that events are explained based on the time in which they happened. The timeline of events is essential for understanding causality, and therefore the chronological narrative is the historians’ primary form of presenting research material.

**Empirical-analytical approach**

This thesis will use an empirical-analytical approach to the story about LAP. In essence it means that the empirical evidence regarding LAP is considered based on premises of its validity and reliability, and its placement in the overall context and the story is derived from the evidence as objectively as possible. The empirical material will be presented as a narrative, where the story and the chronology in itself provide meaning and explanation of what has happened. Both structural explanations and individual actor oriented explanations will be applied onto the material, depending on the matter in discussion and their relevance. The advantage of using an empirical-analytical approach to historical research is that it is possible to use the explanation which seems most likely to cover each incident, without being bound to see everything in light of one model of explanation. Thus, through this method the historian may shed light upon the complexity of causality – why events happened the way they did, why individuals acted the way they did, and what influenced them to do just that, might have many different explanations. The empirical-analytical approach provides the freedom of looking at each factor separately without loosing sight of the whole picture. Equally, the approach opens up for looking at the full picture and identifying general trends, without missing the exceptions in the cases where the details of the story may be seen to deviate, not confirm the overall picture.

This thesis will also utilize an analytical framework, presented in the introduction of the thesis. The aim is to elevate the story onto a level of analysis in which the evidence also may provide insight into issues external to the historical events themselves. The analytical framework thus provides a tool for analysing and investigating the importance and the consequences of the events
in question on a more general level, ensuring that the narrative centres around a structure, a frame for discussion. Before embarking on this empirical-analytical narrative of the LAP, it is important to consider the sources the story is based on.

**Primary sources**

The thesis is based on a number of written and oral sources. The primary sources consist of NBA’s archive concerning LAP, which is located in Oslo. It includes material such as quarterly and annual reports of LAP, written by NEBA; letters of correspondence between NBA and NEBA; reports from project trips performed annually by the NBA development committee’s members; and some correspondence with Norad. Norad’s archival material regarding LAP and the cooperation with NBA includes applications for funding and annual reports submitted by NBA; decision support memos written by Norad’s handling officers; as well as other correspondence between Norad and NBA. In addition, published and unpublished official documents like Norad’s strategy memos, and governmental White Papers, will provide primary information used in the analysis. Some personal interviews with central actors involved with LAP have provided supplementary information.

NBA’s archive in Oslo was at the time of research not well organized. Practically, the first 10 years of the project were only documented by a few of the people involved, who at the end of their terms turned their personal folders and envelopes with letters and other documents in to NBA. NBA had not sorted and catalogued the material, and as the work progressed it became evident that there were a few obvious gaps in the chronology where documents were missing. However, despite these gaps, the material from the 1980s and up until the mid 1990s is quite substantial, with much correspondence between NBA and NEBA, as well as with Norad and other connections. Some years lack annual reports, but the letters, budgets and audit reports, as well as project trip reports, provide a relatively detailed picture of events and actors and the thoughts and ideas that guided them.

A problem which highly affects the access to and availability of sources from the late 1990s and the 2000s is that the actors in this project started using email correspondence in the daily administration of the project. During the first years of the email era, there were not adequate routines for recording the material. As regards the years after 1997-1998, the personal correspondence between NBA and NEBA is incomplete and from some years it is missing altogether. This is a general problem with source material from this time. The number of emails sent to business and personal contacts highly outnumbered the letters sent previously, and
communication took a different form. Thus, it is likely that there in fact was more contact between NBA and NEBA during those years, although less has been documented. Routines for saving emails were (and still are in many cases) often based on the individuals’ personal judgement of what might come in as important later, and therefore it is difficult to get a full picture of the events that took place. In the matter of LAP and NBA, only a few emails have been printed out and filed in the archive. Yet, the progress reports from NEBA, reports and letters NBA sent to Norad, and project trip reports are available also from this period, and these give a relatively clear picture of the development of the project.

Norad’s archive has some gaps, and the material regarding LAP is relatively scarce. The early documents from 1987 provide interesting insights into the thinking among Norad’s bureaucrats regarding the establishment of the project, but from 1989 to 1994 there is a gap in Norad’s documentation. The archive contains some reflection memos and the yearly decision making documents from most years during the 1990s and 2000s. In addition, Norad’s archive includes some strategy documents and memos about the implementation of Norwegian policy regarding development aid through NGOs and volunteer organizations. These documents provide insight into the strategic thinking within Norad, which in the funding of LAP must have been considered.

Deficient documentation and filing routines has also been a general problem in LAP in Nepal. During a visit to Nepal in the spring of 2007, it became clear to me that the LAP administration in Kathmandu only had recorded official contracts and agreed minutes from very few meetings. In addition to the fact that there was very little written archival material, I became very sick and had to return to Norway before scheduled. Unfortunately, it was thus impossible to carry out interviews with LAP staff in Kathmandu or in various districts of Nepal. Information from such sources, and also from people who were involved in the project’s early years, could have provided a very interesting perspective, however this was not obtainable. Sadly, the resources and the timeframe for this project did not allow for a second trip to Nepal, and thus the empirical narrative on LAP only gives limited space to this perspective. However, due to the relatively thorough recording of letters sent from NEBA to NBA, by the people involved in the project during the first ten years, it is possible to reach an understanding of NEBA’s position on different issues as these emerge in the correspondence, in addition to the record of events that occurred. Hence, NBA’s archival material also provides insights into the story about LAP as this was perceived from the Nepalese side of the process.
Interviews with central Norwegian actors in the project have also provided important information about LAP. The interviews were conducted in the form of personal conversations, to create an informal atmosphere where the interviewees felt that they could speak freely. As they were only meant to provide background material, the interviews were not taped and they will not be quoted directly. However, the information retained from the interviews has contributed to strengthening the validity of some of the written historical evidence, while in other cases the interviews have proved the archival evidence as less correct or taken out of context. The personal stories told by the actors, and their reflections about the subject of legal aid and development aid in general, have provided a better picture of the history of LAP as their personal motivation and their understanding of key development issues have influenced LAP over time.

The interviewees are: Alf Skogly, a Supreme Court Advocate from Drammen who was the primum movens of LAP from the idea was introduced in the early 1980s until the mid-1990s. He explained his motives for engaging in the project and he told the story about what happened during those years as he remembered it. Arve Opdahl, a lawyer from Trondheim who succeeded Alf Skogly as the head of NBA’s development committee in 1996 explained what he thought about the work LAP did and still does, and the elements that he emphasized in his work. Vidar Raugland, the current head of NBA’s development committee, has also been very obliging in providing information and reflection about LAP and the purpose of the project. In addition to these three individuals who have all been the leader of NBA’s development committee, Norad’s Lillian Prestegard, the current handling officer responsible for LAP, together with Terje Gran who had LAP in his portfolio from 1995-1998, have provided interesting perspectives on Norad’s thinking about the project. Eldny Bredde, Norad’s representative who handled LAP when it was established in 1987-1988 has also given her perspective on the story about LAP. The central themes for the interviews were the actors’ personal motivations, central aspects of the LAP work, how the relationship between NBA and NEBA evolved, and how the cooperation with Norad unfolded.

Methodologically, the archival material and the interviews have posed some challenges. Firstly, the gaps in the source material in both NBA and Norad’s archives involve uncertainty about what actually happened. In some cases, a planned event may be referred to, but it is impossible to tell whether it actually happened or not. In other cases, a problem may be mentioned, and possible solutions are discussed, without it being clear which solution was chosen in the end and how the problem was handled. In these cases, the context of the material which post dates the event or problem some times indicates what happened. Secondly, much of the source material is in
Norwegian. The author has, where necessary, translated quotes into English. Because translations might change the meaning and perception of a quote slightly, there will always be an indication after the quote in the cases where they have been translated. In this way, the reader will know that when such an indication is not given, the words and phrases are exactly as in the original source. Thirdly, the lack of Nepalese sources poses an important methodological problem. As mentioned above, the sources in Nepal were scarce, and due to the circumstances, it was impossible to pursue the historical investigation further. There is some information about LAP and the judicial system in Nepal on the internet, but most of it is in Nepalese. The language barrier creates a problem when gathering information on Nepal, which in the case of this thesis project is a problem that it is impossible to overcome. The language barrier also created problems when having informal conversations with LAP staff in Nepal. Most everyone speaks some sort of English, but the level of understanding is questionable as misunderstandings occurred quite frequently. Being a young, female researcher from a western country has also posed some methodological problems. In a gender unequal country like Nepal, being taken seriously as a young woman can be challenging. It is difficult to know whether the information passed on to you is adapted to a Nepalese perspective of what a young woman needs to know about the matter. Cultural differences might at times be just as frustrating and difficult to handle during times of information gathering, as are language barriers and lack of written material.

Despite the obvious methodological problems caused by the source material, the archives that are available, and the interviews conducted by and large provide thorough and relevant information about LAP and the cooperation between NBA and NEBA, which makes it possible to reconstruct 20 years of cooperation, study the process of developing and implementing a legal aid scheme in detail, and construct a coherent narrative.

**Secondary sources**

Development aid has traditionally been a research subject for social scientists and economists. Historians have not thoroughly engaged in the subject until the past 20 years or so, with a few exceptions. Helge Pharo’s analysis of the Norwegian aid effort in Kerala was extraordinarily early in an international perspective, and it inspired students to pursue development aid as a subject for historical research. Thus, Norwegian historians have been in the forefront in the writing of the history of development aid, assisted by the Norwegian government as it commissioned histories of

---


17 According to a personal conversation with Helge Pharo, 25 April 2008.
important topics. In addition, Norwegian (and Scandinavian) authorities have provided generous access to recent archives, contrary to the rest of the world where many countries have a 30 year, and some places even a 60 year rule for releasing archival material to researchers and the general public. This access has made the study of contemporary development aid history possible and more desirable for Scandinavian historians than perhaps in other parts of the world. However, it was not until the 1990s that development aid history became a major theme of research, also internationally. A major contribution in a Norwegian context is *The History of Norwegian Development Aid*, three volumes which were published in 2003. Terje Tvedt has contributed substantially on the field of NGOs in development aid, and several other researchers and students have published important works on different themes and subjects within the field of development aid history. Some of these works are of course included as secondary sources in this thesis. By drawing upon the available literature about international and Norwegian development history in particular, this thesis is meant to add another piece onto the large puzzle of Norwegian foreign policy and development history. The story of LAP has never previously been told, and limited research has been done on this form of NGO partnership between small volunteer organizations. To understand this project therefore, this thesis will use the aid literature to create context and ask relevant questions that will help the reader to see LAP in a larger perspective. Not only historical works are important to understand the policies that contributed in shaping LAP, and social and political science works discussing civil society, democracy and development is also of primary importance as they provide theoretical perspectives that over time have influenced the policymakers. In this regard the American political scientist Robert D. Putnam and his research regarding civil society and what he calls “social trust”, Michael Edwards’ work on civil society, Alison Van Rooy’s discussion of civil society and the aid system, as well as Ronald Ingelhart’s attempt at empirically analyzing aspects of democracy in relation to structural stability, social culture and “social trust”, are worth mentioning here.

---

18 Ibid.
The next chapter provides a background of the history of Norwegian development aid and the ideas that have shaped it over time. It also introduces the theories and ideas that have influenced Norwegian thinking about development aid to the civil society, which became particularly important around the time LAP was established in the mid-1980s. Chapter 2 therefore draws upon the work done by development aid historians, and it takes a closer look at some of the theorists which partook in shaping the policy that this thesis is concerned with.
Chapter 2

Norwegian development aid history, civil society as a theoretical phenomenon, and the history of Nepal.

This chapter is divided into three sections, which all touch upon important themes and provide crucial background knowledge for understanding the context in which LAP operates. The first section presents a short historical overview of Norwegian development aid over the past century, with a particular emphasis on the role of NGOs. It presents the different focus areas of Norwegian development aid chronologically, primarily focusing on the post-World War II years. The historical presentation is based on secondary sources, and thus it also provides a historiography of previous historical research on Norwegian development aid history, as well as referring to international works. The section highlights the fact that Norwegian development thinking has evolved through the dominance of several paradigms, where different ideas on development have dominated at different times. The different paradigms have not quite replaced one another, rather each new paradigm has introduced new ideas that were added to those already existing, and thus the scope of Norwegian development policy has become increasingly more complex, involving ever more elements and arenas for action. The narrative leads up to the period shortly after the end of the Cold War, when development of the civil society became a meta-justification for granting development aid in itself. NGOs were thus no longer seen only as service providers in cases where the recipient state failed, but rather as an important channel through which to promote democracy and growth.

The second section of the chapter investigates the theoretical ideas that influenced this change of focus in the development discourse more thoroughly, and it outlines the connections between these theories and the development aid policies and strategies that developed more or less simultaneously. Naturally, a complete, exhaustive account of all theoretical contributions in the civil society field is outside of the scope of this thesis. However this section provides insights into some of the central scholars’ works, and will give the reader of this thesis a chance of seeing the Norwegian focus on civil society development, and LAP as a product of this thinking, within a broader perspective.
The third and final part of this chapter gives a short introduction to Nepal’s political history and society. As Nepal geographically is situated far from Norway, and because its culture and political development differ to such a large degree from what can be seen in the West, it is important to have at least an idea about the physical, political and social context which the project analyzed in this thesis has operated within for the past twenty years.

Norwegian development aid

Development of colonies
Before the end of World War II, development aid was primarily performed as a part of the policies of modernization implemented by the colonial powers, or as missionary work performed by different religious groups. The colonial powers pursued different development goals, and development policies varied from one geographical area to another. The question of whether the colonial powers created development at all, or if they rather hindered it, is a question not to be discussed here. However, without establishing the colonial power’s motives for giving financial support to the colonies, it is clear that during the first half of the last century, most colonial powers had a policy for developing their imperial areas, like for example the British Colonial Development and Welfare act of 1940. When the process of decolonization took place after WWII, the former colonies in most cases continued to receive aid from their former colonial masters.\textsuperscript{21}

Missionaries
Missionaries were also active in development work in the third world before WWII. The Norwegian Mission (\textit{Det Norske Misjonsselskap}) was established already in 1842, and began its work in Africa only a few years later. The missionaries saw their mission to be both spiritual and practical, and in many ways they performed development work much like humanitarian and development NGOs would do many years later. Jarle Simensen writes that the missionaries’ work can be defined in terms of modern development terminology. Their work involved transfer of practical knowledge as well as education, they focused on women and the poor, and they promoted human rights even though this term was not yet in use.\textsuperscript{22} Despite these “positive” elements, the missionary work, like the development efforts of the colonial powers, was driven by ideas of superiority in the part of the donor. The colonial policies and the missionary work may be


\textsuperscript{22} Simensen, \textit{Norsk utviklingshjelps historie 1}, 29-31.
understood as part of a larger civilizing mission, or in Jarle Simensen’s view, part of a Western expansion, and some scholars, among them Terje Tvedt, have argued that development aid and development politics after the decolonization represented a continuation of this civilizing mission.\textsuperscript{23}

**Post World War II and a changing international climate**

After World War II the international society was marked by a new order with new power structures. The states pronounced new aims and objectives, which laid the foundation for further development policies. The 1945 establishment of the United Nations brought increased emphasis to the goals of economic and social development, in addition to international security which was its *raison d’être*. However, it was the US that took the development idea further with the establishment of development doctrines that came to influence international politics for decades. The Marshall plan of 1947 was a restoration program of great magnitude, aimed at restoring Europe which was seen to have a temporary balance of payments problem, while also limiting the influence of communism. Thus, as the Cold War emerged, both national security and commercial considerations motivated the plan that later inspired developed countries to establish plans for capital transfer to the South.\textsuperscript{24} In his 1949 inaugural speech, President Truman introduced development aid as a cornerstone of American foreign policy. Truman argued that “Fourth, we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas.”\textsuperscript{25} This was a new turn in American politics, and it kick-started the UN’s development work through increased funding of the organization in addition to encouraging other Western states to provide development aid.

**Capital formation**

The principle idea guiding the development discourse during the 1950s was that economic growth needed a push, thus transfer of capital was necessary. H. W. Arndt writes that “[…] there can be little doubt that, during those years and at least until the end of the 1950’s, […], capital formation and the associated concepts of planned industrialisation, big push, and balanced growth, dominated the discussion.”\textsuperscript{26} This strategy had been seen as a positive lesson of the

\textsuperscript{25} The Avalon Project at Yale Law School, URL: [http://www.yale.edu/lawweb/avalon/presiden/inaug/truman.htm](http://www.yale.edu/lawweb/avalon/presiden/inaug/truman.htm), collected 24 March 2008.
Marshall Plan in Europe during the first post war years, and the idea that capital formation was the optimum way of creating and measuring growth was strong. Transfer of technology and expert help, as well as development of infrastructure over a relatively short time would enable developing countries to themselves generate the growth necessary to rise above poverty.

These thoughts were dominant in the first Norwegian development project, namely the 1952 Indo-Norwegian Fisheries Project (INP). The idea of the project was that by introducing relatively simple fishing tools, fishermen could increase the size and quality of their catch, and thus increase their income. Helge Pharo writes that the Kerala initiative was “a carefully tailored Labour Party initiative designed to serve diverse purposes and directed at several different audiences at home and abroad.” Containment of communism, attempting to strengthen the UN’s role, the idea that development would foster peace, as well as humanitarian, altruistic ideals all influenced the Norwegian decision to enter into cooperation with India. The 1953 People’s Campaign for help to the underdeveloped areas to raise money for the project was one of the first examples of volunteer grass root engagement for development aid in Norway. Pharo writes that “[t]he campaign engaged the grass-roots and non-governmental organisations (NGOs) and foreshadowed the strong popular involvement in and importance of NGOs, which have become crucial features of Norwegian development aid.” One of the aims of the campaign was to educate public opinion on the development aid issue, to ensure support for the Norwegian effort. Despite the fact that it generated less money than expected, the campaign was regarded as successful as it received much support from the population, something which to Norwegian authorities indicated that there was a general support for granting aid to developing countries. The INP reflected the contemporary development thinking of capital formation and economic growth through its focus on increasing the productivity of the fishermen in Kerala. A side effect of the program was the interest for development aid that it sparked among the population in Norway. Knut Nustad claims that an important aspect of launching development aid as a part of Norwegian foreign policy was to establish a counterweight to the Cold War system of alliances and realpolitik, a political mission that the general Norwegian public could engage in and sympathize with.

---

28 Simensen, Norwegian Development Aid History I, 48.
30 Ibid.
31 Nustad, Knut, Gavens makt: Norsk utviklingshjelp som formynderskap, maktk og globaliseringsutredningen, (Oslo, Pax Forlag, 2003), 78.
**Human capital and education**

In the 1960s, the focus of the development discourse changed, and human capital and education became central elements. There was a “shift in [the] whole thinking about the problem of growth and development – from physical to human capital. The fundamental problem is no longer considered to be the creation of wealth, but rather the capacity to create wealth, and the capacity resides in the people of a country.”32 This development coincided with the decolonization process in Africa, which became a geographical focus area for Norwegian aid. In 1962 the precursor to Norad, *Norsk Utviklingshjelp*, was established. This gave the Norwegian aid effort a new boost, and the aid of this time particularly focused on education and local capacity building, even though technology, infrastructure and capital formation remained on the agenda. The connection between Norwegian development authorities and Norwegian volunteer organizations became closer during the 1960s, as did the relationship with the private sector. An important reason for this was the authorities’ recognition of the NGOs role in gathering public support for the development policies, as well as their function as channels of information to the Norwegian public.33 The new focus on human capital and development of skills embodied itself in projects like the *teacher help* in Tanzania, and the academic support to universities in East Africa.34 The problem with “brain-drain” and the question of whether support for the universities sustained existing elites and corruption in the developing country was raised towards the end of the decade, as a new focus emerged within development thinking, emphasizing poverty and “development from below”.35

**Social profile – basic needs**

An important element in development thinking during the 1970s was “the social profile”, with increased focus on the welfare of the population, village development and reaching the poorest in the society with means to cover their basic needs. Dudley Seers, a prominent economist, discussed in a speech titled “The meaning of Development” held in 1969, criteria for assessing development. As the vast majority of the population in the South still remained impoverished, despite economic growth of around 4-5 per cent per year, the primary focus on capital formation were criticised, and the welfare of the population was now seen as equally important, of not more so, than economic growth.36 These social elements had been present in the INP in Kerala during the 1950s, but they had been downplayed during the 1960s and thus revitalized in the 1970s. Examples of how this dimension influenced Norwegian development aid are the integrated district

---

33 Simensen, *Norwegian Development Aid History 1*, 114.
34 Ibid, 144-154.
35 Ibid.
36 Simensen, *Norsk utviklingshjelps historie 1*, 245.
development programs which were implemented in several of Norway’s main cooperation countries, some more successfully than others.\textsuperscript{37}

\textbf{“Trade, not aid”}

“Trade, not aid” was another central slogan which influenced Norwegian development rhetoric in the 1970s. Norway participated actively in promoting the concept of New International Economic Order (NIEO), which was introduced by developing countries in 1974. Transfer of capital and knowledge in itself was argued not to have created growth; what was necessary was to change the structures of international trade. After the oil crisis in 1973, NIEO became a particularly important subject in international forums. Despite the Norwegian support of the developing countries’ demands, when specific suggestions about how Norway could contribute were raised, national interests proved to weigh heavier than the need for a structurally changed trade system. NIEO received similar reactions from the rest of the developed world, and the negotiations stranded in 1979. Yet, the improvement of developing countries’ conditions in international trade is still a part of Norwegian official development policy, despite still encountering the same difficulties.\textsuperscript{38}

\textbf{Free market, structural adjustment, and ‘the NGO decade’}

In the 1980s, development theory again changed focus, and this time towards a belief in free trade and the market as a regulator of the economy. The background for this change was the debt crisis that struck the developing countries in the late 1970s and 1980s. Western banks had given loans to development countries for some years at this point, particularly during the 1970s, after the first oil crisis. However, it was difficult to ensure that the invested funds actually facilitated growth, as they may have been invested in long term projects that did not immediately yield “visible” or “direct” results, such as education and health programs, or the funds had been badly managed or simply lost in corruption. As a result, many countries had difficulties repaying the loans, and particularly the countries in Southern Africa struggled. During the years of 1984-89 in particular, the total amount spent by developing countries in loan repayments was larger than the amount transferred in development aid. The IMF and the World Bank reacted to this by urging for structural adjustment programs and economic reform. These programs were inspired by neoliberalist ideas of free market adaptation, and minimized public spending, policies which also were implemented in the West at the time, with President Ronald Reagan and Prime Minister Margaret Thatcher leading the way. The programs included an element of conditionality; to receive loans the countries had to accept the structural adjustments.

\textsuperscript{37} Ruud and Kjerland, \textit{Norsk utviklingshjelps historie} 2, 145
\textsuperscript{38} Ibid, 23-45.
Norway channelled approximately 50 per cent of the aid through multilateral organizations like the World Bank and during the first years of the structural adjustment programs, they were not particularly discussed in Norwegian politics. However, when the negative effects of the programs – raised food prices and budget cuts that affected the poorest segments of the population – became evident, the Norwegian criticism increased, and Norwegian authorities tried to influence the World Bank towards a more poverty oriented policy. Towards the end of the 1980s, the World Bank acknowledged the limitations of the structural adjustment programs and that the consequences were more serious for the population in the developing countries than earlier assumed. Policies were modified to reduce the “social consequences.” Despite relatively little discussion about the structural adjustment programs in Norway, the international trend influenced the Norwegian development thinking towards an increased focus on internal affairs and conditions in the developing country.

At the same time as development policy focused on macroeconomic measures, the period saw an increased interest for the role of NGOs in development work. The 1980s has been called the “NGO decade”. The idea that “big government is bad government” gave way for NGOs as alternative channels for development aid. Terje Tvedt writes that

The logic of the market was evoked in the name of individual freedom as an alternative to public systems, and in the name of competition as a method and a technique to make the public system more efficient. […] [N]GOs could now be regarded as important actors within an alternative model of development.

The NGOs played an increasingly important role in Norwegian development aid, as they received an ever increasing proportion of the aid budget, and this policy was strongly influenced about the ideas of civil society which will be presented below. It is also pertinent to argue that an additional reason for channelling funds through NGOs was Norad's need to dispense more aid without hiring significantly more people.

Earlier aid had primarily been given as grants, but the conditionality of the 1970-1980s had created a consciousness about the need for the development countries to take responsibility and

---

40 Ruud and Kjerland, Norwegian Development Aid History 2, 23-25.
41 Tvedt, Angels of Mercy or Development Diplomats, 167.
contribute to create change as well. The principle of “recipient responsibility” which was introduced in the early 1990s, became an important aspect of Norwegian development aid.42

**Recipient responsibility**

“Recipient orientation” had been an element in Norwegian development policies since the early years, but Norad revitalized the concept in the late 1980s. The idea was that the main responsibility for initiating and carrying through development projects should be the recipient’s, in order to promote real local ownership of the projects. By basing the projects on the recipients’ own goals and priorities, they would draw upon local knowledge and initiative, and ensure sustainability in ways foreign aid workers were incapable of.43 Thus, the Norwegian donors were intended to fund and oversee projects, but leaving the administration to capable local personnel. The implementation of the recipient responsibility principle turned out to be more difficult and complex than first envisaged. Problems arose when the administrations of the recipient countries did not have the capacity to handle the task, particularly in Africa the state administrations tended to be weak. Several projects lost funding when it turned out that the recipient did not manage to handle project administration, and often the recipient did not share Norwegian intentions with the projects. Corruption and abuse of funding were also major problems, and the implementation of the principle of recipient responsibility implied a simultaneous abandonment of donor control. Despite these difficulties, recipient responsibility is still a very important aspect of Norwegian development aid.

**Human rights and democratization**

During the 1990s, new aspects ideas dominated the development agenda. Parallel with the focus on recipient responsibility, Norway adopted an engagement policy, aiming at influencing actors on the international arena to promote peace, human rights and democratization. Liland and Kjerland write that there was an acknowledgement among Norwegian strategists of previous strategies’ failure to create growth. Thus, “fundamental changes were needed, and one of them was to expand the scope of development aid so that basic political framework and conditions for sustainable economic development, like peace, democracy and respect for human rights, were included.”44 The North-South white paper of 1992, gave several reasons for this change of direction. The international climate had changed as a result of the end of the Cold War, and democracy and human rights were thought to have proved victorious over communism. The idea of interventions in other states to secure these values became increasingly influential, and it

---

44 Ibid: 77
became more legitimate to demand internal change in the developing countries. Norway pursued a role as a peace negotiator, based on the argument that this role was particularly suited for a small, rich country like Norway, which did not hold ambitions of becoming a dominant power. The idea that Norway had a particularly altruistic attitude towards the issue of development aid also influenced the rhetoric regarding Norway’s role as a facilitator of peace around the world.

This turn in Norwegian development thinking evolved more or less in parallel with the idea of the civil society as a central arena for development efforts. During the 1960s and 1970s, NGOs were seen as “marginal actors complementing state-to-state aid.” With the changing international climate, the end of the Cold War, and new theoretical contributions emphasizing civil society as a driving factor in the democratization process that took place in eastern Europe, civil society became a meta-justification for granting aid to NGOs, not only as service providers prepared to step in when the state failed, but as part of an effort to strengthen democratisation.

To understand the policies that shaped Norwegian development aid during the time of the project under analysis in this thesis, it is important to understand the theoretical foundations for civil society thinking in development aid.

Terje Tvedt quotes Keynes in that

> the ideas of economists and political philosophers … are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler a few years back.

Thus, no politician or bureaucrat remains uninfluenced by dominating theoretical currents, and therefore it is important to have some understanding of the discourse that shaped these currents at the time LAP was established, and as it evolved during the 1990s. The ideas of civil society and its potential role in democratisation and development are at the same time vague and complex, and there is no agreement among theorists or politicians about clear cut definitions. The civil society development policies combine elements of many of the theoretical approaches to civil society, and knowledge about the different approaches will therefore help decipher the complexity of the civil society arguments of politicians and bureaucrats, and help us evaluate whether these approaches succeed in reaching their goals.

---

45 Tvedt, *Angels of Mercy or Development Diplomats*, 166.
Civil society: different approaches

The concept of civil society is not consistent and homogeneous, and the way it has been used has varied over time. Through history, it has had different connotations and been acknowledged and defined by various political trains of thought. The question of how to live together in a civilized community is an important question in classical Greek and Roman writing, and put simply, no particular separation existed between the terms *civil* and *political*; civil society was “the company of men (literally) who fulfilled their public and social roles.” Up until the Enlightenment, thinkers like Immanuel Kant, David Hume, Jean-Jacques Rousseau, Thomas Hobbes and others used terms such as “state”, “civil society” and “political society” synonymously. It was with philosophers like Adam Ferguson, Thomas Paine, Friedrich Hegel, and not the least Alexis de Tocqueville, that the idea about a separate sphere that was civil and something different than the state was born. “In contrast to Aristotle, Plato and Hobbes, the thinkers of the Enlightenment viewed civil society as a defence against unwarranted intrusions by the state on newly realized individual rights and freedoms, organized through the medium of voluntary associations.”

The Tocquevillan tradition, in which Robert Putnam among others belongs, emphasizes the value of voluntary associations and their role in keeping the state in check, protecting a pluralistic and varied society and ensuring trust between the people. Critique of this idea came among others from Marx, “who saw civil society as another vehicle for furthering the interests of the dominant class under capitalism.” Gramsci also viewed civil society as a sphere in which battles for and against capitalism were fought; there was a constant struggle for material, ideological and cultural control over society, including the state. Other philosophers saw civil society as an arena for contestation of ideas, and as an essential component of democracy. Habermas constructed a complex theoretical system concerning “communicative action” and “discursive democracy”, and considered a healthy civil society to be one “that is steered by its members through shared meanings that are constructed democratically through the communications structures of the public sphere”.

By the late twentieth century, civil society had thus been constructed in contrast to the State, the law, nature, morality, capitalism and socialism. Today, these debates,

---

7 Van Rooy, *Civil Society and the Aid Industry*, 7.
44 Ibid, 8.
51 Ibid, 8.
[...] have been thrown together in a bit of a conceptual grab-bag, and have come out with surprising moral connotations.\textsuperscript{53}

A new upsurge in civil society thinking among theorists as well as politicians and activists, came towards the end of the Cold War. The acknowledgement that social movements within the eastern bloc pressured for democracy, influencing the political development that took place, gave root to the idea of civil society’s democratizing powers, and focus on and interest in civil society was renewed.

This following section accounts for different ways of approaching the concept of civil society, and is based on Alison Van Rooy’s \textit{Civil Society and the Aid Industry}, as well as Michael Edwards’ \textit{Civil Society}.\textsuperscript{54} Both authors give detailed accounts of the historical debate of the civil society discourse, and they both categorize the different perspectives on civil society to form a platform for analysis of the term. Edwards presents three categories, three ways of approaching the concept of civil society; as associational life, as good society and as public sphere. Alison Van Rooy identifies six categories which combined provides a thorough discussion of the subject. This section will draw upon Edwards’ three categories, as understanding them provides the reader of this thesis with three fruitful perspectives of civil society thinking, which again will contribute to the understanding of how LAP as a civil society project has evolved. In addition, it may prove valuable to investigate the different uses and interpretations of the civil society concept before turning to Norad’s use of the term in relation to development aid.

**Civil society as values and norms**

If one emphasises the word “civil”, civil society describes a sort of well behaved society that is good to live in, the kind of society which we strive to obtain, “the goal for our political and social efforts”.\textsuperscript{55} Thus, civil society is an ideal society where values that are held to be universally good, like trust, tolerance and cooperation, dominate. Edwards categorizes this perspective on civil society as defining it as “good society”. “Civil society represents the institutionalization of “civility” as a different way of being and living in the world, or a different kind of society in which all institutions operate in ways that reinforce these positive social norms- in short, “a society that is civil”.\textsuperscript{56} Central questions thus become: how can one reach this ideal society, and how do humans obtain the good society? Toquevilleans emphasize associational life as the way towards the

\textsuperscript{53} Van Rooy, \textit{Civil Society and the Aid Industry}, 11.
\textsuperscript{54} Van Rooy, \textit{Civil Society and the Aid Industry}, and Edwards, \textit{Civil Society}.
\textsuperscript{55} Van Rooy, \textit{Civil Society and the Aid Industry}, 12.
\textsuperscript{56} Edwards, \textit{Civil Society}, 39.
good society. Robert Putnam, who through his empirical comparative study of society in northern and southern Italy pointed to the need for social trust, embodied through local associations and volunteerism in the process of consolidating a prosperous democratic society.\(^{57}\) Thus, those inspired by de Tocqueville see an active associational and organizational life as the way to ensure a civil society. Through participation in associations, people learn virtues that create the common set of moral norms necessary to obtain the ideal civil society. However, critics point to the question of what the associations and organizations stand for, what is their purpose? Edwards tells an illustrating story: Robert Putnam participated in a seminar where he, as expected, praised the virtues and importance of associations like for example choirs, until one person in the audience asked “[b]ut Bob, what is the choir singing?”\(^{58}\) The point Edwards makes is that associations and organizations have different purposes, different goals for their existence, and they promote different norms and values. Not all associations promote virtues like trust and cooperation; rather, some are exclusive and even hateful in their approach to the rest of society. Van Rooy mentions Hall, who argues that “it is important to separate a quest for civil society from a search for civic virtue, pointing to the presence of slavery, militarism and nationalism as one-time “civic virtues”.”\(^{59}\)

Within a development aid perspective, the idea of civil society as a set of values and norms that guides how one lives together in a community, and the quest to develop such a society, becomes relevant as development aid is meant to influence and change the recipient societies in order to improve conditions of their people. Problems may arise if western donors import the norms and values familiar to them, and attempt to apply them onto societies which function in a completely different way. Van Rooy quotes Bickford who claims that because civil society is a

\[\ldots\text{fundamentally normative concept, to operationalize it empirically would be either (1) to make the mistake of optimistically misreading into events and structures characteristics that are not there, or (2) to impose our own ideas of what should be occurring in the Third World instead of acknowledging and encouraging events to unfold according to the logic of a given country’s own historical development.}\]^{60}


This is an important notion, and the question of whether it is possible to transfer volunteerism onto partner organizations in the recipient society, as is one of the assumptions Norad makes regarding LAP and other civil society development projects, will be addressed in the empirical part of this thesis.

Civil society as a collective noun
A common perspective to take on civil society, perhaps particularly in development aid circles, is that it is a collective noun – embodying the “third sector” or the voluntary sector consisting of NGOs, advocacy groups, social movements, human rights groups etc. This perspective usually leaves the state and the market out, and the groups included are often accorded a positive moral mandate. “Most definitions further specify that civil society organizations do not include those groups interested in acquiring political power, hence the usual exclusion of political parties.”

This way of approaching civil society interprets it to consist of the total sum of volunteer groups, as a unit separate from those of the state and the market. The organizations are grouped together as an entity, and they are seen “as fomenters of democratic ideas, the genuine voices of the economically (and otherwise) oppressed, the underdogs scratching away at the underpinnings of autocracies [...]” This approach grants much responsibility as well as much credit to the organizations, which are expected to fill a number of functions in society. Indeed, the role of organisations may be interpreted differently from opposing points of view: to conservatives they are seen as “vehicles for rebuilding traditional moral values” and to progressives they can rebuild whole societies, being spokespeople for the people’s want for change.

Edwards asks the question: “Is there an “associational revolution” at work in the world today?” He shows that empirical numbers indicate that the upsurge of NGOs is monumental in the world at large; only in Nepal did the number of registered NGOs increase from 220 in 1990 to 1210 in 1993. Despite the overwhelming numbers, there are some problems with the assumption of an associational revolution. When trying to map the Third Sector, empirically counting the number of associations, it is likely that the organizations included in the civil society category equal particular kinds of organizations – namely the ones that we approve of. In development circles this often means NGOs with some kind of civilizing purpose, thus the picture of a society’s associational life when counted might not be accurate or actual. In addition there is reason to

---

64 Ibid, 19.
65 Ibid, 21.
66 Ibid.
question the assumption that the presence of organizations in itself necessarily leads to a civil society working in the best interest of the public. Does a strong organizational life automatically promote beneficial values? There are organizations that without a doubt promote undemocratic values and that work as change agents towards a less including and community oriented society. And there are organizations that do not necessarily promote negative values, but that only represent very small interest groups which, if they succeed in reaching their goals, will exclude other groups and make their situation worse. Hence, not all groups necessarily contribute to the positive development of society. However, participation in groups and organizations, even those who do not have the public good as an overarching purpose, might have democratizing effects upon the members through the social and communicative actions and learning within the groups. Through association with other people, one learns to communicate opinions and to compromise on disputes through peaceful means. This in itself may have positive consequences for society as a whole. In the case of LAP, the empirical narrative in the next chapter will show that the contact and communication between lawyers and the poor, facilitated through the project, has had positive effects on the development in the country.

**Civil society as a public sphere**

In addition to being seen as the “good society”, the ideal-type most people strive to achieve, or the sum of all the volunteer associations and organizations that function in the society, civil society can also be regarded as an arena in which the public performs its role as a community. “In its role as the “public sphere”, civil society becomes the arena for argument and deliberation as well as for association and the institutional collaboration: a “non-legislative, extra-judicial, public space in which societal differences, social problems, public policy, government action and matters of community and cultural identity are developed and debated”66 Civil society can be illustrated like this:

---

Van Rooy quotes The United Nations Development Programme’s definition:

Civil society is, together with State and Market, one of the three “spheres” that interface in the making of democratic societies. Civil society is the sphere in which social movements become organized. The organizations of civil society, which represent many diverse and sometimes contradictory social interests are shaped to fit their social base, constituency, thematic orientations (e.g. environment, gender, human rights) and types of activity. They include church-related groups and youth organizations, as well as academic institutions and others.

Jurgen Habermas is perhaps the most well known “public sphere” theorist. He constructed a theoretical framework consisting of the “discursive public sphere”, where people could discuss common concerns in freedom, without the threat of violence, and as equals. These criteria for conversation are important in the discussion of civil society as a “public sphere” because they create boundaries for democratic and civil conversation, and thus not all conversation and discourse is performed in the civil society “public sphere”.

Other theorists like for example Larry Diamond, see civil society not as the sphere of conversation and peaceful discourse, but rather as the battleground on which the people keeps the State in check. He claims that

---

67 This figure is a very common way of visualizing the sphere of civil society and its relation to the State and the Market, however in this particular case I have copied it from Van Rooy, *Civil Society and the Aid Industry*, 20.
69 Edwards, *Civil Society*, 57.
The realm of organized social life that is voluntary, self-generating (largely), self-supporting, autonomous from the State, and bound by a legal order or set of shared rules. It is distinct from society in general in that it involves citizens acting collectively in a public sphere to express their interests, passions, and ideas, exchange information, achieve mutual goals, make demands on the State and hold State officials accountable.  

Critiques of the idea of civil society as a public sphere emphasize the blurry boundaries between the sectors which the public sphere is intended to be separate from. The market and the state are not entirely unconnected, and in western societies, the public sphere—with NGOs, associations and forums for conversation included—is highly supported and financially dependent on the state. Drawing clear, distinct lines between these sections of society (like figure 1 does above) is if not impossible, then at least very difficult, and perhaps in the long run, not very fruitful when analysing the civil society today as such lines perhaps are far from how the relationship between the spheres are in reality. In the case of LAP, the empirical material will show that the close connections between NEBA, as a representative of civil society and the political circles has indeed been fruitful in producing change that has benefited the population.

As this very brief introduction to different theoretical approaches to civil society has shown, conceptualizing this term is challenging. Civil society has been taken to mean very different things by opposing political and academic positions, and there is no unified definition upon which scholars agree. In the matter of this thesis, the discussion of the theoretical term civil society is interesting because of its implications for the development policies implemented by Norwegian politicians and bureaucrats, and thus how the strategies have influenced the Legal Aid Project.

In development circles, civil society is often considered as the associational life—a collective noun—and as a public sphere in which organizations and individuals can act. The term and the meaning it is assigned is often used selectively, depending on the agenda of the user, and sometimes it seems, it is used rather randomly. The various understandings of the concept may lead to unclear and unfounded expectations regarding what the development work may or may not do or achieve, which will be illustrated through the empirical narrative of LAP in the next chapter of this thesis.

Norwegian aid policy also embodies aspects of all three approaches to civil society. Yet the approach of civil society as associational life might be the most prominent, as the role of NGOs in Norwegian aid drastically increased during the 1980s and 1990s, from receiving 5 per cent of the annual Norwegian aid budget in 1981 to 17 per cent in 1991.\(^\text{71}\)

**Norwegian civil society aid policy**

**Definitions and primary objectives**

Norwegian development aid to civil society has traditionally been channelled through Norwegian and international NGOs. In the Norwegian development tradition, civil society as associational life has been the dominant interpretation of the term, even though civil society as a sphere of action also is a common definition in development circles.\(^\text{72}\) The two definitions overlap, and are not secluded from each other, rather, they are seen as interconnected. As quoted in the introduction, Norad defines civil society as:

- formal and informal organisations, networks and movements that are active in the public sphere between state and family. These organisations are neither owned nor governed by the state and primarily operate on an idealistic basis.
- an arena for participants in civil society and their relationship to other actors such as the state and the private sector. This arena is shaped by the external environment in which civil society operates, including legislation.\(^\text{73}\)

Thus Norad’s definitions highlight both the associational life-aspect, as well as the public sphere aspect of the term civil society.

Aid to the civil society is primarily channelled through NGOs. Even though civil society has not been a term used by Norwegian development policymakers until the 1980s and 1990s, Norway has granted aid to NGOs for more than 40 years. In a White Paper regarding the establishment of *Norsk Utsiklingshjelp* in 1962, volunteer organizations were regarded as particularly important in order to secure the public’s support for development aid: “It is utterly important that one in this case has [the support of] an awake and interested public.”\(^\text{74}\) Thus, the rationale behind granting aid through NGOs was as much a need for support at home, as it was the idea that the organizations had significant advantages in reaching target groups in the South. This argument for

\(^{71}\) Liland and Kjerland, *Norsk utviklingshjelps historie* 3, 237.
\(^{73}\) Ibid.
granting aid through NGOs was dominant at the time, and had its origin in the work done by the missionaries even before development aid became a part of Norwegian foreign policy. People-to-people aid was also an element in the People’s Campaign to raise money for the INP in Kerala, yet in the 1960s the idea was that NGOs had the local knowledge and the connections necessary to reach the groups which the state failed to reach. However, the organizations were seen as complementing the bilateral aid to recipient countries; the state-to-state cooperation was the primary form of aid. In 1963 Norad granted 3 million NOK to seven NGO-run projects in developing countries, and as support for NGOs increased, Norad in 1978 established an NGO Division. By this year, 34 organizations received a total amount of 50 million NOK. As mentioned above, the 1980s have been termed the NGO decade, as support for volunteer organizations increased dramatically.

While the NGO’s participation in development work increased dramatically, Norad’s focus remained on how organizations could supplement the states’ effort by building infrastructure and perform social services to the population when the recipient state was not able to deliver. In the early 1990s, critics questioned the idea that NGOs had such a comparative advantage in reaching the target groups. During the same time period, the rationale for granting aid through NGOs changed: “[i]nstead of being seen as a parallel to the state channel, the Norwegian organizations’ effort should now to a larger extent contribute to strengthening the civil society in the South, as to enable it to put pressure on the state towards democracy and a more just and equal distribution of resources.” Thus, civil society as such now became a meta-justification for granting aid via NGOs in itself: NGOs were seen as important actors on the civil society arena, and their purpose was now interpreted to exceed that of service providers, rather they were tools in a process towards democracy and a better society.

A significant change in Norad’s policy rhetoric on the matter occurred between 1991 and 1994. A 1991 policy document stating the guiding principles for Norad’s cooperation with the volunteer organizations claims that:

---

75 Simensen, Norwegian Development Aid History 1, 49, and Tvedt, Angels of Mercy or Development Diplomats, 166. 
76 Tvedt, Angels of Mercy or Development Diplomats, 166. 
77 Hossain, Faradh, PhD thesis: Administration of Development Initiatives by Non-Governmental Organisations, A Study of Their Sustainability in Bangladesh and Nepal, (Tampere: University of Tampere, 2001), 106, and System Description, Norad’s managing of support for Norwegian and international actors in the civil society, memo to the Royal Norwegian Foreign Ministry’s committee of evaluation of volunteer organizations as a channel in the development work, Norad 6 March 2006. 
78 Ibid, 4.
Development aid through private organizations is an important part of the total Norwegian development scheme – primarily as a welcomed supplement to Norwegian official development aid, but also as a channel of official Norwegian development aid.\(^7\)

Despite the fact that strengthening of local organizations and target groups in the recipient country, and the principle of local capacity building were emphasized, development of the civil society as such was not the primary objective of granting aid to NGOs at this point.

An equivalent policy document from 1994 presents a different perspective, highlighting the importance of an active civil society, with dynamic and representative NGOs, and the role of these in the larger process of creating economic, social and political development. The organizations were no longer seen as a supplement to the state, and the memo claims that Viable organizations promote a society in which different groups and associations among the people gain influence over their own situation and their future, and where the state has legitimate authority. […] The private organizations play an important part in the development of a vivid democracy, where all groups have the opportunity to articulate their interests and work to promote them by peaceful means.\(^8\)

Thus, a change occurred in Norad’s development aid thinking during the early 1990s, which, it seems, was influenced by the civil society theory upsurge at the time. This coincided with the end of the Cold War, which inspired theorists who saw civil society, organizations and mass movements as democratic forces in the world, and revitalized the belief that civil society could create democratization and growth. The same ideas inspired policy makers, and contributed to shape their decisions. The 1994 memo states four primary objectives of Norwegian government assistance through private organizations:

- Strengthen popular, local/national civilian organizations, thereby promoting diversity, democratization and increased respect for human rights. Such popular mobilization is also important for economic and social development.
- Contribute towards poor and vulnerable target groups being reached with fundamental social and economic services essential to the development of human resources, and provide a foundation for increasing income and employment.

\(^7\) Støtte til private organisasjonerens virksomhet i utviklingland, Norad 1991.
\(^8\) Norad: Retningslinjer for støtte til private organisasjonerens virksomhet i utviklingland, June 1994.
• Add breadth and variety to Norwegian development assistance in which many participants with different roles can work effectively together.

• Strengthen solidarity between the people in Norway and those in the Third World through, e.g. the dissemination of information, the creation of awareness and positive public attitudes.  

Clearly, the belief in the role of civil society in promoting democracy and growth gained ground during the early years of the 1990s, as the idea of the role NGOs could play changed. By supporting civil society organizations, giving them the tools to voice opinions and organizing the people in varied ways, Norad hoped to improve the democratic conditions in the recipient countries, and thus also to contribute to a peaceful and prosperous future. However, despite this change of focus and rationale behind the granting of support to NGOs, the organizations were still seen as particularly suited in reaching specific target groups, particularly the impoverished and women. The importance of having popular support for Norwegian development aid effort among Norwegians, and increasing their interest and solidarity towards people in the South, was also highlighted. These are still characteristic elements of Norwegian civil society policies today. The assumption that NGOs can reach target groups more efficiently as well as that NGOs have a particular support at home are both elements that will be investigated in the empirical part of this chapter.

The North-South Report of 1995, mapping out the strategies for Norwegian relations with the South, also emphasized civil society as a central arena for development. The commission reflected upon the relative novelty of the term civil society, and established a wide definition of the concept as the basis for their considerations:

Civil society means all kinds of organizations, institutions and associations which are neither a part of the state or the public sector. The civil society thus includes

• Interest groups and all kinds of private organizations, independent institutions and religious communities.

• Firms and companies in the private sector.

• Local and traditionally based formal and informal institutions.  

81 Ibid.
Interestingly, the commission included the private sector in the definition of civil society. This is in stark contrast to the commonly acknowledged theoretical definitions which generally see civil society as a sphere separated from the market, which is also the definition currently adopted by Norad. The commission stated that “it is in the civil society that development gets meaning and content, it promotes creativity and entrepreneurship, interest groups are organized and critical correctives to the state develop.” Again it is clear that by this time, civil society was seen as an arena, as well as a tool for development, and it was considered as the answer to as diverse problems as creating small business and economic growth, keeping the state in check, providing services to the population and organising and educating them.

**Administration of support for NGOs**
Norwegian support for NGOs has over the past fifteen years consisted of about 23-25 per cent of the total Norwegian development aid. Unfortunately there is no statistical material available regarding what kinds of organizations that have received assistance, but according to a memo written by Norad in 2006, most every kind of organization or association are represented among those receiving support. Currently, the five largest recipients of Norad support in Norway are the Norwegian Church Aid, the Norwegian Missions in Development (Bistandsnemda), Save the Children, the Atlas Alliance and Norwegian People’s Aid. There were primarily three different ways NGOs could be accepted as recipients of Norwegian governmental assistance in the 1990s; support for single projects which were granted support on a yearly basis; project based framework agreements which usually would run for five year periods and; program based framework agreements which presuppose that the projects run by the organization are part of a holistic and coordinated program concept. In 2001 the two forms of frame agreements were combined, and the support is now primarily thought to be program-based. In addition to these forms of agreement, many NGOs receive support directly from the Norwegian embassies in the recipient countries. The direction of funds to the civil society through the embassies is justified by the following: “During the 1990s the allocation of funds increased drastically. This seems to be due to the increased focus on the building of local civil society to strengthen democratic institutions and contribute to improved governance, something which takes knowledge about the local context.”

---

83 Ibid.
84 There is statistical data regarding the large NGOs receiving support in Simensen, *Norsk utviklingshjelps historie 1*, 250, however by “kind” of organization Norad in its *Systembeskrivelse: Norads forvaltning av tilskuddet til norske og internasjonale aktører i det sivile samfunn*. Notat til Utenriksdepartementets utvalg for å vurdere de frivillige organisasjoner som kanal i utviklingssamarbeidet. Norad, 6 March 2006. 5, means the category of organization, based on organizational type (volunteer organization, workers’ union, interest groups, political parties, religious groups etc.)
85 Ibid.
86 Ibid.
87 Ibid, 9.
The 2006 system description memo highlights some elements and principles that are considered essential in the Norwegian development aid, channelled through NGOs. The projects are expected to meet the same quality criteria as bilateral Norwegian aid – with regard to recipient orientation and performance, etc. NGOs should not limit the state’s opportunities of taking responsibility and performing good governance, and the projects should be founded on local economic and social resources. Clear and pronounced goals and prospects of sustainability are important, as is the principle of added value, meaning that the donor NGO should have something to contribute with in addition to funds, in the form of competence and advice.\(^8^8\) The principle of not limiting the state’s ability to govern and perform services for its own population is somewhat in contrast to the principle that the aid is supposed to “strengthen the civil society in the South, to enable it to put pressure on the state in the direction of democracy and a more just distribution”, however as the state-to-state aid is the largest part of Norwegian development efforts, and as foreign donors must obey the laws in the recipient country, civil society strategies cannot directly be aimed at working against the state in the recipient society.\(^8^9\) Another element that the memo highlighted was that the NGO receiving funds must have support at home, mobilizing members and supporters around the subject of development aid. Thus, actual volunteer engagement at home is necessary; it is not enough for the NGO to only raise money for the projects. This element will also be a part of the analytical framework when analysing NBA’s Legal Aid Project in Nepal.

As this section has shown, Norwegian policy makers have extracted different elements from civil society theories and thus constructed definitions and focus elements based on theory, practical experience and areas previously emphasized in Norwegian aid efforts. Aid via the NGO channel has been an important part of Norwegian development before the end of the Cold War, yet, with the theoretical and political developments of the late 1980s and 1990s, civil society as such, and NGOs in particular, have played increasingly important parts on the development arena. It is therefore interesting that the definitions of what civil society really is, what it does, who contributes to it and how do they contribute, are unclear and vague, and possibly inconsistent and even contradictory in some instances. There is a general lack of research which conceptualizes both the theoretical material and the empirical evidence on the question, despite the fact that important contributions to the civil society and NGO debate have been written the past few years. Governmental evaluation and reflection over these issues have not created greater clarity in what

---

\(^8^8\) Ibid, 6.
\(^8^9\) Ibid, 4.
and how the policy intends to create results. Recent evaluations, such as the Rattsø report and project reports produced by Agderforskning in 1998-1999, have contributed some insights, despite having been judged to have significant weaknesses by Norad.90 This vague and inconsistent use of the term civil society can perhaps be explained when considering that actual development aid politics happen in the real world, which is not neat and structured by definitions. Rather, the world as such is chaotic and pragmatic solutions may be necessary when implementing policies. Thus, in dealing with practical issues in the developing country, as well as attempting to satisfy contradictory political opinions at home, catering to several audiences simultaneously, the civil society terminology is mended and adapted to the circumstances, resulting in somewhat ambiguous definitions of the term.

This thesis provides empirical insight into one particular civil society project, and sees it in light of some key assumptions or focus elements of Norwegian civil society development strategy. The assumptions are drawn from the strategy documents of today (2006), yet applying these current elements onto the historical material may still be fruitful as interesting questions spring out from them, that will shed light on how the project has functioned and evolved. Through applying the framework based on those assumptions on a concrete case like LAP, and through narrating the story of a civil society project which was active already during the very early upsurge of civil society thinking in development aid and up until today, the thesis will provide a peace of the puzzle, one story which plays a part in the larger story of Norwegian development aid. Through studying a single project on the micro level, this thesis hopes to contribute to the increasing knowledge of how development efforts within civil society function on the macro level.

Before embarking upon the empirical analysis of LAP, the final section of this chapter gives a short historical background of life and politics in Nepal. As the society and political context in Nepal is dramatically different from Norway’s, and because when working to influence the civil society in a country, local knowledge is crucial, it is also important to have this information in order to understand LAP and its development efforts in a larger context.

Nepal – historical background

Geography
Nepal is a mountainous, small country, landlocked between India in the south and China in the north. It lays in the Himalayan mountain range, and eight of the world’s ten highest peaks are located there, including Mount Everest.91 The country stretches over varied, dramatic landscapes – the high mountains in the north, the middle hills, and the Tarai lowlands on the border to India. The country is roughly rectangular in its shape and has an area of about 147 181 square kilometres.92 83 per cent of the area is mountains while 17 per cent is plains. Nepal has relatively few natural resources, agriculture contributes about 60 per cent of the GDP, and the tall mountains and steep valleys make Nepal suited for hydro power development.93 Nepal is one of the poorest countries in the world and about 37 per cent of the population lives below the poverty line of 1 USD per day.94 The fact that the country has no ports makes it very dependent on India and China, its large neighbours, a geographical fact that has influenced Nepal’s history and political development.

History
Before 1951, Nepal was ruled by the Shamsher Ranas, a large autocratic family that was in power from 1885. The family ruled by occupying the joint position of prime minister and maharaja through generations, as well as ensuring that family members had key positions in the districts. They acknowledged the theoretically higher status of the king, who was considered an incarnation of the Hindu god Vishnu, yet actual power was centred with the Ranas. Nepal was a very isolated country with little contact with the rest of the world, yet, during their rule, the economic connections with India became closer and the Ranas also cooperated with the British who played an important role in the region at the time.95 Impulses from India influenced the political development, as did internal power struggles within the Rana family.96 In 1951, as a result of internal and external pressure, the Ranas resigned, and a form of multiparty democracy was established. This development was highly influenced by the political nationalist development in India, but as it turned out the king was the actual centre of power in Nepal during this period.

---

95 The story about the British and their role in India and the rest of South Asia will not be told here, however it is important to note that Nepal has had a relatively independent position in regard to the British, and has never been defined as a colony as such, despite the close cooperation between the Rana family and the British.
and in 1960 King Mahendra “aborted the democratic experiment and took full control of the state into his own hands”. 97

In 1962, the king established a “Panchayat democracy”, a system which allowed an element of popular representation, without restricting the king’s power through a parliamentary system. Basically, the system was based on directly elected village (Panchayat) councils, which then chose district-level representatives. These in turn selected among themselves representatives for the national legislature, which also consisted of representatives selected by the king and representatives for government sponsored so-called “class organizations”. 98 Practically, the national legislature had very limited powers, and the king’s rule was sovereign.

During the time of the Panchayat system, several development efforts were introduced. The development strategies were organized through Soviet inspired five year plans, and building infrastructure was given high priority during the 1950s. This work was supported by Indian and American development aid, in line with the dominant development thinking of the time which emphasized infrastructure as a way of making the process of production and transportation of products to the market easier. 99

Another arena where the development effort was substantial was in the hydro electric power industry. Norway was involved through the initiative taken by “The Norwegian Tibet Mission”, and particularly a Norwegian engineer and missionary, Odd Hoftun. As early as in 1958, he established a centre for technical education, a hydro electric power station and a factory producing furniture. The project was based on principles of local ownership and development of human skills; Butwal Technical Institute became a great success, and Odd Hoftun was highly regarded in development circles in Norway. 100 Despite these efforts, hydro electric power did not generate large incomes for Nepal during this period.

Thus, agriculture constitutes the largest part of the Nepalese economy, and employs 90 per cent of the labour force. 101 Reforming the agricultural sector has been an aim of the Nepalese government throughout the period in question; the goal is to be able to feed its own population in addition to export enough to boost the economic growth in the country. In the 1980s, Integrated Rural

---

97 Ibid, 86.
99 Ibid, 126.
100 Simensen, Norsk utviklingshjelps historie 1, 218-227. His positive renommé was commented on by Eldny Bredde, in a personal interview, 5 March 2008.
101 Hossain, Faradh, Administration of Development Initiatives by Non-Governmental Organisations, 148
Development projects were implemented in response to the World Bank’s and the Western donors’ demands for structural adjustments, yet the results have not been satisfactory. According to Narayan Khadka, a Nepalese social researcher, reasons for why the agricultural development has failed are that many Nepalese are marginalized peasants, without enough land to feed themselves and their families, nor produce for commercial purposes. The increase in population creates masses of landless families, a surplus in labour supply, and deforestation is a large problem due to “slash and burn” agriculture. The problems in the agricultural sector also create increased urbanization with all the social problems that encompasses.102

Despite the development efforts during the Panchayat era, Nepal was still one of the least developed countries in the world in 1990 when the People’s Movement overthrew the Panchayat regime. Yet, during the 1980s, the educational level in Nepal had risen, and the overthrow of the regime was partly due to dissatisfaction among the population with the lack of development in their country. The knowledge of their status as an underdeveloped country came according to John Whelpton, partly as a result of the increased educational level, partly because of the increase in foreign development actors in Nepal, and as a result of the general globalization and contact with the rest of the world.103 Thus, in 1990, when India, Nepal’s most important trading partner, introduced a semi-blockade of Nepal, partly due to economic formalities but more importantly due to India’s concern with Nepal’s relationship with China, protest erupted. The blockade imposed great hardship on the Nepalese population, which soon demanded change.104 During the early months of 1990, several factions and parties protested against the regime as the People’s Movement, and demonstrations erupted in the streets of Nepal’s cities. Establishing and consolidating political parties was complicated as these had been banned during the Panchayat system. However, many small parties mushroomed during 1989-1990, yet there was a relatively clear division between the left oriented communist parties, like the UML (Communist Party of Nepal, Unified Marxist-Leninist), and the more neo-liberalist Nepali National Congress.105 As students and others took to the streets during the first few months of 1990, there were clashes between the protesters and the police and mass arrests of intellectuals. The situation stabilized some during April that year, as representatives for the parties negotiated with the king and

---

105 Whelpton, A History of Nepal, 119 and 189. Nepali National Congress had previously, during the time of multi-party democracy in the 1950s, a more socialist orientation, but changed in the early 1990s, partly to satisfy foreign aid donors.
democracy was reinstated. A new constitution was written by the king, ULF (United Left Front, an electoral vehicle for the far left) and the Nepali National Congress in cooperation, instituting a bicameral system, however leaving some power with the king. An election was held in 1991, and despite the confusing political situation, an opinion survey performed the day before the election showed that a majority could “at least distinguish between the more traditionally oriented parties and the more radical ones”. All the parties had “development” as their primary platform during the campaign; the difference was in the ideological approach of how to achieve it. The Nepali National Congress won comfortably, and the UML became the largest opposition force.

The chaotic political situation during the first years of the 1990s did also affect the work performed by LAP, as the Nepalese lawyers were highly engaged in the political process. Some lawyers protested openly, and were even arrested by the authorities. This will be illustrated in chapter 3 through the narration of LAP.

After the restoration of democracy, the political unrest continued in Nepal with frequent changes of government. These all promised development, yet the population’s conditions did not improve much. In 1996, the Communist Party of Nepal (Maoist) launched a “People’s War” in the mid-western hills as a protest against the constitutional monarchy. The threat of war did not seem imminent at first, but during the latter part of the 1990s and the early 2000s the conflict escalated into a civil war that would take more than 13 000 lives. The Maoists saw the system established as insufficient to create the changes necessary in Nepal and saw rebellion as the only solution. The conflict lines were influenced by many factors; caste and ethnicity played an important role, it was not only a class war as the Maoist terminology would indicate.

In 2001, as the conflict escalated, a tragedy with political implications struck Nepal. The crown prince Dipendra shot and killed nearly the entire royal family, apparently while influenced by cocaine and alcohol, because he was not allowed by his parents to marry the woman he loved. After his shooting raid, he shot himself and ended up in a coma for two days during which he was pronounced king, until he died two days later. The former King Birandra’s brother Gyanendra

---

106 Ibid, 116. The kind kept the power of declaring a national state of emergency and to dissolve the House of Representatives, even though it was worded so as he should follow the recommendation of his ministers.  
107 Ibid, 118.  
108 Ibid, 120-121.  
was proclaimed king on 4 June 2001. The shootings were explained by the investigation as a personal tragedy, yet many Nepalese thought (and still think today) that the whole incident was arranged by Gyanendra and his sons, as a part of a large court intrigue. Regardless, the destabilized constitutional situation that followed the killings due to questions of successions etc., sparked further Maoist attacks, and the war continued to make life difficult for the people of Nepal. The new king, who still is thought to be an incarnation of the Hindu god Vishnu by many Nepalese, responded to the Maoists by assuming power and sacking the government on two occasions, in 2002 and in 2005, using the army in an attempt to stabilize the situation. In 2006, he was pressured by street protesters and political opposition to give up his direct rule which had severely limited the people’s freedom and ignored their rights, and peace talks with the Maoist began. An armistice came about, and the abolishment of the monarchy has been the primary political goal of the Maoist since that time. The latest development in Nepal is that after a period of unrest and ethnic violence in the southern Tarai, and political bargaining between the different parties, the situation has again stabilized, and the Maoists gained majority in a general election on 10 April 2008. The outcome of this new situation is unclear, as the Maoists in Nepal are regarded as terrorists for example by the USA, yet the victory in the election has given them higher legitimacy and there is hope for a peaceful development in the country.

As this very short introduction to Nepalese political history has shown, Nepal has a troubled and unstable political history with a continuing power struggle between the king, the reformist Nepali National Congress and the Maoists. The civil war has devastated the country’s economic and social development, and it has many challenges to come. To understand the society and the people that have shaped this recent political history in Nepal, it is also important to have some knowledge about the social structures of ethnicity, caste, language and gender.

**Society**

Nepalese society consists of many different ethnic groups. The Nepalese population may be categorized into three major ethnic groups; Indo-Nepalese, Tibeto-Nepalese, and indigenous Nepalese. The ethnic groups’ original geographical location depended on their route of migration into Nepal; the Indo-Nepalese inhabited the lower hills and the Terai plains while the

---

115 Ibid.
Tibeto-Mongols occupied the higher hills. The Indo-Nepalese group, despite being a latecomer to Nepal, has dominated both numerically, socially, politically and economically, and the Royal family, for example, belongs to this group. These three are divided into sub-categories, and the different groups have formed their own identity and culture, a process enhanced by the geographical conditions in Nepal with tall mountains and deep valleys. The geographical distribution means that ethnic sub-groups still are found in different areas of Nepal.

For example, the Bhote group was found in the far north, trans-Himalayan section of the Mountain Region, close to the Tibetan border. The Sherpas, a subgroup within the Bhote, were concentrated in the northeast, around the Mount Everest area. To the south of their areas were other Tibeto- Nepalese ethnic groups—the Gurung in the west-central hills and the Tamang and Rai in the east-central hills—particularly close to and east of the Kathmandu Valley. The Magar group, found largely in the central hills, was much more widely distributed than the Gurung, Tamang, and Rai.

Within the ethnic groups, the caste system, based on the orthodox Brahmin system of the Indian plains, thoroughly pervades the society. It was introduced with the Indo-Aryan people when they migrated into the hills, and was perhaps the most significant influence, as it laid the foundation for Nepal’s feudalistic landowner system where high caste Hindus appropriated land and introduced the system of individual ownership. The Tibeto-Nepali groups and the indigenous Nepalese were incorporated into the caste system, which is a highly hierarchical way of categorizing and ranking people by different statuses. “The fourfold caste divisions are Brahman (priests and scholars), Kshatriya or Chhetri (rulers and warriors), Vaisya (or Vaisaya, merchants and traders), and Sudra (farmers, artisans, and laborers).” The Brahman, Chhetri and Newari (which is an ethnic group categorized as its own caste) castes comprise of about 22 per cent of the population, and account for about 90 per cent of the top civil service posts. Understanding the caste system is crucial to in order to gain insight into how Nepalese society functions; it is a complex system that each individual is born into; it is difficult, almost impossible to change caste, and caste membership determines a person’s status and opportunities during the span of their lifetime.

Nepal is also a highly gender unequal society. Across the cultural diversity and different ethnic groups, the patriarchal system is dominant, and women’s lives are strongly influenced by their

---

118 Ibid.
119 Ibid.
120 Ibid.
121 Ibid.
fathers, husbands and sons. Marriage is the most important institution in a woman’s life, and the practices of patrilocal residence, patriarchal descent and inheritance systems that favour the men are widespread. Girls often marry in their early teens, and the marriage is seen as a contract between two families or clans, rather than as a relationship between the man and the woman. The average age of marriage for women has risen during the latter part of the 20th century, from 15.4 years in 1961 to 18 years in 1991. However, urban women marry significantly later than the average, which indicates that women in the countryside still marry as very young girls. Divorce, even though allowed by law, is generally not an option for the women, as they lose their social status and their rights in the community.

The inequality between the sexes is also evident when considering factors such as fertility and health, education and literacy rate, and domestic violence and trafficking. Women are generally valued as mothers, bringing sons into the family, and the birth rates are high, with all the health consequences that implies. However, the birth rate has declined somewhat over the past 30 years, from 6.33 children per woman in 1976 to 4.6 children per woman in 1996. Again, there is a difference between urban and rural women; “[u]rban women give birth to 2.9 fewer children during their lifetime than their rural counterparts whose TFR (Total Fertility Rate) is 4.8.” Women have shorter life expectancy than men, which indicates the discrimination of female children in Nepal as female infants and young children have a higher mortality rate than the equivalent male age group.

The proportion of female literacy rate is also lower than that of men, with a male/female ratio of 36. House chores and commitments at home as well as high school fees are the primary reasons given for why the young girls are not sent to school, however, the literacy rate for women in Nepal has risen over the past decades, much due to national efforts and foreign aid. The women also do the lion’s share of the work in the fields, “[f]emales on average have a 25 to 40 per cent greater workload than the males” Domestic violence and trafficking are serious problems afflicting many Nepalese women, and according to some studies, the police and other authorities

---

123 Women in Nepal, Country Gender Assessment, published by the Asian Development Bank, 1999, 7. This publication forms part of a series that provides information on the status and role of women in developing member countries.
124 Ibid, 8.
125 Ibid, 9.
126 Ibid, 12.
127 Ibid, 15. 36 women can read and write for every 100 men who can read and write.
128 Hossain, Faradh, Administration of Development Initiatives by Non-Governmental Organisations, 148.
are often part of the problem, either by looking the other way or by participating in illegal activities like trafficking of young girls as sex slaves to India.129

Poverty, segregation and inequality based on caste, and ethnicity as well as gender are, as shown in this section, traits of the Nepalese society which differ quite dramatically from the Norwegian environment that the lawyers of NBA were familiar with at the time of the establishment of LAP in 1988. Thus the task of aiding NEBA and the Nepalese population to improve the conditions of women and the poor must be assumed to have been important for the Norwegian lawyers, despite the unfamiliar and foreign context. However, apart from being of the opinion that something had to be done, the sources indicate that the lawyers had limited knowledge about the conditions in Nepal. The matter of cultural understanding and knowledge about the socio-economic conditions in Nepal among the NBA’s development committee members, as well as the question of whether the Norwegian’s somewhat lacking understanding of the context they were engaging in actually influenced the process of implementing LAP, will be discussed further in chapter 3 through the empirical narrative of LAP, and it will also be a part of the discussion in chapter 4.

This chapter has provided a short historical introduction to Norwegian development aid history, emphasizing the ever changing trends in development thinking that shape the aid policies. It has also focused on the theoretical background of the term civil society, and has accounted for different approaches to the concept and how they have influenced Norwegian development aid policy to civil society over the past 20 years. Lastly, chapter 2 has provided the reader with a short political history of Nepal, as well as an introduction to its society which provides the context for the narrative of LAP. Having the macro elements like the background history, theoretical approaches and context for analysis in place, the next chapter will embark on the analysis on micro level, focusing on the empirical material of LAP, seen in light of the analytical framework presented in the introduction of this thesis.

Chapter 3

An empirical – analytical narrative of the Norwegian Bar Association and the Nepal Bar Association’s Legal Aid Project in Nepal.

This chapter provides a narrative of the history of the Legal Aid Project (LAP) and the cooperation between the Norwegian Bar Association (NBA) and the Nepal Bar Association (NEBA). It focuses on some key actors and historical events which are considered in light of the research questions presented in the introduction of the thesis. These are; what degree of volunteerism was evident within the program; how did the partnership between the two organizations function and was there local ownership of LAP in Nepal; were women and the poor particularly emphasized and empowered through the program, and; what effect did the program have on the democratization process in Nepal?

The empirical narrative will show that LAP to a certain degree was based on volunteerism, but not the kind of grass root activism emphasized in Norad’s strategies. Rather, well educated elites in both Norway and Nepal spent of their own free time to work for the legal rights of the population in Nepal. The partnership between the two bar associations was at times dominated by the donor, and the fear of withdrawal of funding from NBA and Norad is likely to have influenced NEBA’s decisions. Despite this, NEBA was the primary executer and implementer of LAP, and played a major part in shaping the project as such. NEBA and NBA’s rhetoric centred around two primary rationales for establishing and continuing LAP in Nepal – that of organizational building and that of reaching women and the poor with much needed legal aid. Both NEBA and NBA used the women and the poor as the primary argument when applying for funding, and Norad responded positively to this, as it was (and still is) one of the primary elements emphasized in Norwegian development strategy. Yet, the evidence indicates that despite the focus on women and the poor, organizational building and civil society development was LAP’s most significant success. Particularly the Legal Aid Act which was introduced and lobbied through the political system by NEBA during the mid-nineties was of great importance. Arguably, LAP did have an impact on the democratization process in Nepal by strengthening NEBA as an organization which spoke up against a repressive regime and by raising the social awareness and focus on legal and human rights among Nepalese lawyers. In addition, undoubtedly, LAP has reached many individuals who have received the legal aid they needed, and thus made a tremendous difference in these women, men and children’s lives.
The initiative

The idea of NBA engagement in some kind of development aid was first raised in a letter from Supreme Court Advocate Erik Gjems-Onstad to NBA, dated November 27, 1980. In the letter he refers to a recent public discussion regarding the problem of corruption and the actual effect of the aid granted to developing countries. He finds that it is time that Norwegian lawyers contribute with their knowledge, in particular by increasing the people and authorities in developing countries’ respect and understanding of law and justice, and in particular of human rights. He points to the fact that other professional groups, like for example engineers, teachers and farmers, have contributed substantially in the field of development aid, and claims that there is no reason why lawyers can not do equally important work. He then requests that NBA consider such an initiative, and commence by entering into a dialogue with Norad, so as to find a suitable project. The response from the president of NBA, Harald Halvorsen, was initially very positive, and he introduced the question for the organization’s governing board. The committee decided to consult Alf Skogly, a Supreme Court Advocate who had previously worked with legal issues at Norad. Skogly agreed to the importance of engaging lawyers in the development aid field, even though he suggested that it might be done in “a little different, and broader way than suggested by Mr. Advocate Gjems-Onstad”. In the same letter he suggested that NBA should establish an ad hoc development aid committee, which would prepare and conduct a meeting with Norad regarding the issue. The development aid committee was established with three members, Skogly as the leader of the committee, and Supreme Court Advocate Jonas Myhre and Mette Røed Heyerdahl who were recommended by Skogly. According to an internal note by Harald Halvorsen, Gjems-Onstad was offended by the fact that he was not invited to participate in the development aid committee. Halvorsen and Skogly discussed the problem and agreed that it would be best if Gjems-Onstad was not a part of the committee because he would be too controversial within Norad and the Foreign Ministry.
The fact that the initial idea of NBA’s participation in development aid came from Mr Gjems-Onstad is a paradox in itself, as he later became well known as an apartheid supporter and an active opponent of immigration through the organization Folkebevegelsen Mot Innvandring (People’s Movement against Immigration) and Pensjonistpartiet (PP, Party for the retired). At the time when he wrote the letter to NBA’s leadership, he was a well known politician on the far right spectre of Norwegian politics, in addition to being a renowned war hero of the World War II resistance. Thus, it is reasonable to question his motives for initiating a project where Norwegian lawyers engage in development aid. Based on his public appearance and statements, it would seem reasonable to believe that his primary motivation for initiating the project was to keep people from the South from immigrating to Norway by ensuring somewhat improved conditions in their home countries. However, in his letter to NBA there are no statements indicating such motives. Rather, as a freedom fighter from the war, a lawyer who advocated respect for the justice system and human rights, and as a member of a party that emphasized the individuals’ right of self determination, his arguments might be just what they claimed to be – serious reflections over Norwegian lawyers’ duty to do something to improve the legal conditions in the developing world. His focus on human rights are particularly interesting, as at the time, human rights were not a major part of Norad’s focus areas at the time; it only became a major area of interest about ten years later, and thus perhaps Gjems-Onstad was ahead of the general development thinking. However, NBA seem to have had some doubts about Gjems-Onstad’s motives, and decided that it was best to keep him at arms length from its development work. In an internal memo written by Harald Halvorsen, he quotes a conversation with Alf Skogly who figured that “it would possibly be necessary to keep contact with both Norad and the Foreign Ministry. In these circles, Gjems-Onstad is hardly regarded as serious, or good PR. He could be controversial.” Gjems-Onstad did not become further involved in NBA’s development work.

Thus, Skogly took over as the primus movens of the NBA’s development work. He had worked in Norad’s legal department in the late 1970s, had spent time in Vietnam, relatively shortly after the war, and was personally touched by the situation in the country. This experience inspired him to use his legal competence to “do something to bridge the gap between the developing and

138 Ibid.
developed world". He embraced the task given to him by NBA’s governing board and began the work with enthusiasm.

Alf Skogly’s initial role in the project is worth reflecting upon. Due to his time in Norad, he already had thorough knowledge about the ways in which Norwegian development aid was conducted. He knew people with influence on the decision making process in Norad, and he knew the arguments which resonated in the ears of the bureaucrats in Norad. In NBA’s archive material, there is no evidence of Alf Skogly using his connections for concrete favours, but there is a reference to a personal meeting between him and Development Minister Kirsti Kolle Grøndahl on 7 August 1989, on the matter of expanding the cooperation between Norwegian authorities and NBA. Meeting with the minister personally regarding a relatively small project like that of LAP is quite unusual, and the speedy and relatively problem free process of getting the project approved might partly be explained by Skogly’s personal connections with the “right people”. The Minister’s interest in NBA’s project in Nepal may also have to do with the Norwegian process of reducing the development aid to India and Pakistan, which happened around that time. Kolle Grøndahl played an active part in this process, and it is possible that she looked for other alternative recipient countries in the region as a substitute for the aid to India.

Research period

The NBA development aid committee conducted its first meeting on 7 May 1981 and the members decided to initially spend some time researching development aid in general, and aid to Norway’s main recipient countries in particular. The next step for the committee was to issue a questionnaire to many large, Norwegian companies that were thought to be interested in using Norwegian lawyers as consultants when dealing with business and development projects in developing countries. The survey attempted to establish whether Norwegian lawyers already were engaged in work related to private business and development aid. 22 out of 30 firms responded to the questionnaire, and the results indicated that lawyers were not particularly engaged in

---

139 Interview with Alf Skogly at his home in Drammen, 13 March 2007. Alf Skogly, his wife Kari and myself were present during the interview.
140 Ibid.
141 NBAA: The meeting is referred to in a letter from Alf Skogly to the then Development minister Tom Vraalsen, dated 2 April 1990.
143 NBAA: Minutes from the first development committee meeting, 7 May 1981.
development work, and that private companies did not see the help of lawyers as necessary. This result must have been discouraging for the members of the committee, and most likely it gave them a push in the direction of thinking of other ways lawyers and bar associations could contribute with development aid. At this time the Norwegian development debate was highly concerned with the question of engaging private business in development aid; who should profit from the aid was one of the primary issues and there was political protest against Norwegian businesses receiving the a surplus of the Norwegian aid funds. Despite the protests, Norad established several systems for encouraging Norwegian firms to invest in developing countries, however only 2-3 per cent of the total Norwegian development aid budget was set aside for this section. Thus, the number of firms and companies engaged in developing countries and in development aid as such was relatively small, hence the limited interest for assistance by NBA and the lawyers.

A note from the NBA archive, describing the aid committee’s work, which is neither dated nor signed but which most likely is from the fall of 1981, goes through some general information about Norwegian development aid. It then explores different alternatives for how the Norwegian lawyers and NBA can contribute. One alternative is traditional business oriented aid where lawyers could help by giving legal advice, either to Norwegian companies, or to the developing country – the other party in the business negotiation. Norwegian lawyers could also give legal advice to Norwegian development organizations, because lawyers’ particular experience in handling problems and conflicts might be beneficiary in times of e.g. communication problems. The next alternative mentioned in the note, is that lawyers can help within the field of human rights. This can be done by influencing the actual content of the developing country’s laws and regulations and by ensuring the independence of the courts and the lawyers. Included under this point is the issue of legal aid, and the importance for the citizens of a developing country of having an opportunity to claim their rights under the law. Here it points out that the issue of legal aid might seem as a “luxury problem” to people whose main concern might be to get enough food on the table to live another day, and that it is important to cooperate with lawyers within the developing country to gain an understanding of how the recipient society works. A third alternative mentioned in this note is that of bar-to-bar cooperation. In this regard it is pointed out

---

144 NBAA: Internal NBA note, regarding the development committee’s work. The note is not dated, but according to its content, it must have been written sometime after the results of the survey was ready, most likely it is from the fall of 1981.
145 Ruud and Kjerland, _Norsk Utviklingshjelps historie_ 2, 41.
146 A conclusion I draw from the note’s reference to the survey the development committee performed among Norwegian businesses, it presents the findings as relatively new. The paper quality and the style of writing also indicate that this note was actually written by Alf Skogly, most of his letters were written in a similar style.
that the cooperating bar should be in a country somewhat similar to Norway in geographical size and population; in addition to being a main recipient country of Norwegian development aid.\textsuperscript{147} This is the first time the idea of a direct cooperation project with a bar association in a developing country is mentioned, and it seems, in the way it is presented, that this form of aid was what the most appealing to the committee, considering that the private businesses consulted through the earlier survey had been negative to their contribution.

The note concludes with raising the idea of arranging a seminar to increase the interest among Norwegian lawyers for the development work of NBA. Due to the general lack of activity in the development aid committee during the years of 1982 and 1983, the seminar was postponed for a couple of years.\textsuperscript{148} It was then supposed to take place in the summer of 1984, but as it turned out, the seminar was cancelled due to lack of interest among those invited.\textsuperscript{149}

This indicates relatively low interest for development aid among Norwegian lawyers at the time; it was primarily the members of the committee who were willing to spend their own spare time to work, without pay, on this project. In a Norwegian development aid perspective, the lack of volunteerism and engagement among the lawyers is interesting. There is no doubt that NBA’s development work falls under the definition of civil society development; even though civil society was not yet a focus area during the time NBA’s development committee was established. One of the elements that have been particularly emphasized by Norwegian authorities when developing the strategy of granting funds to civil society organizations and NGOs, has been the volunteerism these organizations are founded upon. The basic idea is that if the organization has a solid grass root basis of volunteerism in Norway, it will give the development work legitimacy, the motivation for performing development aid will be truly altruistic, and these values will somehow be transferred onto the recipient which again will benefit positively from acclaiming these values.\textsuperscript{150} Even though NBA clearly was (and is) an organization on the civil society arena in Norway which contributes with development aid to the civil society in Nepal, the historical evidence indicates that there was a low degree of volunteerism in the organization regarding the development matter, and it was difficult for the few individuals involved to raise any enthusiasm among the members regarding development issues in general. On the other hand, the level of commitment and volunteerism among those actually involved was very high. Alf Skogly had a

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{147} Ibid.
\item \textsuperscript{148} There are no references in the archival material of why there was a lack of activity during 1982 and 1983.
\item \textsuperscript{149} NBAA: Letter from Wenche Siewers for NBA to the participants of the seminar, 21 May 1984.
\item \textsuperscript{150} Norad’s WebPage, URL: www.norad.no, and Sivilt samfunn som kanal for norsk utviklingsarbeid: Noen overordnede problemstillinger, Notat til Utenriksdepartementets utvalg for å evaluere de frivillige organisasjoner som kanal i utviklingsamarbeidet, Norad, 20 March 2006.
\end{itemize}
\end{footnotesize}
strong personal motivation in pursuing development aid issues, and also Jonas Myhre and Mette Reid Heyerdahl showed great commitment. Thus, there is reason to question the assumption that even if civil society organizations and NGOs display more grass root volunteerism than other, more professional development aid organizations; in the matter of NBA and its early development work it was certainly not the case.

The note reflecting over the different ways a bar association can contribute in development aid is also significant in a civil society development perspective. In addition to the degree of volunteerism, partnership between the donor and the recipient organization has been (and is still) highly emphasized in Norwegian civil society development strategies. Most of the ideas that would become the substance of the cooperation between NBA and NEBA when the agreement was signed in 1987 were introduced already in the note from 1981. The ideas of bar associations cooperating within the field of legal aid, organizational development, help and support with contact with authorities and the establishment of bar libraries etc. were all introduced before the contact with NEBA had been established, and became the main pillars of the cooperation as the LAP was established. This indicates that NBA practically single handedly decided the terms of the aid it wanted to provide, and persuaded NEBA to accept them before and during the negotiations in 1987, and thus it is an early indication of the relatively unequal partnership that was to exist between the two partners. As this chapter will show through several examples; forming true and equal partnerships between organizations, when the one party contributes with finances and has the power to terminate the partnership at any given time, is difficult and complicated. In traditional development partnership, if it is crucial for the donor that the project succeeds for example to ensure continued funding and thus is unlikely to terminate the project, the recipient does have a counter force. However, in the matter of LAP, NBA was not dependent on this particular project to succeed to ensure continued legitimacy and purpose for its existence as it already had an important role in the Norwegian society not related to development aid. Thus in this particular case, NBA might be in a stronger position when negotiating than a more traditional development aid organization would. Arguably, despite the close cooperation between NBA and NEBA, the LAP project has never been based on an equal partnership where the co-operating parties have been free to act independently.

---

151 NBAA: Internal NBA note, undated.
The Nepal Bar Association

The idea of cooperating with the Nepal Bar Association was born when Alf Skogly met Kushum Shresta, a prominent Nepalese lawyer and a high profile member of NEBA, at an International Bar conference in 1984 in Baden, Germany. The two of them became friendly, and as Alf Skogly was already on the development aid committee, they started discussing a possible joint project with NBA and NEBA as partners. The year after, in 1985, Alf Skogly travelled on a private trip to Nepal, and according to himself, he clearly saw the need for development aid through improving the people’s legal rights, especially in the rural areas. In a letter from Kushum Shresta to Alf Skogly, received sometime in April, 1986, Shresta states that the talks Skogly had with representatives of NEBA when he visited Nepal, had positive effects, and that there now had been established a committee within NEBA that would work with legal aid issues. The NBA development committee had drawn up two criteria for choosing a cooperation country; that it should be among the poorest countries on the UN ranking list, and that it should be a relatively small country, population wise and geographically. Nepal fitted these criteria. This, in addition to the positive initiative from NEBA assured Skogly that choosing Nepal and NEBA as a cooperation partner was a good idea.

It is difficult to know with certainty what exactly happened when Alf Skogly and Kushum Shresta met and decided to begin a cooperation project, but it is likely that the two men met, befriended and realized that they could benefit from cooperation. Considering that NBA’s development committee had already established guidelines for what kind of organization it would cooperate with, as well as the content of a development aid cooperation effort, it is likely that Alf Skogly played a very active part in pursuing Kushum Shresta, as a representative of a suitable organization. On the other hand, it is clear that Shresta adopted the idea and took initiative in Nepal to follow up with NBA, as to ensure that the cooperation would actually happen. Most likely, the two lawyers from different parts of the world discussed the matter, and Alf Skogly’s ideas resonated with what Shresta saw was needed in Nepal.

By January 1986, the NBA’s development committee had discussed the idea of cooperation with NEBA, and a preliminary proposal was forwarded to NBA’s governing board. It presented four possible areas of cooperation; financial support to the publishing of NEBAs legal journal, the

---

152 Interview with Alf Skogly, 13 March 2007.
153 Ibid.
154 NBAA: Letter from Kushum Shresta to Alf Skogly. Not dated, but sent as an appendix in a letter from Alf Skogly to NBA, 10 April 1986, with the comment that he “received this letter from Kushum Shresta recently”.
155 Interview with Alf Skogly, 13 March 2007.
Nyayadoot, financial support to build a law library for the use of NEBA and its members, financial support for a legal aid program, and support for a “Women’s Legal Service Project, which would target women specifically, providing legal aid.” These possible areas of development cooperation had previously been introduced, in less specific terms, in the undated note of 1981 referred to above, and thus it seems clear that NBA were in a position to set the agenda for cooperation. An interesting question is whether NEBA had any similar ideas of what kind of help they needed, or if NBA projected their ideas onto NEBA. There is no evidence in the archival material of initiatives and ideas presented by NEBA. This indicates that the establishment of the LAP to a large degree was a donor driven process where NBA’s Norwegian lawyers set the agenda for areas of cooperation.

During this time, NBA had also held informal discussions with Isak Helseth for Norad regarding the project, and according to a letter from Alf Skogly to Harald Halvorsen, Norad was particularly positive to the legal aid project and the “Women’s Legal Service Project” because it could be subsumed under Norad’s general goals of achievement. At this point in time, women’s issues and the empowerment of women was gaining leverage on the development agenda, and aid specifically aimed at women was regarded positively.

It seems like the contours of the project crystallized during this period, with the Norwegian Bar Association setting the premises for cooperation. Three out of the four suggested areas of cooperation were later discussed in meetings in Kathmandu, and eventually became the areas agreed upon when the project was realized.

On February 3rd 1987, NBA applied to Norad for funding for a preliminary study regarding the project in Nepal. Norad granted 43,400 NOK for the purpose, and Mette Røed Heyerdahl and Alf Skogly travelled to Nepal in September 1987 in order to conduct the study and to negotiate an agreement with NEBA. During their visit, NBA and NEBA reached an agreement on cooperation between the two Bar Associations, and an application for funding by Norad, based on

---

156 NBAA: Letter from Alf Skogly to NBA, dated 22 January 1986.
157 Ruud and Kjerland, _Norwegian Development Aid History 2_, chapter 9, See also Engh, Sunniva, “Worlds Apart, Scandinavian Aid Agencies and Women in Development” in Koivunen, Folke Ax, Folke Henningsen, Syrjamaa, Thode Jensen, _Encountering Foreign Worlds - Experiences at Home and Abroad_. (Reykjavik, University of Iceland Press, 2007), 147-153, for information about women in development.
158 NBAA: Letter from NBA to Norad, 3 February 1987.
159 NBAA: Letter from Norad to NBA, the Development Committee/Alf Skogly, 3 July 1987.
160 NBAA: Fax dated in Oslo, 26 August 1987, confirming flight tickets and hotel bookings for Mette Rød Heyerdahl and Alf Skogly.
this agreement, was submitted on October 19th, 1987. The negotiations reached an agreement quickly, perhaps due to the relatively small format of the project, or because Skogly and Shresta already had discussed the main elements of the agreement, so that the negotiations primarily were formalities. Alf Skogly, representing NBA, and Mr. Laxman Prasad Aryal, the President of NEBA, signed the agreement. According to the agreed minutes from the meetings, “[t]he cooperation project includes a general legal aid scheme, a special scheme on legal aid for women and securing the regular issue of NEBA journal Nyayadoot. The suggested area of cooperation which dealt with the building of a law library was not mentioned in the agreement, but as it would turn out, the building of a library would nevertheless happen a few years later, with financial aid from Norad and NBA. The sources do not indicate why the building of a library building was not a part of the agreement from 1987. One possible reason is that NEBA at the time did not have the property on which to place a library building, or perhaps NBA decided it would be too much to administer in the early process of the LAP.

The first appendix to the agreement states the justification for the establishment of LAP, or as the title states, “the need for the programme”:

The substantive majority of Nepali population is below poverty line. Few of them can pay the cost of litigation. No effective and adequate provisions have yet been made on government level. Though some attempts have been made by some non-governmental organisations, their service has been most negligible. They have not been able to extend their services effectively because of financial constraints. As a result of this, the majority of undertrials, indigent persons, women and children are either forced to give up their genuine cause or have been confined behind the bars without any legal representation on their behalf. So there is very high need for launching a legal aid scheme for the help of the poor. This has been a challenge to every society who are preaching the protection of democratic values and respect for the rule of law, of which Nepal cannot be an exception.

This paragraph is clearly written by someone from NEBA (a conclusion I draw from the use of words and phrases), and it is interesting because it gives a clear statement of why such a legal aid scheme is indeed needed in Nepal. Despite the reasoning about the need for a legal aid scheme, it does not say anything about the position of lawyers as a professional group in Nepal, neither does it mention anything about what kinds of laws the population is subject to. The initial impression is that the motivation on the Nepalese side is very altruistic, only focusing on how the program will benefit the poorest population. But it is

---

161 NBAA: Letter from NBA to Norad, 19 October 1987.
162 NBAA: Agreed minutes from meetings held in Kathmandu, September 1987. (Not dated more specifically.)
somewhat peculiar that NEBA’s self-interest as an organization in this project is not mentioned by a single word, particularly as such a purpose had been mentioned in writing by both NBA and Norad earlier. Building a strong Bar Association in the recipient country, with more power to influence the authorities was mentioned as a goal in the initial note written by NBA’s development committee already in 1981. It suggested several ways that NBA could assist a bar association in the South: cooperation through

- [w]ays of organization, (our ways of organizing a Bar Association), economic support for office and technical supplies and the building of a library if that is necessary, the question of independence and cooperation with the judicial authorities in the country – compared with the situation in our own country, an arrangement of short visits at suitable Norwegian institutions for training of young lawyers from developing countries, etc.

The fact that building a strong bar association was expressed by NBA as a goal already this early on in the process is interesting. Strengthening a national bar association is a goal that indeed could create positive developmental effects; however it may potentially not directly affect the poor and underprivileged in the recipient country – which after all were the main target groups of Norwegian aid. The goal of strengthening NEBA was not mentioned in the text justifying the LAP project when the contract was finalized. It is possible to read into this that the paragraph in the appendix to the final agreement of 1987 was primarily written to suit Norad and the agency’s official goals. By using the correct words and phrases focusing on the poor, Norad might find it more suitable to grant the money NBA and NEBA needed. The agreement and the appendixes were written in joint cooperation between the Norwegian delegates from NBA’s development committee and delegates from NEBA in September 1987. One can argue that Alf Skogly is likely to have made use of his knowledge of what would resonate with the bureaucrats in Norad, to formulate statements of purpose with focus on the poor and women, and leaving out the goal of strengthening the organization in itself. It is, of course, impossible to prove that the motivation behind the formulation of this paragraph in the appendix was that of buttering up to Norad, but the discrepancy between the stated purposes from NBA’s early documents, and the final draft of the agreement is substantial, and should be mentioned.

---

164 NBAA: Organization building and association cooperation are mentioned in a memo, written by Alf Skogly, regarding different possible forms of performing development aid, 20 April 1983. It is also emphasized in an internal note from Norad’s Eldny Brekke to Office Director Tore Toreng, 29 May 1987.

165 NBAA: Internal NBA note, regarding the development committee’s work. Most likely from the fall of 1981.

166 NBAA: Internal NBA note, regarding the development committee’s work. From the fall of 1981. Author’s translation.
The preparatory study, conducted by the Norwegian delegates during the same visit in September 1987, is also worth reflecting upon. It gives a thorough assessment of the judicial situation in Nepal, where respect for human rights was weak, where the king and his government controlled the courts and judges and where corruption was widespread. Emphasising the inadequate supply of equipment and the difficult working conditions for Nepalese lawyers, the study saw a legal aid project as a way of spreading knowledge about people’s legal and human rights to Nepalese lawyers as well as to the people, without offending the Nepalese government too much. Despite the thoroughness of the preparatory study, it did not reflect upon the social and economic structures that the Nepalese society consisted of. The fact that Nepal is a Hindu kingdom, where the king has the status of the incarnation of the god Vishnu and where caste as a divine order decides a person’s rights and opportunities, was not mentioned. Neither were women’s rights (or lack thereof) and those of the ethnic minorities in the country. It is not unlikely that the Norwegian lawyers did not really understand the society in which they were trying to make a difference. If one looks at the project as a civil society project, aiming to change the structures in the recipient country’s civil society, this lack of knowledge is striking. Is it at all possible to participate in creating change in a society where the social norms are so very different from one’s own? And how can one create change when knowledge about the conditions lacking? Arguably, the Norwegian lawyers as well as Norad which approved the project, engaged in Nepal without having this kind of knowledge, and as will be shown later in this thesis as well, their lack of knowledge about particularly women’s situation in Nepal would become evident as the program commenced.

**Norad’s perspective**

Norad approved the preparatory study and the contract and granted financial support in December 1987. NBA received 80 per cent of the total budget of 200 000 NOK for 1988 from Norad, plus 10 per cent for administration costs. NBA itself contributed the last 20 per cent, 40 000 NOK. LAP was to be implemented with the official opening date of January 1st 1988. In an internal decision making document, Norad recommended the project based on three primary reasons:

---

167 NBAA: The results of the preparatory study, conducted in September 1987, sent from Alf Skogly to NBA, 12 October 1987.
168 NBAA: Letter from Norad to NBA, 7 December 1987.
169 NA: Internal note from consultant Helseth to Office Director Tore Toreng, 28 October 1987.
The applicant preliminary work seems to be very satisfactory, and with its internal capacity in the field, there should be little doubt that the organization is worthy of support.

The project has as a target group the poorest in the country, and in addition to these, those most unfortunate who come into conflict with authorities and/or those with greater resources than those in the target group. In addition, the project focuses on women’s particular problems.

There has been created a satisfactory control system in the cooperation between the two Bar Associations.  

In an evaluation done by Norad’s Eldny Bredde when the organisation considered granting support for the NBA pre-study, thus predating the decision making document quoted above, different aspects of the LAP were emphasized. Bredde focused on the fact that Norwegian lawyers had not previously been active in development work. Thus, the project could not be included within traditional project support, meaning support for the development of physical infrastructure. The project would rather fall in under the category “organization building”. She also reflected upon the fact that the lawyers in Nepal could hardly be regarded as the target group for Norwegian development aid, but that they had to be seen as instruments in the process of reaching out to the poor target groups with qualified help “in their fight to achieve equality and natural rights.” She appreciated NBA’s attempt to promote human rights and democracy through partnership with a “sister organization”, and she recommended Norad fund the pre-study.

The difference in wording and emphasis between these two internal Norad documents is striking. The evaluation of the preparatory study application sees LAP in a large perspective, as a project contributing on the civil society arena in Nepal. Without using the term “civil society”, which only became a part of the development terminology some years later, Bredde focuses on organizational building and on using the lawyers (as professionals) as an intermediary tool to reach the target group, and become the voice of the underprivileged, elements that would later be strongly emphasized in civil society development strategies. The later document sees the poor population as the primary target group, not even considering the lawyers and the organization building of the bar association as a possible object for development aid in itself. It is difficult to assess whether this discrepancy indicates that the different bureaucrats at Norad did not read each.

---

170 Ibid. Author’s translation.
172 Ibid.
173 Highlighted for example in Norad: Retningslinjer for støtte til private organisasjonsers virksomhet i utviklingsland, June 1994, 2.
other’s memos, or whether the organization building aspect of the project was seen as so obvious it did not need to be mentioned. However, by seeing the altruistic argument in the final contract between NBA and NEBA in connection with the phrasing of Norad’s final decision document, one can argue that the words, phrases and arguments had changed from those which had been used in earlier documents. This might be due to a change in purpose of the project towards a focus on the poor and on women, but it might also be due to the changes of what was seen as politically correct in the development sphere. The poor and the women were at the time when the agreement between NBA and NEBA was signed, of primary focus within Norwegian development circles, organization building was of less importance than before, and civil society as such had not yet become a meta-justification for receiving aid in itself, as it would during the 1990s.  

During the initial period of NBA’s development work, Norad did not take an active part in the process. Only a few meetings took place during the entire time the project was under consideration, and relatively little information about Norway’s official development policy was provided to NBA. Norad did not, during the years before the project was implemented, contribute with any guidance etc. on how to develop and execute a development cooperation project, at least not in any written form. But even though Norad did not participate actively in the process of preparing for the program, the few meetings held between NBA and Norwegian authorities on the subject, were held on relatively high levels, hence the meeting with Development Minister Kirsti Kolle Grøndahl and Norad’s Isak Helseth. The interest in the development initiative from the Norwegian lawyers among these high level officials might be a reflection of the same phenomenon that Norad’s Eldny Bredde noted in her evaluation of the pre-study application, namely the novelty of the fact that Norwegian lawyers now were interested in engaging in development work. The ideal of broad participation in Norwegian development work, among many segments of the society, has always been a part of Norwegian development policy. A broad participation and support from people in Norway provides legitimacy, which is crucial for justifying further development work. It is therefore likely that the initiative taken by Norwegian layers and NBA was looked upon as a very positive development, which should be further encouraged by the authorities.

---

174 This is explained in Chapter 2, and the themes in focus in the 1970s and 1980s are treated in Ruud and Kjerland, *Norsk utviklingshjelps historie* 2, 177-198.
175 These issues might have been raised at some of the few meetings the development committee had with representatives from Norad, but it is not mentioned especially in any of the documents in the archive.
After LAP had been running for a year and a half, Norad and the Norwegian Foreign Ministry, signalled a further expansion of the cooperation with NBA where NBA would provide professional legal assistance in regard to development aid projects and human rights issues. The proposal came as a result of an enquiry from the Law Society of Pakistan to engage in cooperation similar to that in Nepal. NBA initially did not see such cooperation as a realistic option at the time, and intended to pass the enquiry on to the Swedish or Danish bar associations. However, before passing the Pakistani initiative on, NBA discussed the matter with Norad and the Norwegian Foreign Ministry, who indicated that they wanted NBA to engage in the project, and thus expand the cooperation with Norwegian authorities. Alf Skogly even discussed this matter during his meeting with Development Minister Kirsti Kolle Grøndahl in August 1989 to get approval from the highest level. Later, the Foreign Ministry changed their minds and decided to only continue the cooperation that was already in place. The sources regarding this matter are few and inconsistent, but according to a telefax sent from Alf Skogly to Per Wang (for NBA), and an undated first draft of a letter presumably sent to the Foreign Ministry, the initiative for the cooperation was taken by Norad, and all the preparations had already been completed at the time when Norad and the Foreign Ministry changed their minds. Alf Skogly and NBA were distinctly bewildered at this, and sent a letter to the undersecretary explaining the matter from their point of view. She replied on 8 May 1990, and indicated that the Ministry was indeed interested in cooperation with NBA and that further discussions were needed. The sources do not indicate whether such discussions did indeed take place, and NBA and the Norwegian Foreign Ministry and Norad did not enter into cooperation about a project in Pakistan.

However, during the same time as the Pakistan project was rejected by Norwegian authorities, the Uganda Law Society contacted NBA, initiating a project based on the same principles as that in Nepal. The project in Uganda was established in 1992, and received support from Norad and NBA in the same manner as LAP in Nepal. The project is still in function as of today (2008), thus NBA’s cooperation with Norwegian authorities did indeed evolve into something more than just LAP in Nepal. However, this other project is not a part of the case study in this thesis.

The inconsistency shown by Norad and the Foreign Ministry in the matter of cooperation with NBA, as well as their changing rationale and rhetoric when granting support to LAP, provides

---

177 NBAA: The meeting is referred to in a letter from Alf Skogly to the then Development Minister Tom Vraalsen, discussing why the matter of expanded cooperation with NBA was denied, 2 April 1990.
178 NBAA: Letter from Undersecretary in the Norwegian Foreign Ministry Torun Dramdal to NBA’s development aid committee, 8 May 1990.
reason for doubting that Norad and the Ministry’s bureaucrats were committed to an overarching
development strategy and working on the basis of any coherent plan. During the 1980s, Norad’s
support for Norwegian NGOs participating in development projects increased dramatically, from
approximately 8 per cent of the total Norwegian development budget in 1981 to 16 per cent of
the total budget in 1991.\footnote{180} According to Liland and Kjerland in Norsk utviklingshjelps historie 2,
the policy of granting aid to NGOs was relatively liberal, as long as the projects were in line with
the general Norwegian development aid policy. In addition Norad would support other projects
that emphasized particular target groups or embodied new and innovative forms of aid.\footnote{181} Despite
this new and overwhelming focus on NGOs, or perhaps because of it, the sources indicate that it
to a large degree was up to each individual Norad bureaucrat working on the case how they
evaluated the LAP project and provided NBA with information needed to establish it. A
reasonable question then is whether this inconsistency in rhetoric and argumentation was due to a
lack of overarching strategy altogether, or whether it was a result of the strategy not being properly
implemented among those working in Norad and the Foreign Ministry because of the rapid
increase in NGOs receiving support and the additional administration that came with it. How did
they ensure unity and direction in Norwegian development aid? As introduced in Chapter 2,
Norad’s strategies of aid to the civil society were based on relatively loose concepts of what civil
society was and how Norwegian aid could contribute positively. It was also closely connected with
elements that were important in all aspects of Norwegian development aid, namely the poverty
and women focus and the recipient responsibility principle. The strategy documents produced by
Norad during the early 1990s are ambiguous and unspecific in the sense that most every project
could be worthy of support, as NGOs were supposed to fill many different roles in the recipient
country.\footnote{182} Thus, it seems as if individual handling officers in Norad may have had a strong
influence on which project received support and which did not, indicating little or coherence in
policy.

Despite the inconsistencies, Norad did give NBA some input about what they were expected to
focus on. According to a letter from Alf Skogly to NBA’s Harald Halvorsen, Isak Helseth in
Norad particularly thought the initial idea of a legal aid scheme as well as support for a women’s
scheme, was a good idea.\footnote{183} NBA did take Norad’s preferences into consideration, and the final
agreement between NBA and NEBA did indeed emphasize the poverty and women perspective,
while downplaying elements that had been mentioned in the initial documents, like organization building and the building of a library. At the time, the idea that NGOs were better suited at reaching those marginalized target groups dominated, and much of the aid aimed at reaching those groups were channelled through the NGOs. Organization building, institution building, competence and human skills development was already a part of the development lingo at the time, but the evidence in the case of LAP indicates that this only became decisive for the projects selected some years later.\textsuperscript{184}

Over the 20 years LAP has functioned, it has received continuous support from Norad, as represented in this diagram.

\textsuperscript{184} Ruud og Kjerland, \textit{Norsk utviklingshjelps historie 2}, 204.
planned process of phasing out of the project, and the rapid increase during the early 2000s came as a consequence of an expansion of the program. This will be explained later in this chapter.

**The implementation of LAP**

As mentioned above, NBA and NEBA reached an agreement in September 1987 and LAP was launched on 1 January 1988. The agreement included ideas for areas of cooperation that had been introduced by NBA years before the cooperation with NEBA materialized. It included financial aid to ensure that NEBA’s bar journal *Nyayadoot* could be published, establishment of a legal aid scheme, special support for a legal aid scheme for women, and a legal literacy scheme, aimed at educating marginalized groups about their rights. All these points are in line with the ideas presented by NBA in earlier documents, something which again indicates that the LAP initially was a rather donor-driven project. There is no evidence of NEBA taking the initiative, asking for help in matters they thought necessary. Rather, it seems like NBA decided what aid to give and how to do it, and found a cooperation partner that fitted with their criteria. Of course, it is possible that by coincidence, the ideas mentioned by NBA in the early 1980s were exactly what NEBA needed in the late 1980s, but most likely, NBA applied its ideas onto the recipient organization, which responded positively.

The only element that had been put forward during the early years which was not included in the agreement between NBA and NEBA was that of building a law library. It is unclear why this was left out in the initial project plan, particularly as Norad had appeared to be willing to grant support for building infrastructure in previous cases. The idea of building works may possibly have been postponed because NEBA at the time did not have the financial or administrative resources to administer such a construction. It might also be because NEBA did not have a plot to place the building on. This was later granted to them by the Supreme Court of Nepal. Or it might be because NBA thought that by including the construction of a bar house as well, the project would be too large to handle during the first few years. However, the law library and the bar house were actually built only a few years later, as unspent funds were redirected due to lack of other activities. This theme will be treated more thoroughly later in this chapter. Regardless, it is clear that NBA laid the grounds for cooperation through implementing their ideas and establishing a project that fitted with their image of what such a project should involve, without involving NEBA too.

---

NBAA: Agreed minutes and final agreement between NBA and NEBA, September 1987.
186 See for example Simensen, *Norwegian Development Aid History 1*, Chapter 6, 135-170.
much in the process of selecting the elements constituting LAP. NEBA did not make suggestions, and NBA did not particularly ask for NEBA’s opinions.

The agreement between NBA and NEBA determined the structural organization of the LAP. The project comprised of two programs, one of which aimed to help the indigenous population through free legal aid and one of which aimed at raising the legal literacy of the population. The legal aid committee “form[ed] the necessary principles and regulations”, and the action committee executed these principles and made all administrative decisions. The committees were elected by NEBA, and consisted of Nepalese lawyers. A project director worked for the action committee, and he also managed the project office. The first director, Bhim Rawal, would become an important figure in Nepalese politics.  

A panel of lawyers took on cases initiated by the director, on a case to case basis. A special women’s program provided legal representation to female prisoners in Kathmandu valley, and also gathered information from other districts in Nepal, with the aim of expanding the program to other areas as well. In addition the women’s scheme included a special legal literacy program for women. The final element constituting the cooperation between NBA and NEBA was that of publishing NEBA’s bar journal, the *Nyayadoot*, on a bimonthly basis. A publication committee provided the policy matters related to the publication and an editorial committee performed the editorial work such as selecting the articles etc. A managing editor was hired on a part time basis.

Over the years, the structure of the LAP evolved, and according to NEBA’s webpage, the structure of the program is currently presented like this:

---

187 He was and is a prominent member of the Communist Party of Nepal (UML), and served as a minister in the government during the 1990s. [http://nepallaw.blogspot.com/2005_08_01_archive.html](http://nepallaw.blogspot.com/2005_08_01_archive.html), collected 10 April 2008.  
188 NBAA: Appendix I of the original agreement between NBA and NEBA. Signed in Kathmandu in September 1987.
In this model the numbers within each textbox indicates the number of people (or number of units) the committee or office consists of. A committee on litigation has been added to the original structure, a central women wing office has been established, as well as several project branch offices.

As the model shows, LAP is formally under NEBA control as its top administrative organ is NEBA’s executive committee, which establishes all the policies of the organization and which is elected on a biannual basis. This means that the program is run by and is closely connected to NEBA as an organization; it is not an autonomous project as such. But the program’s organizational structure is highly decentralized with several organizational levels between the executive committee and the branch offices and bar units, which again are in direct and personal contact with the program’s clients.

It seems, from the early sources regarding the program, that the structural organization of LAP was initiated and imposed by NEBA, and that NBA did not partake much in the process. This assumption is based on the fact that the structural organization of LAP is not mentioned as an

issue of discussion in any documents, rather it is presented as a fact that did not need questioning, despite the fact that a decentralized structure necessarily would result in less control of how the funds were spent. This could be an indication that NBA entrusted NEBA with the actual execution of the project, without controlling the project on a detailed level. This is somewhat curious, as NBA previously had controlled the process to a large degree during the initial planning and establishment phase, where the content of LAP practically was dictated from NBA. However, there was a clear ideology among the members of NBA’s development committee that this was actually a partnership, so it is not impossible that they gave their support for the structural organization based on the idea that NEBA knew best themselves how LAP would function the best. Another possibility is that the decentralized structure of the program was embraced by NBA and Norad to ensure capacity building in the districts and development of human skills among lawyers and paralegals. There is no direct evidence of this in the archival material, so assuming that this was a conscious aim of the Norwegians will solely be speculative. But undoubtedly, as mentioned in previous chapters of this thesis, capacity building and development of human skills has been an important aspect of Norad and Norwegian authorities’ development strategies, and therefore it is worth speculating upon whether this may have been an underlying reason for the decentralized structure chosen for the LAP already in 1988.

Even though NBA left much of the implementation of LAP to NEBA, NBA did enter a cooperation agreement with the Norwegian Save the Children organization (NSC), which had Norwegian representation in Kathmandu, in order to keep a certain control with NEBA’s work, and the progress of LAP. The contract between NBA and NSC, signed the 22nd of December 1987 and the 12th of January 1988, stated that for the sum of 5000 NOK, NSC would forward correspondence between NEBA and NBA, and provide English translations of the Nyayadoot which would be sent to NSC in Kathmandu by NEBA. In addition, the NSC’s representative would visit the LAP office on a regular (but not necessarily very frequent) basis, to make sure the project was running smoothly. This was a somewhat peculiar arrangement, and it is unclear how it came about. According to Eldny Bredde, the arrangement was solely a product of Alf Skogly’s initiative, Norad did not play a part in the process of connecting the two organizations. The correspondence between NSC and NBA does not contain any guidelines on how the representative in Kathmandu should perform the “check-ups” on LAP. Neither is there any evidence indicating that the representative asked NEBA any critical questions or had any

---

190 NBAA: Agreement between NBA and the Norwegian Save the Children. Signed 22 December 1987 by the Norwegian Save the Children, and signed by NBA on 12 January 1988. (The discrepancy in date is due to that the contract had to be sent between Norway and Nepal, it is signed by the different parties at different dates.)
191 Interview with Eldny Bredde, 5 March 2008.
objections to how the project was run. Thus, it seems as if the cooperation between NBA and
NSC primarily involved practical tasks such as forwarding mail and ensuring that there was a
contact person on the ground in Kathmandu in case of any problems.

The cooperation between NSC and NBA is an example that embodies the principle of donor
cooperaion, or donor harmonization, as the Rattsø report puts it.\footnote{Rattsø, Jørn, et.al. \textit{Nye roller for frivillige organisasjoner i utviklingsamarbeidet}, Utredning fra utvalg oppnevnt av Utenriksdepartementet, overlevert 15 juni 2006.} Coordinating the aid,
between donor countries and donor organizations internationally as well as nationally, has been an
aim in Norwegian development aid, and has particularly been emphasized over the past ten years.
Practically, it can be difficult to know on what level such coordination and harmonization is
meant to happen, and whose responsibility it is to ensure that it happens. In the case of LAP and
NSC it is clear that practical needs for coordination between two actors on the development arena
in Nepal was the primary reason for entering such an agreement, rather than an overarching idea
about coordination and harmonization being beneficial in a development aid perspective.

The cooperation between NSC and the Nepalese lawyers expanded beyond that of occasionally
checking on the LAP. Kushum Shresta, who initiated the LAP in cooperation with Alf Skogly,
was at this time a prominent lawyer and an important figure within NEBA as well as the Nepal
Law Society, a professional organization for Nepalese lawyers.\footnote{Nepal Law Society is not the same organization as NEBA. Mr. Kushum Shresta’s position as a prominent lawyer in Nepal was clarified through the interview with Mr. Alf Skogly, 13 March 2007. It is confirmed by several news articles from Nepal, for example \url{http://www.nepalnews.com.np/contents/englishweekly/spotlight/2000/dec/dec01/national4.htm}, collected 13 Feb 2008.} In a letter to Alf Skogly, dated 24
August 1988, he informs NBA about an agreement reached between Nepal Law Society and
NSC, of performing a critical study of “Law and Child” in Nepal.\footnote{NBAA: Letter from Mr. Kushum Shresta to Alf Skogly, 24 August 1988.} “There are no further
references to this study in the archival material, and the result of the study is therefore not known.
Regardless, this incident of cooperation with another Norwegian NGO in Nepal illustrates the
fact that individual actors often highly influence the turn of events. Alf Skogly had connections
within NSC, which possibly lowered the barrier for initiating contact between the two Norwegian
organizations. And Kushum Shresta’s connection with Skogly and NBA must have provided him
with knowledge about opportunities for support and cooperation also with the Norwegian Save
the Children. Additionally, Shresta’s association with NBA might have given him extra leverage
and legitimacy when initiating the cooperation regarding the study of children and law in Nepal.
One actor holding positions in more than one organization either at the same time or
consecutively, and using connections and knowledge to create new constellations of cooperation is
not uncommon within the field of development aid, as has been shown for example in a recent study of the Norwegian Church Aid.\textsuperscript{195}

Despite the arrangement with the Norwegian Save the Children and their task of “keeping an eye on the project”, the implementation of the LAP was primarily left in the hands of NEBA. The question of recipient responsibility is worth reflecting upon when considering the implementation of LAP. During the late 1970s and 1980s, terminology concerning “recipient orientation” and “recipient responsibility” became buzz words in the development jargon, without it ever becoming quite clear how these principles would be executed in practice.\textsuperscript{196} In the matter of LAP, it is likely that the reason why NEBA stood for the implementation of the program single-handedly, without any assistance from Norway, was a lack of resources among the Norwegian lawyers and an inability on their part to administer the implementation from Norway. It might, of course, also have been a certain level of reflection regarding the positive impact granting this responsibility to NEBA might produce, if one considers the early reflections regarding organizational building, etc. but there is no evidence of such concerns in the archival material.

While the responsibility for implementing and running of LAP seemingly was given to NEBA, however with an element of surveillance from the Norwegian Save the Children, there are several examples of NBA interfering in LAP’s internal processes, which indicates that NBA in fact did not completely trust NEBA’s ability to conduct the tasks in a satisfactory manner. One telling incident, although a little later in the chronology of the narrative, was when Alf Skogly actively contributed to the sacking of the director who succeeded Mr. Bhim Rawal, who was the first LAP director. In 1992 there was some unrest regarding the new director and the Women Wing (WW), the organizational unit of LAP which dealt with women’s issues.\textsuperscript{197} Alf Skogly visited Kathmandu on a project trip in August 1992\textsuperscript{198}, and in his report he stated that

Director Singh is [on the other hand] a problem. […] Singh followed me on my travels to Biratnagar, and he did not in any way leave an impressive impression on me. […] His try-out period ends at the end of August this year. I expressed in relatively clear terms that he should be replaced with a more successful man. He is not suited as the director of the project, according to my judgement. […] Of course, it is not my position to directly interfere in the matter by instructing their

\textsuperscript{195} Tønnesen, Aud V., Kirkens nødhjelp: bistand, tro og politikk, (Oslo, Gyldendal, 2007).

\textsuperscript{196} Ruud og Kjerland, Norsk utviklingshjelps historie 2, 138.

\textsuperscript{197} These issues will be discussed further later in the chapter.

\textsuperscript{198} The project trips were performed on an annual basis by members of NBA’s development committee, to oversee the program.
employee politics, but I expressed my opinion clearly and I am hoping for a change.  

By February the next year, when Alf Skogly again visited Nepal, the director had been sacked, and a new director hired. In his project trip report, Skogly comments that

> [t]he project has, since I was there in August – and in a careful way expressed my dissatisfaction with the then director – gotten a new director. He is unlikely to embody the first director, Bhim Rawal’s qualities, but he is a man of long administrative experience.

These quotes clearly illustrate the direct involvement of NBA, or more precisely, of one individual, Alf Skogly, in what originally had been an internal process within LAP. The story provides a good example of the difficulty of balancing the combination of recipient responsibility with donor control. Obviously, it was important for NBA that LAP functioned as well as possible under the circumstances. And when problems were discovered, doing nothing must have seemed like a very unsatisfactory solution. This embodies what one might see as a built in contradiction in Norwegian development policy on a more general level at the time, and which may still cause problems today. Namely that keeping a tight control on where and how the money granted by Norway is spent, and at the same time giving all the responsibility for the execution of the projects to the recipient organization, is difficult, if not impossible. This is particularly difficult if one considers the partnership principle in Norwegian development aid. Is it possible to create true partnerships when one partner provides the money and also needs to control the program in order to satisfy the politicians and the public opinion at home? And can there be true local ownership of a project when this need for control embodies itself in direct actions of influence of the decisions made within the projects? These are general questions that can, and perhaps should, be applied to all development cooperation, through NGOs or bilateral aid via states. But in the matter of NBA, NEBA and LAP, indicatively, real and true partnership was not entirely evident, due to the considerable influence NBA had on the process, both in regard to the establishment of the different schemes of LAP, and in regard to the running of the project.

**LAP and international attention**

NBA’s twinning program with NEBA received much positive attention from other nations’ bar associations as well as from the International Bar Association (IBA) during the first years of

---


operation. The project got publicity in the International Bar News, and so called twinning projects between bar organizations was the subject at several IBA Conferences. Alf Skogly was asked to write a “handbook” with guidelines on how to enter such cooperation projects with Bar Associations in developing countries, which he did as early as in 1988. The guidelines were distributed among the members of the IBA General Professional Programme Committee and both Alf Skogly and Kushum Shresta were asked to serve on IBA’s Advisory Committee for the “Adoption” by IBA member bar associations of developing bar associations in the South. Twinning projects was also the subject in an IBA Council meeting in Venice on May 25-26, 1990. There was a trend within IBA that promoted twinning projects between bar associations in the developed countries and the third world countries, in an attempt to help develop better functioning bar associations in the South. NBA was the first bar association to actually enter a cooperation project like this, and IBA therefore gave LAP positive attention, and was interested in learning from NBA and NEBA’s experiences. The fact that LAP received substantial international attention within the juridical community was an argument used towards Norad at several occasions, arguing for the novelty of the project and the importance of sustaining it further. In a letter from NBA to Norad, sent 15 January 1991, Alf Skogly wrote that

> [a]ccording to the latest information, the project is progressing well. Cooperation project based on the Norwegian model has gotten remarkable attention within IBA. In the latest issue of International Bar News, the Norwegian project is mentioned on page 12 and page 32-33. Attached are copies of those pages, for Norad’s information. As is evident, the cooperation model NBA started has had a particularly positive and influential effect within IBA.

There is no doubt that the cooperation project between NBA and NEBA was new and novel at the time of its beginning, and that it got positive attention within IBA.

### Political turmoil in Nepal – consequences for LAP

The political situation in Nepal changed and deteriorated in 1989, and the conditions for the LAP and for lawyers and law practitioners in general worsened dramatically. As India imposed a trade blockade on Nepal in 1989, demonstrations to end the totalitarian monarchy and the Panchayat system erupted, and the government struck back by arresting intellectuals and members of the

---

202 NBAA: Letter from Alf Skogly to IBA’s Executive Director Madeleine May, 4 May 1988.
203 NBAA: Letter from IBAs Executive Director Madeleine May to Alf Skogly, 17 May 1988.
204 NBAA: Letter from Alf Skogly to IBA’s Executive Director Madeleine May, 8 November 1988.
A Norwegian lawyer and public prosecutor, Lasse Qvigstad, was on vacation in Nepal at the time, hiking in the mountains. He wrote a letter of concern to NBA, dated 14 March 1990 from Kathmandu, where he told about his encounter with a Nepalese lawyer who had been arrested, and was on his way to prison. (The carriage taking him there had stopped so they all could have tea!) Dhungana Daman was the chief spokesperson of the Nepal Congress Party, the largest opposition party in Nepal at the time. He had been arrested without warning, and his family did not know where he was. He asked Mr. Qvigstad to notify them and also to contact NBA in Norway. Mr. Daman was active in NEBA, and a member of one of the committees related to the publishing of the bar journal *Nyayadoot*. Qvigstad expressed his grave concern over the matter, urging NBA to take action. There is no evidence that NBA did anything about this particular case as there are no further references to the matter, however in a travel report from Nepal, written by Jonas Myhre in 1991, Daman is mentioned to have become Speaker in the Lower House of Parliament, so his time in prison is not likely to have lasted for very long. Even though there are no references to Daman’s case in particular, NBA did, in cooperation with NEBA as well as the International Bar Association (IBA), issue letters and press releases, demanding more generally that the Nepalese government release the lawyers and other political prisoners, and that they ensure a peaceful solution to the political problems in the country. These reactions were also triggered by information passed on by NEBA members regarding their experiences.

One member experiencing the troubles at the time was Mr. Kushum Shresta. He was at the time President of the Nepal Law Society, General Secretary of the International Law Association, Nepal Branch, and International Commission of Jurists, Nepal Section. On March 26th, 1990, he sent a fax to Alf Skogly, where he gave testimony to his experiences a few days earlier. On the 20th of March 1990, Kushum Shresta attended a seminar, or a speech program, at the Tribhuvan University in Kathmandu. Several prominent speakers lectured over “The Situation of the Country and the Role of Intellectuals” for about 700 people. The audience consisted of what Shresta describes as “the cream of society”, meaning intellectuals, professors, teachers, doctors, lawyers

---

208 Qvigstad was and is well known among Norwegian jurists, and worked during a later period as a counsellor for legal and justice affairs at the Norwegian Embassy in Washington DC where he was controversial for speaking against the official policy of the Royal Norwegian Foreign Ministry. Nettavisen, published 2 January 2002, URL: http://pub.tv2.no/dyn-nettavisen/innenriks/?archiveSection=2&archiveItem=192526, collected 1 May 2008.  
211 NBAA: Reference to such actions in a letter from Tor Bøhler (head of the NBA's human rights committee) to Alf Skogly, 6 April 1990.  
During one of the speeches, a police officer took the stage, announcing that the police would use force if the audience did not disperse. According to Shresta, he used provocative and abusive language. The audience responded by standing up and observing one minute of silence in protest at this behaviour, and then continued the meeting. Shortly after, the police entered the room and arrested everybody present. They were taken to the Traffic Police station, and put into a dark, crowded cell where they had to stand waiting for several hours. They were not given anything to eat or drink, and they had very poor toilet facilities. After a long wait, Shresta was called for interrogation with a few others. When waiting to get in, a young man who had been tortured was paraded before them. Shresta was videotaped while being interrogated, they took his fingerprints, and he was recorded in what he calls “the secret file of the administrators” as an “inexplicable offender”. He was released around midnight, and his brother was waiting for him at the gate, as his family was very worried for him when they did not know where he was all night. What he left out from his testimony, but which most likely influenced the process of his release, was that Mr. Kushum Shresta’s brother was the then Health Minister in the sitting government.

The government controlled media and the authorities later reported from the incident, claiming that the seminar had “disregarded of the dignity of a sacred institution such as the Tribhuvan University”, and therefore the police were compelled to detain 150 people. Kushum Shresta testified to the wrongfulness of this, and declared that he wrote the testimony to protest against the “gross and latent violations of basic human rights”. The fax was addressed to Alf Skogly, but Shresta requested that Skogly please forward the testimony to Norad.

During the pro-democracy rallies and demonstrations that occurred during the political turmoil of 1990-1992, lawyers played an important part. These photographs show Nepalese lawyers marching in the streets of Kathmandu. The pictures are not dated, but they were filed together with some letters sent from NEBA to NBA in the fall of 1990, so they are likely to have been taken that fall, probably by LAP’s director at the time, Bhim Rawal.

---

213 Ibid.
214 Ibid.
216 Mr. Kushum Shresta quotes in his testimony The Rising Star, a Kathmandu newspaper that reported from the incident on 21 March 1990.
217 Ibid.
Figure 4 - Nepalese lawyers carrying banners demanding "Stop human rights violations", "Stop mass killings" and "Release all lawyers and political detainees" in the streets of Kathmandu, 1990.

Figure 5 - Many lawyers took to the streets.
Despite receiving letters testifying to the impunities the lawyers of Nepal were subject to, there is little evidence that NBA did anything in particular to influence the situation. One letter from Tor Bølher, the head of NBA’s human rights committee, mentions an NBA press release coordinated with a press release from the International Bar Association, protesting against the government of Nepal’s actions.\(^{218}\) However no such press releases can be found in NBA’s or Norad’s archives, and in addition there are no traces of articles in any of the major Norwegian newspapers, which may have been based on an NBA press release. This is quite peculiar, as the situation in Nepal was extremely tense, and most likely highly influenced LAP’s ability to function. Of course, there is a possibility that the press releases are simply missing from the archives, as there are obvious flaws to the NBA archival system. It is difficult to draw conclusions from the fact that NBA seemingly remained relatively passive, even if it did in fact issue press releases, in response to the events in Nepal. But one can perhaps assume that it was difficult to find ways of influencing Nepalese authorities. Nepal was not at the time a “main cooperation country” of Norad as it is today, and the lack of connections and leverage might have been discouraging to the Norwegian actors involved.

The assumption that the strengthening of civil society organizations helps to improve people’s ability to speak up against authorities and demand their rights, is an important element of civil society strategies. In the case of NEBA and LAP during the turmoil in 1990, the testimonies and stories submitted to NBA indicates that the lawyers did have courage and the leverage to do just that; stand up for their rights and protest against the abuse of power and the atrocities committed against the population of Nepal. Despite the fact that NBA and Norway as such was unable to provide help and support other than morally, the Nepalese lawyers’ courage might indicate that in times of distress, foreign support and a strong organization with legitimacy in the society in which it operates, does indeed have a democratizing effect. And NBA might in this matter have functioned as a channel for raising their voice which might have had positive effects, at least symbolically.

**Political turmoil also within NEBA**

The political difficulties and the polarized political landscape in Nepal were also reflected within NEBA. According to the report from a project trip to Nepal, conducted by Jonas Myhre, one of the members of the NBA’s development committee, in November 1991, there were fierce discussions and political bargaining over key positions within NEBA – positions including the

\(^{218}\) NBAA: Letter from Tor Bøhler to Alf Skogly, 6 April 1990.
LAP directorship. The program’s first director, Bhim Rawal, had resigned during the political turmoil to work for the new government as an advisor for the Ministry of Agriculture. In 1991 his engagement there was finished, but due to his close connection with the UML (The Communist Party of Nepal, Unified Marxist-Leninist) he was not reinstated as director for LAP, despite having previously done what was considered a good job and was preferred by the Norwegian lawyers. In the project trip report it is clear that Myhre put pressure on NEBA to engage Bhim Rawal as an external consultant for the project. During Myhre’s time in Nepal, the Select Committee of NEBA interviewed candidates for the position as LAP’s director. The one chosen by the committee did not impress Myhre, as he saw him as a clear political compromise rather than the one best qualified for the job. The result of a ten hour long meeting on the matter was that Bhim Rawal was indeed hired as a consultant – so as to be the NBA’s man on the spot, making sure the project proceeded as agreed upon. NEBA’s preferred candidate, Mr. Singh, was hired as the new director for the project.²¹⁵ This incident predates the example referred to earlier in this chapter, where Alf Skogly contributed to the sacking of the same director Mr. Singh, and is also a striking evidence of donor influence on the recipient organization. It is remarkable however, that the political factions and internal dispute in NEBA led LAP into a difficult situation with unqualified people in key positions. Could it be that in certain situations, donor influence can in fact be crucial by ensuring that the project does not fail completely? This might be so even though there is a strong discrepancy between this form of donor influence and the ideas of recipient responsibility and ownership. As previously mentioned, balancing donor control with recipient ownership is crucial when attempting to understand the challenges NGOs and civil society organizations, as well as other development aid actors, face.

**Joint efforts with Norwegian women**

During Jonas Myhre’s visit to Nepal in 1991, problems in the women’s scheme of the project became apparent. By that time, Norwegian Female Lawyers Association (NKJF, Norske Kvinnelige Juristers Forening) and NBA had entered a cooperation regarding the funding of the Women Wing, which began as NKJF received funding for a women’s project from a national TV-fundraiser in 1989.²²⁰ The cooperation continued until 1993.²²¹

---

²²⁰ The Norwegian Television Fundraiser (TV-aksjonen) is an annual charity event, broadcasted over national television. It focuses on different issues or organizations each year. In 1989 the focus was on women in the third world.
²²¹ NBAA: The initial contract from February 1990 indicates that the cooperation between NBA and NKJF would continue until 1992, but there is evidence indicating that the cooperation continued until 1993. Letter from Alf Skogly to NKJF, 22 September 1994.
In July 1988, NBA received a letter from a Women's Legal Services Project in Nepal, a project which had been mentioned in a note written in the early phase of research regarding the establishment of LAP, but which had later not been incorporated into the project. Run by Nepal Women’s Organization, the project provided free legal services as well as basic legal literacy education to indigenous women in Nepal. The director of the project, Ms. Silu Singh requested NBA to support the project, but NBA decided that it would not grant support to a project outside of LAP. It would instead continue to fund and organize the Women Wing scheme within the LAP. NBA forwarded Ms. Silu Singh’s letter to NKJF, but they did not respond to the request either. This is the first time NKJF is mentioned in any of the documents regarding LAP.

On January 6th, 1989, Alf Skogly sent a letter to Eli Quam, the leader of NKJF, referring to an earlier conversation. He attached the original agreement between NBA and NEBA, and from the phrasing of the letter it seems like Eli Quam had expressed interest in joining in co-funding of the Women Wing of LAP by applying for support from the annual TV fundraiser of 1989. On January 20th the same year, NKJF applied for financial support, which was later granted to them by the TV fundraiser, and a contract between NBA and NKJF was signed in February 1990. The cooperation between NBA and NKJF seems to have worked well, as it continued over several years. But in October/November 1992, the TV fundraiser organization sent a delegation to Nepal to monitor and evaluate the project. Their report from the trip raised many questions regarding the implementation of the women’s program. The delegation had discovered serious conflicts between the director of the Women’s Wing and the director of LAP. The director of the WW had resigned, however she felt obliged to stay in her job as long as the delegation from Norway was there, but was to leave her position shortly after their departure. She complained that she had not been given sufficient office equipment, and that she had not been heard with regard to her suggestions for the program. She claimed that she was not allowed to work independently, that the men made all the decisions, and that she was not able to take on any law cases on her own. The Women’s Wing director had previously brought some of these issues up with Alf Skogly, during one of his visits. For a short period of time her conditions had improved, however when Skogly had left the director had been called in to the LAP director and board, who had accused her of insulting them in front of the Norwegian donors. This had not made her work any easier, and the situation again deteriorated. Her main reason for resigning her position was that she felt

222 NBA: Letter from TV Fundraiser to NKJF regarding the grant of support for LAP, 25 August 1989
225 NBA: Contract between NBA and NKJF, copy of a draft which is not signed, but which is sent to NKJF in February 1990.
that the LAP was not truly interested in promoting women’s rights, and that she felt like she could do more for the women in Nepal as a practising lawyer. In the evaluation report, the representatives from the TV auction express their doubts about whether pressure from Norway would make any changes in regard to the relationship between men and women within the project, and they also considered it to be doubtful whether it was possible to do any good by continuing the program.\footnote{NBAA: Report from project evaluation in Nepal by the TV Fundraiser, dated 3 March 1993.}

The TV fundraiser organization forwarded the report to Alf Skogly, via NKJF, and he responded with a letter to NKJF where he expressed great surprise over the TV fundraiser delegates’ report. Skogly claimed that the problem was largely due to misunderstandings on behalf of the director of the WW, and that she had never been supposed to take on cases of her own. Her office was supposed to function as a “clearing centre” where possible cases were screened and then sent on to the panel of 60 lawyers who would then proceed with the cases. The NEBA committees were supposed to make the decisions regarding the program, and according to Alf Skogly, her situation was not any different from that of the LAP director. Regarding the problem with the new LAP director, he explains that NBA was very pleased with the director who was there for the first three years of the project, Mr. Bhim Rawal. He resigned as he was offered a position as Undersecretary for the Ministry of Agriculture, and the new director had proved not to function well in the position. As mentioned previously in this chapter, Alf Skogly expressed his displeasure with the new director when he was in Kathmandu in August 1992, and another director was hired shortly after. According to Alf Skogly, this new director was very competent in his relation to the other employees, and thus he could not understand the director of the WW’s complaints. Regarding the problem with office supplies and phone lines, he explained that by referring to the problem-ridden system of communication in Nepal. Skogly concluded by saying that the situation described by the TV auction delegates is not the one he had experienced in Nepal, and he adds that it would be very unfortunate if NKJF pulled out of the project based on this.\footnote{NBAA: Letter from Alf Skogly to NKJF, 19 April 1993.} As it turned out, the cooperation continued at least until 1993, but it is unclear exactly when the cooperation ended.\footnote{NBAA: There are references to the co-funded budget for 1994 in a letter from Raghild M. Hagen (NKJF) to Alf Skogly, 12 August 1993.}

This instance of problems and unrest within the project is interesting, primarily because it is one of very few major problems to be found in the source material, but also because the problem was “discovered” by an external evaluation carried out by a third party, rather than through the annual internal project trips. As Nepal is a country where women’s status is very low compared to men’s,
the gender inequality is evident in all aspects of society, also among those who belong to high castes and who are highly educated. It is peculiar that the question regarding gender and power within the NEBA and LAP has not been addressed in more detail by either the Norwegians or the female employees at LAP. In the archival material from the early period of LAP, the issue of caste has not been addressed either, which reveals that the Norwegian lawyers lacked crucial knowledge regarding the society they were engaging in. Understanding the socio-economic system in which the project attempts to create change is inevitably of great importance for success. The incident mentioned above indicates that Alf Skogly and NBA clearly lacked understanding of the problems the female director of the WW was facing, and thus undermining one of the primary objectives of LAP namely improving women’s rights and conditions in Nepal.229

The incident is therefore important in a development policy perspective. Norad’s emphasis when granting the LAP funding was primarily that the project would reach out to women and the poor. This aspect was also emphasised in NBA’s applications to Norad throughout the entire project period. It is therefore of substantial importance that it seems that NBA and NEBA indeed did not prioritize the WW part of the project. Quite the opposite, the WW was deprived of office supplies, were given limited responsibilities and opportunities for making a difference in Nepalese society. Alf Skogly was not alarmed by the fact that the female director of the WW was called in and accused of embarrassing NEBA and LAP when she attempted to raise an alarm about the circumstances. This indicates that the WW part of the project might not in reality have been seen to be of the level of importance that had been indicated to Norad. The emphasis on the “women and poverty” perspective of the program in applications to Norad may have been a way of using the correct buzz words, in fashion within decision making circles, to ensure further funding, rather than reflecting an actual conviction that reaching the women and the poor was the way of helping the Nepalese society. Or, it is of course also possible, and perhaps more likely, that they simply did not understand the complexity of the society in which they operated.

229 It is possible to see this in a gender perspective by arguing that it took two women from the TV fundraiser to see and acknowledge the problems, ignored by the NBA men for a long time. One can also argue, along the lines of Bourdieu, that the male lawyers in NBA and NEBA somehow shared the same habitus. They were well educated men who spoke the same language and had similar status as elites in their respective societies, and therefore the communication between the men functioned in a much better fashion than that between the NBA men and the NEBA women. Arguments against this are that there was actually a woman on the initial NBA development committee, who visited Nepal several times (Mette Roed Heyerdahl) who could have picked up the signals from the female lawyers in Nepal, as well as that the societies in Nepal and Norway are different to such a degree that the thought of a shared habitus as such might be an illusion. Regardless, there is not enough space in this thesis to pursue these lines of analysis further, but they are interesting thought exercises.
The Nepal Bar House

Due to the troubled political situation in Nepal in 1990, LAP was not able to spend all of its funding on the intended programs, like the legal literacy programs and the legal aid scheme. Therefore, representatives from NEBA presented the issue of redirecting money to the building of a library, during a meeting between NBA and NEBA in 1992. NEBA had utilized a few rooms at the Nepalese Supreme Court building as offices until then, and the Court had at this time agreed to grant some of its property to NEBA so that they could have a building of their own. This property was located right next to the Supreme Court building, which again is close to the Justice Department and the Parliament building. The need for a law library and a NEBA building was justified by the fact that the law education at the university in Kathmandu was insufficient, as it did not offer a master’s degree in law, and did not have a library with law literature that students and lawyers could benefit from. NBA approved the plan to redirect the money into such a building, and on January 8th 1993, Norad agreed to support the construction with up to NOK 400 000. The search for contractors went on for a while, and there were some issues regarding what company would get the job, however construction work began during the summer of 1993.

By fall that year, NEBA raised the question of adding a second floor to the building, in order for LAP to establish permanent offices. In a letter to Norad, Alf Skogly argued that permanent offices could contribute to the consolidation of the LAP as a permanent institution. He specifically mentioned that he had received information regarding a “Bar Council Act” which recently had been approved by the Nepalese Parliament. In addition, a “Legal Aid Act” was to be voted over, and according to Skogly, NEBA had been given signals from Parliament members that these acts might be approved during the following Parliament session. The passing of these acts would be of great improvement for the people of Nepal, as their right to free legal aid had not been ensured by law previously. If an extra floor was built in order to provide permanent LAP offices, the project could thus contribute to the establishment of legal aid, institutionalized by law, in Nepal. NBA agreed with Skogly, as did Norad, and the building of the second floor of the library building was

230 NBAA: This is refered in the application NBA sent to Norad regarding the redirection of funds, 23 December 1992.
231 NBAA: Letter from Norad to NBA, approving the application to redirect unspent funds from previous years of LAP, to the building of a law library in Kathmandu, 8 January 1993.
approved. During 1993 and 1994, the construction of the building continued, and by 1995, the building was in use – eventually with four floors; a library, NEBA offices and LAP offices.\footnote{NBAA: Reflection memo for the year of 1995, written by Alf Skogly, 25 January 1996.}

It is clearly stated in NBA’s application to Norad for the redirection of funds to the Bar House construction that the initiative for this came from the NEBA organization.\footnote{NBAA: This is referred in the application NBA sent to Norad regarding the redirection of funds, 23 December 1992.} Considering that the construction of a Bar House/Library had already specifically been mentioned in the proposal sent by Alf Skogly to NBA’s governing board in 1986, while they were still considering NEBA as a project partner, there is reason to question the accuracy of this. Without any further empirical evidence, it is impossible to prove that the idea of a Bar House which also included a law library did not originate with NEBA. However considering the very specific suggestion in NBA’s internal documents which predates NEBA’s initiative, it is possible, and relevant, to speculate whether the Bar House was not actually a donor initiated project. Perhaps the idea of the construction of a Bar House had been introduced for NEBA’s members already during the initial negotiations in 1987, without the plans being realized in the initial phase. Thus, NEBA probably had a conception of NBA’s positive attitude to such a construction project, and when the idea was reintroduced they could be relatively sure of getting a positive response. Regardless, the construction process of the Bar House seems to have been clearly driven by NEBA, without much control from NBA. Evidently, there was a local desire and need for a Bar House, and NEBA performed the planning and execution of the construction according to their own definitions of needs and possibilities. So despite the possible donor initiative, the fulfillment of the construction and the further use of the building were done according to NEBA’s wishes.

Another aspect of the construction of the Bar House is the process that involved redirecting funds which originally were earmarked legal literacy courses, litigation and general legal aid to women and the poor, to the construction of physical infrastructure. This was primarily justified by the fact that the political turmoil in the early 1990s had prevented LAP from performing all its planned activities, so therefore there was a significant surplus of money left over from previous year’s budgets. Norad approved the redirection of funds, but established conditions regarding the co-funding of the construction. NEBA would be responsible for raising sufficient funding to complete the building, and they would also collect funds for maintenance and ensure that the building was used for the correct purposes.\footnote{NBAA: Letter from Norad to NBA, 18 October 1993.} In the same letter, Norad stated that “Norad has with this grant emphasized that such an addition to the building [specifically, the addition of a...
second floor of the law library where LAP would keep office] with offices can ensure that the project can continue when Norwegian support has ended.” 237 This quote indicates that organization building and continuity as such was important to Norad in regard to the LAP. It is worth noting that the bureaucrat granting the support for the library building is the same individual that reflected upon LAP as an organizational building project already in 1987, namely Eldny Bredde. During the time between 1987 and 1993, several other Norad bureaucrats had dealt with LAP, and organizational building as a raison d’être for the project had not been emphasized. Rather, women and the poor remained the primary focus of the project in applications and other communication with Norad. The question is therefore, did the redirection of funds to the building of the Bar House indicate a change in Norad’s strategy towards more focus on organizational and institutional continuity and capacity building, which also included physical infrastructure? Or was the erection of a building the easiest way of moving money which already had been granted, but not spent, on the planned activities due to the political unrest in Nepal in the same period? In Norwegian development aid history there are many examples of so called budget maximizing, or the redirection of funds, to make sure that the money are used for something concrete like for example infrastructure, when the original plans for spending the funds for some reason could not be realized. 238

The legal aid act

In 1995, NEBA proposed a legal rights bill to Nepal’s parliament, based on the principles of the LAP, guaranteeing free legal aid to the population in Nepal. In a report where Alf Skogly reflects upon the work done in 1995, he mentioned the proposal, and considered it as a particularly positive effect LAP has had in Nepal. However, he realized that the bill had yet to be approved by the parliament, and that even if it is approved, the country was in a fragile state and might lack the funds and the administrative capacity to implement the bill. 239 In 1997 the bill was indeed passed in the Nepalese parliament. 240 The Legal Rights Act, as it was called, guarantees that “The state shall, in order to secure Justice for all, pursue a policy of providing free Legal Aid to indigent person for their legal representation in keeping with the principle of the Rule of Law.” 241 The law would be executed by the establishment of a Central Committee of Legal Aid, chaired by the

237 Ibid.
238 For examples of budget maximizing and redirection of project funds, see Engh, Sunniva, “Population Control in the 20th Century: Scandinavian Aid to the Indian Family Planning Program”, (University of Oxford D.Phil. thesis, 2005)
240 The Legal Aid Act was approved by the king 22 December 1997, according to a transcript of the act made available to the researcher from NEBA’s main office in Kathmandu.
Minister of Justice, which would then establish District Committees and a panel of lawyers that would take on the cases of the poor. Mr. Lakshman Prasad Kharel, the then director of LAP suggested in a note sent to NBA, that a phase-wise implementation of the act might be the best alternative, and pointed to the problem of funding the Legal Aid Act by saying “We have to make our endeavour for exploring the possibility of funding. The problem of funding with us is known to all.”

The passing of the Legal Aid Act is, by both NEBA and NBA, seen as one of LAP’s greatest successes. It institutionalized, by law, the principles that LAP is built upon, namely free legal aid to every citizen of Nepal, regardless of caste, sex or social or economic status. The planned structural and organizational implementation of the act was also based on LAP’s organization, and there is no doubt that NEBA’s lawyers actively lobbied the bill through the Nepalese parliament. By institutionalizing the legal aid scheme, LAP reaches much further into the lives of women and the poor in Nepal, than what it possibly could do as an NGO service provider. Even though the implementation of the act is and surely will continue to be difficult, and it is unlikely that actual free legal aid available for all will be the reality in Nepal for years to come, it is a milestone in the work towards a fair and free justice system that is based on and respects human rights.

In a democracy perspective, this achievement is of substantial importance as well. It is an indication that one of the civil society strategy assumptions introduced as hypotheses in this thesis, possibly can be proven right regarding LAP in Nepal. The question is: does a strong and active civil society contribute to a democratic development? Arguably, and according to the current members of NBA’s development committee, the largest victory of the LAP is that NEBA, because of its close connections with NBA and the International Bar Association (IBA), had leverage with Nepalese politicians. Therefore, they were able to lobby the bill so that it was passed in the Nepalese parliament, and thus NEBA and LAP was partly responsible for the positive development in the institutionalizing of people’s rights in Nepal. In an external evaluation report, financed by Norad and carried out by a Nepalese academic and a lawyer from Bangladesh, from 1998, states that “An innovative and unique achievement of the LAP, which demonstrates a lot of potential for the future, is the facilitation of the enactment of the Legal Aid Act of 1997. This is

---

242 Ibid.
243 This is not explicitly expressed in the archival material, but it is referred to indirectly several places, and it has been commented upon in interviews with both Alf Skogly, Arve Opdahl and Vidar Raugland.
the most significant contribution of the LAP.\textsuperscript{244} This indicates that despite Norad and NBA’s focus on aid targeted directly at the women and the poor, what LAP itself saw as its greatest achievement was what happened on a higher political level. Through influencing lawyers who again could lobby politicians, the project would reach larger segments of the population by ensuring that free legal aid is established by law, than if LAP was only a service provider.

**Cooperation with Norad**

In 1997 the NBA development committee had ongoing discussions regarding the continuation of LAP, in response to a request for continued cooperation from NEBA. The 5 year contract that had been signed with Norad in 1993 was due to expire, and after having explored the different alternative funding opportunities for example through the Norwegian Embassy in India, as well as in response to the passing of the Legal Rights Act in Nepal, the NBA development committee considered it to be worthwhile continuing the project, initially for another three years.\textsuperscript{245} In his application to the governing board of NBA, Arve Opdahl, who had succeeded Alf Skogly as the leader of NBA’s development committee in 1996, argued that the project was functioning well, and that another three years of cooperation would help consolidate the work done by LAP. This would happen by giving the government a better chance of implementing the Legal Rights Act as intended. To secure that the work already done would not be in vain, he argued, it was considered preferable to continue the project.\textsuperscript{246} NBAs governing board gave its approval, and an application for funding was sent to Norad in September 1997.\textsuperscript{247} Norad approved the continuation, on a year-to-year basis.\textsuperscript{248} The previous years, the support had been reduced because the plan was to phase out the project. The amount LAP received from Norad in 1997 was 50 per cent less than three years before, but as it was decided to continue LAP, the support for 1998 increased to 715 500 NOK.\textsuperscript{249}

During the same period, NEBA proposed a change in the organizational structure of the LAP, regarding the district offices. They wanted to close them down to save money, and instead perform the legal aid services only through the local bar committees. NBA and Norad were

\textsuperscript{244} NBAA: Evaluation report, *Legal Aid Project in Nepal*, submitted to the Norwegian Bar Association in August 1998 by Dr. Ganesh Man Gurung and Advocate Itrat Amin.

\textsuperscript{245} During the 1990s, the funding of projects through the Norwegian embassies increased. According to a Norad System Description Memo from March 2006, this seems to be due to the “increased focus on building local civil society and the strengthening of democratic institutions, and improve the governance, something which required familiarity with the local context.”, 9.

\textsuperscript{246} NBAA: Letter from Arve Opdahl to NBA, 1 September 1997.

\textsuperscript{247} NBAA: Application from NBA to Norad, 1 September 1997.

\textsuperscript{248} NBAA: Letter from Norad to NBA, 22 December 1997.

\textsuperscript{249} Ibid. LAP received NOK 617 000 in 1994, in 1997 the amount was reduced to NOK 356 160. The support for 1998 was NOK 715 500.
sceptical of such a change, out of fear of decreased central control. The local bar units were less tightly knit to the LAP organization, and the Norwegians were worried about poorer performance by the lawyers involved. In 1997, NBA and Norad agreed that it was not in their authority to deny NEBA to implement this change, however they strongly discouraged it. Especially, they argued, because it would be good to have the district offices as already existent infrastructure during the implementation of the Legal Rights Act.\textsuperscript{250}

This is again an example of donor influence on LAP. It this particular case, NEBA took an initiative that was highly discouraged by both NBA and NEBA. The language in the letters between NBA to Norad regarding this issue clearly indicates that the Norwegians did not trust NEBA to make the right decision about the structural organization of LAP. In a letter from NBA to NEBA in November 1997, Arve Opdahl, wrote:

\begin{quote}
After some consideration both Norad and The Committee for Development Countries [same as the NBA development committee] will not bar the proposed closure of the regional offices. Nevertheless, we will ask the NBA [in this case the Nepal Bar Association, the new leader must have had the terms confused] to reconsider this matter as the Legal Aid Act now has entered into force. The already established network of regional offices could be an adequate starting point when fulfilling the intentions of the act.\textsuperscript{251}
\end{quote}

Opdahl continued to emphasize that if NEBA pursued the plan of closing the regional offices, the organisation must provide NBA and Norad with satisfactory overviews of activities and economic surveys. “Norad has pointed out their concern about this if any changes are made, so we have to be sure we can give them as good audited figures and books as earlier, and they are very interested in how the new legal aid law will work.”\textsuperscript{252}

Without directly instructing NEBA, NBA and Norad made it practically impossible for NEBA to commence with their plans by strongly encouraging them to reconsider. In a partnership and ownership perspective, Norad and NBA’s attitude towards this issue seems to go in the opposite direction of what the Norwegian development strategies at the time emphasized, as these encouraged recipient responsibility. Instead of promoting true partnership where equal partners cooperate towards finding the best solutions, this matter indicates that NBA and Norad put a slight pressure on NEBA, which eventually gave in and disregarded their plans of restructuring the organization. The donor involvement may also undermine the principle of local ownership,

\textsuperscript{250} NBAA: Letter from NBA to NEBA, 18 November 1997.
\textsuperscript{251} Ibid.
\textsuperscript{252} Ibid.
considering that it is difficult to feel ownership towards an organization where one can not decide the organizational structure oneself. Most likely NEBA’s decision to change their plans was made because the donor held the power to terminate the project if they were not satisfied with the outcome. NEBA sensed the Norwegian uneasiness with the plans, and acted accordingly.

Another interesting aspect is that Norad in this matter actually held a strong opinion about the concrete implementation of the project. Previously, Norad had left the planning and implementing of the project to NBA and NEBA, while continuing to emphasize the recipient perspective. Norad’s suddenly detailed opinion in this regard seems to be a departure from the way the Norwegian authorities imagined the development cooperation to function. As Norad only held such specific and detailed opinions at this one point in time, one might conclude that it was a coincidence, and that it was not the result of a new, more control focused strategy on the Norad/development aid agenda. However, if so, this exemplifies the tension between the official rhetoric at the strategy and planning level with the actual implementation of policies. Combining focus on women and the poor while simultaneously ensuring recipient control, leaving up to the recipient how to prioritize, is a somewhat built-in contradiction in the set of goals that Norad pursues, making consistency of implementation difficult.

External evaluation

The first external evaluation, initiated by Norad and NBA was conducted in 1998, approximately ten years after the project was established. NBA’s development committee took the initiative to the evaluation as a result of the decision to extend the program for another three years. Vidar Raugland, a member of the NBA development committee was responsible for the administration of the evaluation which was performed by two academics, unrelated to NBA and NEBA. The evaluation received funding from Norad of 70 000 NOK. 253 Norad did not express any requirements or instructions of how to conduct a project evaluation, but supplied NBA with a handbook on how to evaluate in general. Vidar Raugland wrote in a note to Arve Opdahl, that he thought it was important to try to speak the “same language” as Norad did, so that Norad could use the findings of the evaluation in their work. 254 The NBA development committee agreed that the evaluation should be conducted by a team of two persons, a Nepalese and an Indian, whereas one ought to be a lawyer. In order to avoid too close connections to NEBA, it was decided that the lawyer should be from India. Harald Skar at the Nordic Institute of Asian Studies helped NBA

253 NBAA: Note, sent by telefax, from Vidar Raugland to Arve Opdahl, 22 January 1998
254 Ibid.
with recommendations regarding who would be suitable to conduct the evaluation. The choice eventually fell on Dr. Ganesh Man Gurung from Nepal and Advocate Itrat Amin from Bangladesh.

Considering that NBA both initiated, administered and selected the evaluation team’s members, one can argue that the evaluation in fact was not as external to NBA and independent of the organisation as it later was presented to be. However, Vidar Raugland considered the evaluation team’s independence to be important:

I will assume that it, in the end, will be most fruitful for those conducting the evaluation to get a certain freedom in constructing and conducting the evaluation as they wish. After all, if it is an external evaluation, there are limits to how detailed one can be [meaning how detailed premises the evaluation team can be given].

Thus, despite the fact that the evaluation was funded and administered by Norad and NBA, it seems as if the actors involved had a high degree of reflection regarding the issue of ensuring an independent evaluation.

Dr. Ganesh Man Guring and Advocate Itrat Amin used different research methods to gain information; focus group discussions, personal interviews, questionnaires and case studies. The evaluation concluded that LAP was a very successful program overall. Particularly the litigation program was regarded as very successful, and individual counselling cases provided aid to a high number of people. The evaluation emphasised the long term investment of the project in the construction of a Bar Building which relieved LAP of the question of location and contributed to the sustainability of the project. In addition the evaluation claimed that LAP had positive effects on the profession of lawyers in Nepal, giving non profit work for poor people a sense of credibility and maybe even some prestige. It considered the LAP to have great potential for the future.

The evaluation also pointed to some weaknesses in the LAP program. Among them were lack of communication between the central office and the district offices, poor recording and documentation skills, and little follow-up on the legal literacy courses run by the local bar units. In addition the evaluation pointed to the problem of defining the parameters for deciding who qualifies for help under LAP; there had been rumours that well to do people had benefited from

255 Ibid.
257 NBAA: Note, sent by telefax, from Vidar Raugland to Arve Opdahl, 22 January 1998. Author’s translation.
258 Ibid.
the project. This fact is evident in the data collected by the evaluation team which shows that for example in Palpa, a region in the middle hills in central Nepal, 63 out of 153 beneficiaries were Brahmin or Chhetrys, both high status castes.\textsuperscript{259} Lastly, the evaluation report considered the fact that due to the remoteness of certain areas in Nepal, some people in need of help from LAP could not benefit from the program because of lack of money for transport and food on the journey to court on court day and to legal literacy classes. Regardless of these weaknesses, the overall impression of the evaluation was that LAP functioned in a very positive manner and that it was a highly valuable contribution on the legal aid and human rights arena in Nepal, and that it therefore should be continued.\textsuperscript{260}

The first section of the evaluation report gives an assessment of Nepalese society, considering social structures and the national socio-economic situation. The text describes how ethnicity and caste are factors which determine the social and economic status of any person in Nepal, and it considers women as a disadvantaged and marginalized group.\textsuperscript{261} The evaluation is likely to be the first thorough report regarding these issues which was received by the Norwegian lawyers. Even though the poor and women had been a focus area since the beginning of LAP, actual facts and considerations regarding these groups, and studies regarding how the social structures in Nepal were organized had not been conducted. The NBA lawyers had not previously requested or performed a study of the socio-economic circumstances in Nepal, and as such, this report provided important insights into the society in which LAP operated. The lack of these insights during the previous years had already manifested itself through some of the incidents discussed previously in this chapter, and particularly in the conflict with the leader of the WW, however it is difficult to assess whether the NBA lawyers had acted any differently had they had more knowledge about Nepalese society.

Some of the difficulties highlighted in the evaluation report considered problems between the different structural levels of the LAP organization. Poor recording and documentation skills were given as one set of reasons for this problem, which also might have been a result of poor follow-up from the central office regarding both legal literacy courses and individual court cases. These were organizational problems, which could be changed through the establishment of better routines. However, the problems concerning the parameters for the selection of clients for the program were of a more serious kind. The social and economic structures in Nepal were, and still are,

\textsuperscript{259} NBAA: Evaluation report, Legal Aid Project in Nepal, submitted to the Norwegian Bar Association, Norway, by Dr. Ganesh Man Gurung and Advocate Itrat Amin, August 1998.
\textsuperscript{260} Ibid.
\textsuperscript{261} Ibid.
complex and rigid. Who is who, and who gets access to what, is dependent on birth, caste and education. Defining coherent parameters for the selection of clients, and more importantly, implementing these parameters is very difficult. Having thorough knowledge of the society and these structures is of crucial importance to ensure that the relevant clients are offered help, and it is therefore remarkable that the first thorough study on the Nepalese society came into NBA’s lawyers’ hands only some ten years after LAP started functioning. It is an indication that NBA did not reflect on these matters during the first ten years of the project, which is remarkable considering the focus on women and the impoverished in application documents and the like. Even more remarkably, Norad as a professional aid bureau, did not encourage or push NBA to reflect upon these issues either, despite the focus on women and the poor in all policy statements.

NBA’s development committee forwarded the evaluation to Norad for comments and consideration. In a document dated 19 July, Norad replied with their reflections based on the evaluation. Norad appreciated the report as methodologically well executed, however argued that some of the conclusions drawn seemed to be based on assumptions rather than on facts found during research, even though there was no reason to question the correctness of these assumptions. Norad’s document appreciated the background information provided on the Nepalese society, stating that “[t]he acute need for action focused on improving women’s positions is highlighted in a very satisfactory manner.” Based on the evaluation’s findings, Norad also assessed the LAP as a successful project, with a well developed strategy, that efficiently reaches its target group. Norad credited NBA and their thorough follow-up of LAP and the close cooperation with NEBA. One element emphasized by Norad is the importance of the simultaneous combination of grass-root work with lobbying and policymaking on the national level. Combining these two spheres within the same project, Norad argued, the project had potential for becoming an important actor on the civil society scene in Nepal. The author of Norad’s document, Haakon Gram-Johannesen, recommended, in case of a further prolonging of the project, that increased attention be given to strengthening the link between these two spheres, thus further increasing NEBA and LAP’s influence on Nepalese society. Furthermore documentation routines should be improved to secure sustainability, and Gram-Johannesen emphasized that defining parameters for deciding the target group was important. Lastly, incorporating legal literacy programs into schools was seen as a good way of institutionalizing the principles of a free and fair justice system into the Nepalese society. In that regard, cooperating with the universities in Norway was mentioned as a possible idea.

263 Ibid.
The Norad document is the agency’s first, thorough assessment of LAP that reflects upon the project in a broader perspective. The project was clearly understood as important in a women’s rights and poverty reduction – perspective, however it was also considered in light of its possible effects on the civil society and policy-making levels. This is a clear change in Norad’s views of and rhetoric concerning LAP. During the first ten years of operation, LAP was not considered and defined as a civil society project as such; rather, it was an NGO project that would provide crucial services of legal aid to women, poor and marginalized groups. Norad’s later reflections, and particularly the observation of the importance of grass root work in combination with lobbying and policymaking on a national level, gives reason to assume that theories about civil society development as a way of strengthening democracy was gaining ground and becoming incorporated into the Norad ethos.

Haakon Gram-Johannessen wrote the memo on the LAP evaluation around the same time as Norad’s department for volunteer organizations (FRIVORG) changed its name into department for civil society (SIVSAM). By changing the name, Norad wanted to emphasise the fact that a main objective for this particular department, and for Norad in general, was to develop the civil society of the recipient countries. In a brochure titled “News from the department of civil society”, Norad states that “a pluralistic and engaged civil society is a prerequisite for a democratic development which will strengthen the possibilities for poverty reduction on a long-term basis.”

Thus, civil society as an arena for reaching the poor had been an idea that contributed to shape Norwegian development policy for some years, however during the 1990s strengthening civil society to promote democracy became meta-justification for development aid in itself.

**Government take-over of legal aid offices**

In 1999, plans for a government take-over of the LAP infrastructure were introduced. A project trip report from Vidar Raugland’s visit in Nepal 12-17 April 1999 considered a scheme which seems to have been presented by NEBA and the Nepalese government (possibly in cooperation, the sources do not indicate whether NEBA worked with the government on developing the

---

264 Except for the short evaluation done by Eldny Bredde in 1987 where she considered LAP in an organization building perspective.
265 FRIVORG is an acronym for “Frivillige Organisasjoner” in Norwegian, translating to “Volunteer Organizations”. SIVSAM stands for “Sivilt Samfunn” which translates to “Civil Society”.
The idea was that the government, under the Legal Aid Act, would take over the funding and the running of the legal aid offices that had already been established by LAP. LAP would then continue its work by setting up new offices in an additional five districts. The LAP would run these offices for a year, before the Nepalese government would gain responsibility for these as well. Doing this, the project would establish 15 government run offices during the three year extension period of the project which Norad had approved. According to Raugland, the Ministry of Justice in Nepal had just recently approved funding for this scheme so that there was a real chance that the Legal Aid Act now could be implemented. This concept of a gradual withdrawal, passing the further responsibility of providing legal aid to the poor to the government, was a policy that was supported by NBA and Norad, and it has been continued up to this day, despite the political crisis and the civil war that slowed down the process during the early 2000s.

The government take-over of LAP, or more so, the government implementation of a legal aid scheme, based on and in cooperation with LAP, is well in line with Norwegian aid authorities’ ambitions of phasing out projects after a certain time period, so they can become self-sufficient. NEBA and Nepalese authorities decided themselves in cooperation on an implementation plan where LAP would ensure the establishment of new offices, drawing on the experience and staff they had already trained, while the government would run the already well established offices. This proves that by the end of the 1990s, LAP had indeed become a project of high status in Nepal. It is also an indication of the fact that LAP had become a more integrated part of NEBA’s work, and that the organization and its members felt ownership and pride towards the project.

The nationalization of a LAP based scheme was an important step towards institutionalizing legal aid in Nepal, mainly because people now had equal right under the law, regardless of their social background. If the implementation of the national scheme is successful, meaning that the LAP offices are ensured continued funding and are run efficiently, the population is given easier access to the legal aid they so crucially need in a politically unstable Nepal, without being dependent on foreign donors. The institutionalization of such rights is one step on the way towards a more democratic society, and thus, one can argue that LAP in this particular regard has had an impact on the democratization of the Nepalese society.

---

268 NBAA: When Raugland presents the plan in his report, he states it as if it is a fact already. Report from project trip to Nepal, by Vidar Raugland, 12.-17 April 1999.
269 NBAA: Report from project trip to Nepal, by Vidar Raugland, 12-17 April 1999.
270 This point was made by Mr. Ganesh Man Malla, the current director of LAP, in a brief meeting in Kathmandu, April 2007.
In 2000, NEBA hired a new director of LAP, Mr. Ganesh Man Malla, who is still the director of the project.\(^{271}\) The previous director was fired and then launched a complaint towards NEBA and threatened to take the matter to the courts.\(^{272}\) According to NEBA he had no chance of winning the case, and there were not put aside money in the budget to cover possible expenses.\(^{273}\) The case is not mentioned in later sources, so it may be assumed that the problem was solved internally or that the former director lost the court case.

The same year, NEBA arranged a congress in Biratnagar, where NBA delegates were invited. Arve Opdahl and Vidar Raugland participated on behalf of the NBA development committee. Alf Skogly had been invited as a guest of honour, and in a letter to NBA he applied for funding for his travel expenses.\(^{274}\) NBA found no reason to fund his travels to and from Nepal as two of the development committee’s members would represent NBA, and they therefore denied Skogly his request.\(^{275}\) Skogly found the occasion of the NEBA congress to be so important that he nevertheless decided to attend, and in a letter responding to NBA he considered it so that his knowledge of, and personal network in Nepal could contribute positively for the development committees work.\(^{276}\) During the congress, Opdahl and Raugland did indeed have conversations with Skogly, but the topics of the discussions are not included in the report.\(^{277}\)

During the meetings after the congress, the idea of a successive government take-over of the LAP offices was discussed in further detail. The idea of extending the project with continued support from NBA and Norad was launched, with the intention of covering all the 75 districts of Nepal in a period of 5 to 10 years. NBA encouraged NEBA to apply for further funding of the project based on these ideas.\(^{278}\) This is again an example of how the NBA as a donor may have highly influenced NEBA and LAP’s decisions, but in this incident, NBA took an idea already launched by NEBA, and developed it further, seeing opportunities for continuation of the project based on the new situation which also involved the Nepalese government. This form of donor/recipient cooperation towards a common target indicates that the LAP at this point had become based on a more true partnership rather than mainly being a donor-driven project.

---

\(^{271}\) NBAA: Report from project trip to Nepal, Arve Opdahl and Vidar Raugland, 10-17 March 2000.
\(^{272}\) There is little evidence of why the previous director was fired. It is likely that it was related to his political standpoints, as NEBA was, and still is today, a highly politicized organization operating in a highly politicized society.
\(^{274}\) NBAA: Letter from Alf Skogly to NBA, 11 January 2000.
\(^{276}\) NBAA: Letter from Alf Skogly to NBA, 2 February 2000.
\(^{277}\) NBAA: Project trip report, 10-17 March 2000.
\(^{278}\) NBAA: Report from project trip to Nepal, 10-17 March 2000.
Maoist insurgency and civil war

The political conflict between the Maoists and the government started as early as in the mid-1990s, but it did not erupt into an open violent conflict and civil war until around 2001-2002.279 The protocol from a meeting of the NBA development committee, dated 22 January 2002, states that “new legal aid offices are continuously opened according to government direction, at the same time as the government itself takes over offices already established by the LAP. Presently there is increased Maoist activity.”280 By April 2002, 18 legal aid offices were functional in Nepal, and 5 of these were run by LAP.281 At this time the Maoists controlled 6 districts in Nepal.282

During a Norad meeting for organizations involved in development work in Nepal that took place on 13 August 2002, Norad encouraged the NGOs to travel to Nepal and “secure” their projects, thus making sure that they were proceeding as planned, considering the difficult circumstances. Influenced by this initiative, the NBA development committee decided to send a delegation to Nepal in November 2002. The report from this trip is missing from the NBA archives. One year later, in October 2003, Jonas Myhre, who had withdrawn from the development committee years earlier, was asked to travel to Nepal and evaluate LAP’s situation during the rough times the country was going through. His impression was that the crisis greatly hindered LAP in doing its work, which resulted in a reduction in activity in all aspects of the program. During his time in Nepal, Myhre witnessed strict security measures and was informed of the authorities’ severe disrespect of the inhabitants’ civil and human rights. Even though the LAP activity had decreased, and the project was overstaffed as a result of fewer activities, the cases primarily taken on at this time were cases where people had illegally been arrested and jailed. Myhre also got to feel the restrictions on people’s freedom up close, as during a legal literacy program that he attended, a Maoist representative demanded their names and information about the project, so that he could inform his superiors and keep control on their actions and movements. Concluding, Myhre pointed to the fact that the project at this point was not capable of performing its duties. Nonetheless, Myhre argued that it is in a crucial situation like this that support from outside might be of particular help. The importance of documenting and trying to prevent human rights abuses, as well as corruption among judges and advocates, he considered to be of great importance.283

279 The situation deteriorated after 1999, with increasing attacks Maoist attacks on strategic targets as well as on the general population. After the Royal assassinations, the Maoist broke a cease-fire in November 2001, and the military was set in to put down the rebellion. Whelpton, A History of Nepal, xvi and 209.
281 NBAA: Protocol from a meeting in the NBA development committee, 29 April 2002.
282 Ibid.
In response to the difficult political situation in Nepal, NEBA and NBA expanded the cooperation further, by establishing a human rights committee in Nepal. The purpose of the committee was to function as a watchdog, warning national authorities and the press as well as the international society about atrocities and human rights abuses committed against the population in Nepal. The following quote states very clearly the purpose and the mandate of the NEBA human rights committee.

Human Rights Project is established under the Nepal Bar Association. It is Joint undertaking of Nepal Bar Association (NEBA) and Norwegian Bar Association (NBA) launched at the beginning of August 2003, established to support vulnerable to promote justice and rule of law. The basic goal of the project is to raise voice against violation and abuse of Human Rights and tried to materialize those Human Rights demonstrated by the universally accepted International Human Rights Instruments. Because Human rights are those basic and fundamental rights which is particularly related to the life, liberty, dignity and existence of the human being. Human Rights Project is proposed to establish human rights data base documentation center, information to record human rights violation, abuses or infringement. It collects records and examines any violation of code of conduct concluding between Maoist and Government during the period of cease-fire. It is proposed to address the people with least access of knowledge and information on human rights, human rights violation, abuses of infringement to the vulnerable in the whole state territories where people are living subject to poverty, illiteracy and political upheavals. [...] The program recognizes three fundamental components for sustainable development and promotion of human rights categorically: a. established data base documentation center to record violation and abuses of human rights. B. Lobbying and circulation of human rights violation information nationally and internationally, and c. Refer the cases of human rights violations to Legal Aid Project (LAP) for legal remedies.  

This quote highlights the close relationship between the Human Rights Project and the LAP. Human Rights offices were established in connection to some LAP offices, and the documentation of incidents and production of reports regarding cases where human rights were abused, were attempted published both nationally and internationally. Cases that were reported included illegal arrests, abuse of women, forcing people to attend political rallies, kidnapping and disappearance, attacks by both Maoists and national security forces on civilians, and murder. An example of cases reported by the Human Rights Committee:

Field report of murder Case of Ganesh Secondary School Dhakeri, Banke.

---

285 There are not many references to actual news coverage of the human rights issue in Nepal, directly due to the human rights committee’s work, but there are some references to actions taken by NEBA to release unlawful imprisoned persons, etc. For example in the New York Times, URL: http://query.nytimes.com/gst/fullpage.html?res=9505E3DF143EF933A2575BC0A9639C8B63&sec=&spon=&st=cs&scp=2, published 10 August 2005, collected 11 April 2008.
Hari Shahi was a student of class 10 at Ganesh Secondary School Dhakeri, who lived at Udayanpur, Mahadevpuri. He was killed by the Armed Forces chasing from Bageshal Stream in 2nd Oct. 2003 with 30 armies. He was neither political leader nor a supporter, only he was a student his father, mother and elder brother were supporters of Maoist group. He had [was] killed by Armies in front of his house. Eye witness of this incident are […]. Same ways, his brother Sushil Shahi or Sher Jang Shahi (age 23-years) was also killed by Armed forces in 17th Dec. 2003 11PM when he was bathing on the Bageshal river 3. K.M far from Udayanpur village. 286 

NBA and NEBA’s focus on human rights in the early 2000s coincided with an upsurge of attention to human rights within Norad and Norwegian authorities. Even before LAP had been established, securing human rights had been a part of NBA’s development committee’s rationale behind the thought of a legal aid project. 287 This is remarkably early in a historical perspective, considering that Norad documents did not emphasise this aspect until the late 1990s. This indicates that LAP in many ways was ahead of the national development aid policies, focusing on human and civil rights years before this became a major part of the Norwegian aid rhetoric. However, it also shows that LAP was indeed influenced by Norad and national aid strategies, as it during the 2000s highlighted the human rights perspective, using the buzz words of the time, when communicating with Norad. LAP thus, evolved from being a legal aid service provider, focusing on women and the poor and downplaying the organization building perspective during the first years of the project, towards being primarily focused on institutionalizing legal and human rights in Nepal by building and supporting a strong bar association and their human rights effort, and lobbying the authorities. NEBA, which in the late 1980s lacked funding and was poorly organized, has over the past 20 years developed into a relatively strong organization with substantial leverage and influence in Nepalese society.

In September 2007, Norad commissioned a new evaluation of LAP, ten years after the previous report came out. Professor Kristian Andenæs headed the evaluation team, however, due to unforeseen circumstances the report has not yet been completed. Nonetheless, a report from a meeting Andenæs held with Norad after the evaluation was performed, states the primary findings; the WW part of the project functions well, yet should receive more funding; the regular legal aid should be toned down and an increased effort should be aimed at ensuring the implementation of the Legal Rights Act; contact between district and central level in the LAP organization should be strengthened; and finally, NBA’s role as administrator should be

286 Ibid.
287 NBAA: Internal NBA note, regarding the development committee’s work. The note is not dated, but according to its content, it must have been written sometime after the results of the survey was ready, most likely it is from the fall of 1981.
questioned and possibly changed. This last point is without doubt the most drastic change suggested by the evaluation team, but without access to the full report, it is impossible to speculate why the team concludes as it does.

Summary

NBA and NEBA’s twinning cooperation, LAP, has functioned for 20 years. Both NBA and Norwegian authorities see it as a successful project which had an impact on the lives of women and the poor in Nepal, as well as on the development of the civil society and the process of democratization. During the years that have passed since LAP was established, Norwegian development strategy has gone through changes and Norad’s perspective of LAP has changed with it. As strengthening of civil society in the South became a meta-justification for granting aid to NGOs and the like, NBA’s focus on organization building and high level influence increased. However, the focus on women and the poor has continued throughout the entire period.

Even though LAP is regarded a successful program, it is not without flaws. Based on the strategic assumptions presented earlier in the thesis, LAP has not functioned ideally in all matters. Norad’s assumption that development aid through NGOs is based on grass root volunteerism at home and also in the recipient country has not been confirmed in the case of LAP. Rather, both NBA and NEBA are elitist organizations, male dominated and with members belonging to highly educated socio-economic elites. Neither has Norad’s intentions of creating true and equal partnerships between the donor and recipient organization been fulfilled. NEBA does have a strong position in the relationship between the two bar associations, and have had great influence on the implementation of the LAP. However, in cases where the two bar associations have disagreed, NBA has been the stronger part, controlling the funding and strongly influencing NEBA’s decisions. In the matter of the target groups, women, the poor and marginalized groups, the evidence indicate that even though the focus has been on those groups throughout the time the project has functioned, LAP has still not reached as widely as originally hoped for. The project has helped many individuals, however the overall situation for marginalised groups in Nepal is still leaves much to be desired. Indications that NBA lacked thorough understanding of the society in which LAP operated (and still operates), particularly the socio-economic structures that are defined by caste and gender, are seen in the empirical evidence, particularly from the early period of the project. However, it is likely that LAP has contributed to a higher level of reflection regarding issues of legal and human rights among Nepalese lawyers and this might in the last

288 Undated report from meeting between Professor Kristian Andenæs and Norad, received copy by email from Vidar Raugland, 28 January 2008.
instance also help the women and the poor population in Nepal. Another effect LAP might have had is that of aiding the democratization process in Nepal. The close connections with NBA, a foreign bar association, seem to have helped NEBA consolidate its position as an organization with significant political influence. NEBA was an active agitator for democracy both during the political turmoil in the early 1990s and over the past ten years during the civil war with the Maoist movement. The Legal Aid Act and the government take-over of the LAP offices as a part of the implementation of the law are also positive contributions from NEBA, on Nepal’s road towards a more democratic society.

In conclusion, LAP was (and is) a good example of a small development project on the civil society arena, which has been influenced by overarching Norwegian development strategies, as well as by input from the local partner organization and general development trends. The historical narrative of LAP provides insight into the problems and challenges that small Norwegian NGOs face when engaged in a development partnership, as well as the positive effects that may spring out of cooperation between organizations on the civil society arena. The next and final chapter will consider some of the elements discussed in this thesis, and reflect upon the possibility of creating lasting democratic and economic change in a society by strengthening the civil society and ensuring grass root volunteerism, true partnerships, local ownership, capacity building and empowerment of women and the poor.
Chapter 4
Reflections and overarching conclusions

This final chapter of this thesis reflects upon some of the issues discussed in the previous chapters, and sees them in a larger perspective. Some general themes have emerged as particularly central in regard to the Legal Aid Project in Nepal, and reflection upon these general issues may provide insights of relevance in regard to other development projects. The general issues in focus in this chapter are those that constitute the analytical framework for the empirical narrative about LAP, as stated in the introduction, but also other issues related to these. In sum, the themes that will be discussed in the chapter are; the degree of volunteerism in the organizations involved, and the partnership between these, the degree of local ownership of the project, the question of capacity building and transfer of knowledge, the focus on women and poverty, and finally the question of whether aid to the civil society may have a democratizing effect. The elements in question are extracted from Norad’s System Description, published in 2006, which was introduced in the introduction of this thesis. This chapter will, thus, point to some strengths and weaknesses with LAP and aid to the civil society in general.

LAP and volunteerism – high in intensity, low in numbers

As presented in Chapter 1, a high degree of volunteerism is seen as a prerequisite and a particularly important quality of the NGOs involved in development aid. This idea was perhaps of particular importance in the Norwegian context, but level of participation and volunteerism is an important concept in the theoretical discourse about civil society development. Having a broad foundation in the donor country, based on volunteerism and mass participation ensures that it is the “society” in the donor country that provides aid directly to the “society” in the recipient country. Consequently, within this framework, the development aid is not an elitist project, executed by governments, but rather it is the people in the donor country that helps the people in the South based on their own idea that it is right and just to do so. This is thought to give development aid a legitimacy which is assumed to influence the development process positively. According to Norwegian development strategies, the organizations are also meant to

289 Sivilt samfunn som kanal for norsk utviklingsamarbeid: Noen overordnede problemstillinger, Notat til Utenriksdepartementets utvalg for å evaluere de frivillige organisasjoner som kanal i utviklingsamarbeidet, Norad, 20. March 2006. This memo was written to form a basis of knowledge of Norwegian aid to the civil society, on which the committee could draw upon when performing the evaluation.

290 Van Rooy, Civil Society and the Aid Industry, Chapter 1.
increase the Norwegian public’s interest and involvement in development issues, to further ensure the fundamental point of people in the North helping people in the South. In 1994, Norad stated that

"[i]t is through their basis in the people that the organizations contribute to create contact and concrete cooperation between the Norwegian people and people in developing countries, and thereby contribute to strengthening the solidarity with the countries in the South. For many of the Norwegian organizations, it must be a challenge to involve its members and other supporters more in the long term development work, as well as informing and influencing the Norwegian opinion about development issues in general."  

However, there are several different ways of understanding the term the degree of volunteerism. It can refer to the number of people involved in an organization, according to membership. Large organizations with many members have a broad base in the people, representing different layers of society. If one only uses this definition of “degree of volunteerism”, NBA does not present itself as an organization with a high degree of volunteerism. Rather, it is an exclusive organization where only lawyers can become members, and it does not represent many sections of society. Yet, if “degree of volunteerism” is defined as the number of people who actively contribute in an organization, relative to the number of members, NBA receives a higher score. It is a large, but specialized interest organization, concerned with the law and organizing Norwegian lawyers, with around 6000 members. More than 90 per cent of all practicing Norwegian lawyers are members of NBA, and a relatively large proportion of these contribute actively in NBA’s work, on boards and committees, on a volunteer basis. Thus, despite the fact that NBA does not represent broad layers of Norwegian society, it is nonetheless an organization with a high level of volunteerism, as many of the members seem to feel compelled to contribute to the organization. The third way of defining “degree of volunteerism” focuses on the intensity of commitment among the individuals who are involved in an organization. Most of NBA’s members were not, and still are not, concerned with development projects, as these are not NBA’s primary raison d’être. If one looks at the actual number of members who are active and engage in development issues within NBA, the degree of volunteerism seems low. This is despite the fact that Norad states that “[i]t is a prerequisite that the organization are able to mobilize members and/or supporters in development issues.

---

291 Systembeskrivelse, Norads forvaltning av tilskuddet til norske og internasjonale aktører i det sivile samfunn, Notat til Utenriksdepartementets utvalg for å vurdere de frivillige organisasjonen som kanal i utviklingssamarbeidet. Norad, 6 March 2006, 3-4.
Yet, the few individuals who participated in NBA’s development aid committee and perhaps Alf Skogly in particular, were very engaged and active in pursuing the cause of LAP in Nepal. Personal commitment and extensive use of time and effort in the process of establishing and running LAP are trademarks that apply to most of the members on the development committee. There is little doubt about the individuals’ dedication to the project and to the cause of legal rights in developing countries in general. According to Vidar Raugland, the lawyers who are active in the development committee spend approximately 3-4 weeks of the year working with LAP and the other projects conducted by NBA’s development committee without payment, a rather large amount of time, considering that these are people with high paying jobs that bill their clients by the hour. Mette Røed Heyerdahl, one of the first members of the development committee, even established a fund and a scholarship through her will, which allows women from a selection of third world countries, including Nepal, to receive an education. This indicates a high level of personal commitment among those involved in NBA’s development work, and thus, one can argue that the level of volunteerism was high, despite the fact that the organization does not have a broad basis in the people, and despite the low number of NBA members that were directly involved in the development work.

An additional idea, connected to the thought that organizations with a broad basis in the people somehow have more legitimacy because it is “the people” that perform the development aid, is that volunteerism at home might inspire the people in the recipient country to become equally involved. Somehow, mass volunteerism is thought to transfer onto the recipient country and create similar democratizing effects as it is supposed to have done over the years in Norwegian society. The question is, is it possible to transfer volunteerism from one society to another? Does not volunteer engagement involve a certain need, or driving idea that springs from the local circumstances itself? The question of transferring volunteerism onto the recipient organization is closely linked with Norad’s pronounced aim of creating local ownership for the development projects in the South. Local ownership is seen as crucial to ensure sustainability of the project. If the people in the South do not feel a need for, or a responsibility for the project, it is unlikely that they will put down the effort to continue the project when the donor eventually withdraws. But how can one create local ownership from above? Is it not embedded in the term local ownership?

294 Systembeskrivelse, Norads forvaltning av tilskuddet til norske og internasjonale aktører i det sivile samfunn, Notat til Utenriksdepartementets utvalg for å vurdere de frivillige organisasjoner som kanal i utviklingssamarbeidet. Norad, 6 March 2006. 4. Author’s translation.
296 Norge Online, URL: [http://katalog.nol.no/mette-r%C3%B8ed-heyerdahl-s-fond_b984519354.html](http://katalog.nol.no/mette-r%C3%B8ed-heyerdahl-s-fond_b984519354.html), collected 29 April 2008.
297 It is specified in the North-South report of 1992, quoted in Liland and Kjerland, Norsk utviklingshjelps historie 3, 133.
that the initiative and implementation of the projects has to come from the people in the
development society itself? Can a local population feel ownership of a project that has been
established by a foreign NGO?

**Partnerships and local ownership**

Local ownership is meant to develop through ensuring so-called recipient responsibility, through a partner organization in the South. Partnerships are the primary form of development cooperation through Norwegian NGOs, and the idea is that the partner in the South actually runs the projects, while the Norwegian NGO has an advisory role. “Considerable emphasis is place[d] on efforts to strengthen local cooperation partners’ organisations in developing countries in order to ensure the sustainability of projects and promote the development of civil society.” Thus, the development aid through NGOs is hoped to strengthen civil society in the South, by strengthening the organizations already existent in the society. The principle is that actual partnerships based on equality will create local ownership because the initiative and the running of the projects come from the local partner in the recipient society. A high degree of local ownership is assumed to increase the chances of the project surviving the donor’s participation and funding, and is therefore seen as a way of ensuring sustainability.

There are several dilemmas connected to the idea of granting aid through partnerships between NGOs in the North and the South. Firstly, can there be actual and equal partnerships when one of the parties possesses all the money, and has the power to terminate cooperation if it is not pleased with how the project is run? Secondly, what is actually “local ownership”? How does this occur, and how is it measured? Can a foreign organization create local ownership from above, even when cooperating with a local organization, or is local ownership something that has to arise out of needs and initiatives locally? Thirdly, do the principles of recipient orientation and recipient responsibility contradict with the principles of control and political influence which are guidelines of Norwegian development aid? Control of how funds are spent is an important aspect of running development projects, and parallel to the development of a civil society focus in Norwegian development thinking, means of measuring of development effects have been developed. The contradiction then occurs when asking the question; does implementing real recipient responsibility involve giving up on the power to decide the direction a project takes, and with it also the control of how Norwegian state funds are spent?

---

In the case of LAP, it is clear that the project, despite the good tone and close friendships between the individuals involved, was not based on an equal partnership. The input from NEBA in the matter of what the project would consist of, and how it would be implemented was minimal, and it was undoubtedly NBA who decided upon the initial criteria for the cooperation between the two bar associations. During the cooperation, several incidents occurred where the donor organization’s influence clearly overran the opinion of the partner in Nepal.\textsuperscript{299} It is clear that NBA was the stronger part in the cooperation between the two bar associations, and that it was important for NEBA to get continued funding from NBA and Norad, as it was difficult for them to find funding from other donors or from the Nepalese government. Therefore, NEBA gave in to the suggestions coming from NBA in most all cases where there was any disagreement, for example in the matter with the director who was sacked in 1992, and when Bhim Rawal was employed as a consultant despite his political unpopularity among the other lawyers in NEBA.\textsuperscript{300}

On a more general basis it is important to ask the question of whether true and equal partnerships between development NGOs in the North and in the South, might be a goal it is impossible to achieve in a complete manner. The fact that one party is dependent on the other for funding must necessarily create an inequality in the cooperation. However, there may be much value in attempting to create as true and equal partnerships as possible. By including this thought as a guideline in the NGOs development work, the cooperation facilitates learning and respect for each other. The local knowledge and structural understanding of the recipient society is necessarily much higher in the recipient organization, and it is therefore important to make use of, and share, the knowledge available to the NGOs involved. The exchange of ideas and knowledge may be crucial in bridging the gap between the developed and the developing world, so despite the fact that true and equal partnerships in development aid to the civil society might be an illusion, it is a policy goal that may have many positive effects.

The question of what “local ownership” actually is, is complex and perhaps impossible to answer to a full extent. It is still worth reflecting upon here, because it is such a central keyword in Norwegian development aid to the civil society. Ownership has to do with the degree of participation and commitment among the people who a project is by and for. Based on a common understanding of the term, we may assume that local ownership is dependent on the need for a project among those who benefit from it, as well as that those affected by it have a sense of participation and influence on its execution. Indicatively, local ownership is something that

\textsuperscript{299} For example in the matter of hiring a new director for LAP in 1992, or in the case where NEBA wanted to change the structural organization of LAP and NBA and Norad strongly encouraged them not to.

\textsuperscript{300} See chapter 3 for details.
springs from local circumstances and conditions; it is an indefinite quality consisting of a feeling among those involved in a project. Feelings are hard to quantify and measure, and a legitimate question to ask is whether it is possible to know when local ownership has been achieved at all. Thus, can local ownership possibly be imposed from outside? Can local ownership be created or does it evolve more gradually? Local ownership in full extent can most likely not be imposed from outside. It is inherent in the term local ownership that it is something that begins at the local level. Yet, again, seeking to create or at least facilitate local ownership when implementing civil society projects in the South might have positive effects that should not be underestimated. Through giving as much responsibility as possible to the local organization which is implementing the project, the level of awareness and reflection among those involved may possibly increase, which might inspire similar initiatives on a local level. Using existing organizations and social structures actively when implementing projects is also a way of facilitating local ownership and is a form of utilizing existing resources that can have positive effects as well. It is perhaps unlikely that a foreign NGO, with its need for documenting effects and results, and ensuring that the budget is spent according to foreign development strategies, can create local ownership. However, aiming at involving locals, using the structures that already exist, and facilitating local responsibility are still goals that may have positive development effects.

Recipient orientation and responsibility have been important factors in Norwegian development aid since the late 1980s. Yet, during the same period of time, there has been an increased focus on the need for control and documentation of the money spent on development projects. Measuring achievements and controlling the use of funds in the recipient country are important aspects of the donor NGOs' commitments to Norad and Norwegian authorities. The principle of recipient responsibility and the relatively tight control that is required seems to be two contradictory aspects of Norwegian development aid policy. How can a donor organization ensure that the requirements are met, and that the project is run according to Norwegian standards, without depriving the recipient of the responsibility for the project? And how can local ownership occur when a donor needs to control the project in order to ensure further funding? The result of this dilemma is often that it is unclear who is responsible, who initiates and who implements the projects. And often it is clear that the need for control is more important than the principle of recipient control, which decreases the chance of achieving more local ownership and sustainability.

301 Liland and Kjerland dates the increased focus on recipient responsibility to the time of Per Øystein Grimstad as Norad’s director, particularly the years between 1989 and 1991, when the principle of recipient responsibility transformed Norad’s work. Liland and Kjerland, Norsk utviklingshjelps historie 3, 131-133.
302 This theme is also discussed in Liland and Kjerland, Norsk utviklingshjelps historie 3.
The question of recipient responsibility and donor control has been evident in LAP, but perhaps less so than imaginable in other development projects. The reason for that is most likely that LAP was run by NEBA, an organization which is constituted by highly educated lawyers in Nepal. The members of the recipient and the donor organizations were educated in more or less the same way, and both organizations were members of the International Bar Association, which gave them a common framework to cooperate within. This provided a form of trust between NBA and NEBA, on the basis of which NBA let NEBA conduct the implementation of the project without conducting tight control of the funds. Despite the fact that the project was influenced by NBA in many aspects, and NBA voiced its strong opinion about internal affairs on several occasions, the execution of the project was in NEBA’s hands. NBA only visited Nepal to oversee the project once per year, which gave NEBA a large degree of freedom when conducting LAP. In a project where a donor organization partnered with an organization with members with a different educational level than that of the donor organisation, the need for control and consistent overseeing of the project is likely to be more necessary. In addition to the element of education and common framework, LAP and the type of project it is, might contribute to the relatively smooth balance of recipient responsibility and donor control. Arguably, similarities between the partners are not in themselves sufficient to create trust; the fact that there are relatively small amounts of funds available means that the project’s economy is transparent, leaving little room for corruption and abuse of funds. In other projects, with more complex tasks and structures, equal levels of education and a common framework may not in themselves ensure cooperation based on trust, yet the combination of equality, transparency and purpose has contributed to creating healthy relations between NBA and NEBA. Thus, LAP may be seen as an untypical project in regard to the dilemma of recipient responsibility and donor control, despite the fact that also LAP in many ways was a donor driven project.

**Natural partnerships**

The dilemmas which may occur when attempting to establish true and equal partnerships between development organizations have been discussed in for example the Rattsø committee’s report to the Norwegian Foreign Ministry from 2006. Their suggestion is to prioritize so called “natural partnerships”. The term “natural partners” refers to organizations which do not have development aid as their primary objective, but that perform development aid on the basis of common interests, values and goals with likeminded organizations in developing countries. The cooperation between

---

such organizations is thought to institute local initiative and ownership, contribute to distribution of information, encourage people in the South with shared interests to organize themselves, and ultimately this is thought to strengthen the civil society, bring about political and economic change and have a democratizing effect. Norwegian interest groups, trade- and workers unions, student organizations and religious communities are among some of the groups that have provided this form of aid over the past fifty years.

The Rattsø report recommends this form of aid on the basis of the assumption that common interest driven aid cooperation is more efficient and less bureaucratized than the aid the traditional donor organizations can provide. It also argues that aid provided by aid organizations for the strengthening of the civil society might create aid dependency in the South. This because the projects then do not spring from actual needs in the local community and society as a whole, but rather are established as a result of the availability of funds from a donor. Common interest based aid, on the other hand, the report argues, will create development based on real cooperation and the involvement of individuals and groups both in the donor and recipient organization. This will create, or at least feed into local initiative that is already present and thus increase civil society activity, which in the long run will cause political change and economic growth.\(^{304}\)

The accuracy of the term “natural partners” is questionable and scholars and bureaucrats have criticized it for being vague and ambiguous. At a seminar on “Rethinking NGO roles in Norwegian Development Assistance: Response to the Rattsø Committee’s Report”\(^{305}\), historian Terje Tvedt, argued that the term was very vague and that it was not necessarily the case that organizations in the North and in the South that have similar objectives are likely to cooperate better than organizations constituted of professional aid workers.\(^{306}\) Also, he pointed out the problem with the degree of similarity of interests necessary for such cooperation to work; is for example religious affiliation a sufficient base for natural partnerships? Where will the lines of definition go, and what projects and kinds of cooperation qualify, are other questions that were raised. The Norwegian Development Fund argued along the same lines, pointing out that professional development workers with local knowledge and experience are needed in order to create growth. In his opinion, organizations which have other specialties than development aid as their primary objective may be less efficient and have less knowledge of the problems that are

\(^{304}\) Ibid.
\(^{305}\) Seminar organized by SUM (Senter for Utvikling og Miljø) and co-organiser: NGO and Civil Society Research Network, 24. October 2006.
addressed and the possible ways of solving them. Norad has also issued some comments to the Rattsø report, where they point out that “Local ownership and independent reasons for existence for local partners are important, but the term “natural partners” is problematic both because the report does not show that this type of partnership has reached the best results, and because other factors should be decisive for the granting of support for aid to civil societies in the South.”

The critics point to important problematic aspects of the categorization of cooperation into “natural partnerships”. It is indeed a vague term that can embody many different kinds of cooperation between very different organizations. Yet, the idea of cooperation between organizations that have something in common, in addition to the desire of creating growth and development, might have positive aspects. The cooperation between NBA and NEBA embodies in many ways this form of natural partnership. The two organizations are based on the same principles and aims – the promotion of the law and a fair justice system – and they are organized in somewhat the same manner. Both organizations are members of the International Bar Association, which gives them a common international framework, and both organizations function as forums for speaking up against injustice and legal abuse in their respective societies. In addition, both bar associations have a highly educated membership body within the fields of jurisdiction and law, and subsequently, the organizations have access to much knowledge and skills that other regular development organizations might not, fields which are particularly relevant in regard to the issues LAP aims at addressing. The common framework and purpose and the collegial communication between the Norwegian and the Nepalese lawyers might have contributed to the relatively smooth running of LAP. Despite the issues and problems described in the empirical part of this thesis, it is clear that LAP has functioned well, and that the cooperation between the two bars still is perceived as highly successful by the actors involved.

**Capacity building**

One aspect of Norwegian development aid to the civil society which has not been emphasized so far in this thesis, but which deserves to be mentioned here as it is an important element in Norad’s intentions with its development aid, is the idea of capacity building through development projects. The idea is closely connected to the fundamental principles of local ownership and sustainability, namely that the cooperation between the organizations should lead to an increase in

---


local capacity in the developing country so that the project can continue to function when the donor eventually withdraws. It is also supposed to develop greater capacity among locals so they can have the skills to improve their own conditions. Norad mentions four forms of capacity building in its memo on aid to the civil society, which was provided the Rattsø committee during their evaluation of Norwegian development aid through volunteer organizations. These are capacity building as; institution- and organizational building; as development of human skills; as strengthening of the organizations’ watchdog function in the recipient society and; as improving the organizations’ position as a change agent.

**Organization building**

If one considers LAP by this form of capacity building, one can argue that the project has been relatively successful. As a project of organization building, LAP has contributed positively, and NEBA as an organization has indeed been strengthened through the close cooperation with NBA. A consolidation process of the organization, financial and structural, has clearly taken place during the period under investigation, and the close connection with NBA is likely to have influenced this process towards a more democratic organization with increasing regard for human rights and protection of the weak. The yearly visits by the Norwegian lawyers also contributed to initiating meetings and seminars with people of considerable influence and power in Nepal, and thus, the cooperation may have contributed to consolidating NEBA’s legitimacy as an important actor in Nepalese society. This legitimacy and capacity to influence political decisions on a national level is particularly evident in the case of the Legal Aid Act of 1997. The act is also what the lawyers in NBA as well as in NEBA see as their greatest achievement during the 20 years LAP has been running. They see the passing of the bill, which was introduced by NEBA, as a great victory which in the long run will help the women and the poor in Nepal on a much larger scale than what LAP could possibly do. The work of implementing this act, and ensuring that the government is indeed taking responsibility for the legal aid offices they are taking over, is therefore seen as particularly important. It is possible to question whether NEBA gained this capacity for lobbying because of the cooperation with NBA, or, if NEBA already had this capacity prior to NBA’s engagement, without making full use of its potential. In a gender unequal society like Nepal, the thought of lobbying for women’s rights might not have occurred to the Nepalese lawyers, even though they in principle might see the need for the improvement of women’s rights. Thus, it is possible that NEBA benefited from NBA’s engagement for women and the poor, and that NBA facilitated the evolvement of engagement for these issues among Nepalese lawyers. Thus

---

309 Ibid.

310 Subject in conversations with Vidar Raugland, spring 2007, email correspondence with Mr. Ganesh Man Malla, the current director of LAP, and in conversations with Anton Aarnes at NBA’s main office in Oslo, spring 2007.
NBA may have influenced how NEBA used the skills already inherent in the organization, rather than building skills as such.

NEBA was not a grass root organization when the cooperation with NBA began. The actors involved during the establishment of LAP were well educated men, with influence in Nepalese society. One example which illustrates the status lawyers hold in Nepal is the incident where Mr. Kushum Shresta, during the turmoil of 1990, was arrested and interrogated, yet he was released within the same day. His brother, the then Health Minister, had most likely pulled some strings to have him released, and he was waiting for Mr. Shresta outside the gate when he left the prison. Clearly, Mr. Shresta had connections that allowed him to avoid spending the night in prison.\(^{311}\) Other examples are Mr. Bhim Rawal, LAP’s first director, who left his position in LAP to become Undersecretary of Agriculture, and the fact that in 1991 as the democratization process commenced, 26 of NEBA’s members were elected to parliament.\(^{312}\) Thus, as these already were men of influence, the cooperation with NBA did not necessarily create local capacity in the recipient organization as such, but it contributed to giving it legitimacy, and it contributed to developing the organization’s thinking towards a focus on the women and the poor.

**Human skills**

The same argument applies to the question of developing human skills. Lawyers in Nepal are among the most highly educated people in a country where the general level of education is low. When LAP was established, the skills to run the program were already existent in NEBA. This is indicated by the fact that the Nepalese did all the implementation work; the Norwegians did not spend time in Nepal during the initial implementation period of LAP. However, the idea of using the skills in the best interest of the poor population in Nepal was perhaps not so prominent before the cooperation with NBA began. This is a conclusion drawn based on the fact that NEBA did not have a women’s program or a general legal aid program before NBA engaged in the organization. Thus, the cooperation between NBA and NEBA did not develop human skills per se; rather, humans with skills were influenced to focus on those who lacked them.

Even though NEBA’s members were and are generally highly educated, LAP is organized with a decentralized structure, and employs many paralegals and others without legal training. Through having local and regional offices where people with and without a legal education work closely together, development of human skills is likely to occur. Hiring locals is also a way of ensuring

\(^{311}\) NBAA: Telefax from Mr. Kushum Shresta to Mr. Alf Skogly, 26 March 1990.
local ownership, as discussed above. There is no evidence in the archive material that indicates that this form of decentralized organization was implemented with the development of human skills in mind. Nonetheless, the effect is likely that the ability to run a legal aid office is transferred onto the locally hired people, and that knowledge about legal rights spread to larger sections of the society.

**Change agent**

The strengthening of NEBA organizationally, contributed to NEBA’s increased role as a change agent in Nepalese society. Again, the Legal Aid Act provides the best example of how NEBA has influenced the social and political development on a high, structural level. The Nepalese lawyers’ active participation in the democratic movement in 1990 is another example where NEBA used its organizational legitimacy to promote change in the society. LAP has also acted as a change agent on a lower level, even though the effects of the legal aid scheme and the legal literacy courses among local communities in Nepal are more difficult to measure. According to the report of the 1998 evaluation team, many groups were helped by the schemes which were considered positively by the evaluation team, and individuals testified about how their lives had changed to the better because of LAP. LAP as a change agent on a local structural level is thus difficult to assess, but the individuals who constitute these structures should not be ignored, as helping them also has value in itself.

**Watchdog function**

The cooperation with NBA has also strengthened NEBA’s role as a watchdog in Nepalese society, another factor highlighted in Norad’s memo about aid to the civil society. Particularly during the time of the Maoist insurgency and the political unrest during the early 2000s, NEBA played an active role in documenting and reporting neglect of people’s rights. This work was conducted by the NEBA Human Rights Committee, supported by NBA and initiated through LAP in 2003. The purpose of this committee was precisely to function as a watchdog, “barking” loudly and clearly about any encroachment committed by both the Maoist insurgents and the national security forces, and its work is thoroughly documented through quarterly reports issued to NBA. It is yet too early to assess the results of the work performed by the Human Rights Committee. The archival material does not indicate whether or not the Maoists or the national forces changed their behaviour towards civilians as a result of the reports issued by NEBA. However in a long term perspective, documentation of criminal actions, committed in war or in peace time, is

---


314 See chapter 3 for details of the NEBA’s Human Rights Committee.
important if and when the matter is treated in the justice system. In addition, letting the people in Nepal, as well as the word at large, know about the events that happened, was an important task in itself. Thus NEBA, with support from NBA, took upon itself an important mission in functioning as a watchdog during the difficult times in the early 2000s.

**Poverty and women**

The focus on poverty and women has been an important aspect of Norwegian development aid for several decades, and it has been particularly emphasized through the civil society development aid strategies. The basic principle is the idea that NGOs and other civil society organization and associations reach out to women, the impoverished and other marginalized groups, and can provide for their needs better than what traditional bilateral state-run development aid may be able to. Thus, the organizations are thought to both provide basic services, like healthcare and education for women, as well as facilitating change, helping women to help themselves and improve their own living conditions.

LAP has throughout their operations specifically focused on women and the poor in applications and reports. There is no doubt that women have been and still are seen as a primary target group for LAP. However, as shown in the empirical chapter of this thesis, LAP has, despite its stated focus on this group, on several occasions been criticized by external evaluations for not taking women’s issues sufficiently seriously, and the 1998 evaluation report also remarked the lack of coherent parameters for deciding upon who qualified for receiving help through LAP or not. Despite the consistent and ongoing focus on women in reports and communication with Norwegian authorities, the source material does not indicate that NBA put particular pressure on NEBA to promote and seek out these groups in their work. There is no evidence that the parameters for selecting clients for LAP were discussed or changed after the evaluation report of 1998, which would have been a way of ensuring that the program really reached the women and also the poorest groups of low caste. Rather, as we have seen, NBA dismissed the 1993 report of the TV-fundraiser’s representatives as just a misunderstanding when this raised issues about women’s conditions even within LAP’s administration.

The discrepancy between the rhetorical focus on women and the poor and the actual focus shown through the archival evidence opens for asking the question of whether NBA, as a male dominated

---

316 See chapter 3 for details.
Norwegian organization, has not sufficiently prioritized these groups when communicating with the recipient organization. The evidence does indicate that this was the case, however there are also examples of concern for women’s situation by NBA’s male lawyers. Creating social and structural change is a slow process that takes time, and a relevant question is whether NBA have perhaps indeed been wise by creating a relationship based on trust between the men who embody the status necessary to promote political change, and thus by influencing their thinking, the positions of women and the impoverished may be improved in a long term perspective? This form of social “trickle-down” effect may be what the lawyers hoped to achieve, as a new approach to creating development. However, it is not expressed as a clear idea in any written sources available in the archives, and it is likely therefore that if this was the case, this happened on an unconscious level among the actors involved in the project.

On a more general level, there is reason to ask the question: is it possible to keep the focus on the poor, marginalized and perhaps particularly the women, in a highly caste- and gender unequal society, without disrespecting the principles of recipient control and local ownership? Arguably, these principles contradict each other in many cases, making it impossible for the donor to impose a particular focus without taking control of the project, and also jeopardizing the principles of equal partnerships where the initiative and the control is meant to arise out of local forces in the recipient society. However, the two principles are both admirable and worth pursuing, and can bring about positive changes in the recipient society. So, despite the contradictions, it is possible that by striving to achieve both a focus on women and the poor and recipient control and local ownership, projects may create change, slowly and over time. Norad’s bureaucrats and other aid workers are not dealing with clear cut policy definitions, rather they are trying to adapt to the context of their work in the practical world. Thus, pursuing both principles simultaneously may in the end serve a greater purpose and contributing to changing the way people think.

It is clear that knowledge about the society in which a donor decides to engage in a project is crucial for success. Therefore it is peculiar that, during the first ten years of the project, NBA did not perform one single study of Nepal’s social structures, and the question of caste has, according to the source material, not at all been discussed. The 1998 evaluation report includes a short chapter on the socio-economic structures in Nepal, as well as the caste system and women’s position in society. As this was the first project evaluation to consider LAP in relation to this information, ten years after the establishment of the project, it indicates a relatively low level of awareness in regard to the society LAP operated in. Seen in connection with the other examples

---

317 For example by Jonas Myhre when he visited Nepal in 2003.
where women’s issues were not taken seriously, it is possible to argue that NBA may have had limited knowledge of Nepalese society, and were inexperienced as development aid agents. However, it is relevant to speculate: did the Norwegian lawyers’ lack of knowledge matter for the effects and results of LAP? The overall impression of LAP is that is has been and is a relatively successful project, and arguably, NBA’s lawyers’ limited insight into Nepalese society may not have influenced the outcome to a large degree. If they had had a clearer perspective of for example women’s position within the LAP organization, they could perhaps have set examples for the Nepalese men involved by supporting the women’s cases more clearly, and they could perhaps have pressured NEBA to institute better parameters for ensuring that the low caste, poorest part of the population received more help. Yet, creating social change is such a slow process that the influence they could possibly have had may not have mattered much in the long run.

Civil society and democratization

The basic idea, stated by Norad as their primary motive for granting aid to the civil society in the South, is that this form of aid will contribute to a democratic development, which again will provide foundation for economic growth and the eradication of poverty. This assumption of “trickle-up” effect is developed, questioned and criticized by theorists and politicians alike, and the discussion of whether this assumption proves right or not is an ongoing debate within the academic and political world. In the case of LAP, it is possible to argue that the project has contributed to a democratic development in Nepal, yet perhaps not specifically in the way assumed by Norad. The idea that development will occur by mobilizing the masses or the poor which constitute the majority of the population is well embedded in civil society development thinking. By giving the impoverished a voice, through civil society organizations and associations, they will demand democracy and pressure the authorities to give them democratic rights, and to cover their basic needs. LAP has not created a social movement among the poor in Nepal which pressures the government to grant them democratic rights. It has indeed provided help for some individuals and groups in claiming their rights through the justice system, and many people have attended courses and seminars and learned about what their rights are under the law, and where they can find legal help. Yet, as a project promoting democracy through reaching the poor and the people, LAP is not a great success.

Democracy from below or above?

However, one important element in LAP is the duality in its focus on grass root work and lobbyism on elite level. Arguably, LAP has been effective as a democratizing project because of, not despite of, its focus on an elite organization in Nepal. By the time LAP was implemented in
1988, NEBA already had considerable influence in Nepalese politics and society through personal networks and connections. The strengthening of this organization, the impulses provided through cooperation with NBA, combined with the work on the grass root level, may have given NEBA motivation to pressure and lobby politicians to take action against the king, and later to pursue a peace treaty with the Maoists in 2006. Without a doubt, both NEBA and NBA see the Legal Aid Act as their great victory, and tributes the passing of the bill to the influence LAP has had in Nepal. Already in 1988, Kushum Shresta commented on LAP’s positive impact on Nepalese lawyers’ attitudes towards the idea of free legal aid. Nepalese lawyers are generally of high caste with an urban background, and through LAP they have been forced to meet and relate to individuals in great social and economic need, who are of lower castes. Breaking down these barriers between the different social groups and increasing lawyers’ knowledge about social issues, it seems, combined with the financial, administrative and moral support from NBA, has contributed to an increased awareness of people’s civil and legal rights, and a desire to work towards a more democratic future for Nepal. Based on the findings in the archival material, as well as the general comprehension of the matter among the lawyers involved, the positive impact of this duality between grass root work and the lobbying on an elite level seems to have had a democratizing effect.

It is possible to argue that LAP, despite receiving support as a civil society project which supposedly creates development from below, on the contrary has had democratizing effects through development from above. Thus, the reason for Norad’s support for the project, namely that by providing legal aid to the poor and the women, LAP would contribute to a legal awareness among the poor in Nepal, something which again would have a democratizing effect, has not proven to be correct. Rather, what has happened through LAP is that the intended results have failed to occur as such, yet the unintended effects of the program have produced similar results. The women and the poor who have received help or attended legal aid seminars have surely improved their situation, an effect of the program that should not be underestimated. Yet, it is when regarded as a means of influencing the lawyers who then again have influenced Nepalese politicians that LAP has proved particularly successful, with the main achievement being the 1997 Legal Aid Act.

The example of LAP as a democratizing project can also be seen in light of elite bargaining theory. Maya Chadda explains that based on this theory “[d]emocratization begins when the different

---

318 See chapter 2 for details about the Maoist insurgency and the civil war that has shaped Nepalese politics the past ten years.
segments of the elite agree among themselves that they will follow a process of bargaining in order to share power and not try to appropriate all power for themselves.\textsuperscript{319} By supporting a political, social and intellectual elite, like the Nepalese lawyers, which stands in opposition to other centres of power in the Nepalese society and primarily the king, LAP may have contributed to the division of power between the state and the civil society. According to the elite bargaining theory, the more alternative elites have to bargain and compromise over power, the more power is split and divided, and eventually a process of democratization will occur. Thus, this theoretical train of thought supports the argument of aiding the elites as well as the poor.

On a general level, this finding might contribute to the civil society debate as an argument for a broader focus in development aid projects. By “attacking” more that one spectrum of the society, namely the poor and the women, but putting pressure on the elites, the middle class and the poor simultaneously, the chances of creating change both socially and politically, and thus creating a real basis for democracy may increase. This is an argument that has not received much attention in the development aid debate until now, despite the fact that the idea has been touched upon by at least one Norad bureaucrat in relation to LAP.\textsuperscript{320} However, Erik Solheim, the current Norwegian development minister claimed in an interview in April 2008 that “[we] were wrong when we earlier only focused on the poorest in society. To create change in a society [I] think it would be more efficient to support brave women in the middle class and among the intellectuals.”\textsuperscript{321} Thus, these are ideas that are gaining ground also among politicians, and hopefully this thesis may contribute to raising this issue as a subject for further research, which without doubt is needed.

\textbf{Suggestions for further research and summary}

This thesis has told the story of LAP, a small legal aid project in Nepal, and has considered it in light of some central assumptions which constitute Norwegian development aid to civil society. The narration of the story and the empirical- analytical approach utilized on the material has provided the opportunity to understanding this project as it has developed over time. The story of LAP has never been told before, and therefore this thesis provides new knowledge about an area previously not accounted for in Norwegian development aid history. The analytical framework guiding the narrative has been drawn from Norwegian civil society aid strategies, and the

\textsuperscript{319} Chadda, Maya, \textit{Building democracy in South Asia: India, Nepal, Pakistan}, (Boulder/London, Lynne Rienner Publishers, 2000), 6.
\textsuperscript{320} Note written by Norad, 19 July 1999.
theoretical ideas which have influenced these strategies were accounted for in Chapter 2. In addition to providing fruitful questions and interesting perspectives on the material, the framework in itself illustrates the historicity of civil society thinking within development strategies; the thinking and the policies are constantly evolving and likely to change. This again influences the organizations and projects which contribute within the civil society arena, yet as this thesis has shown, rhetoric sometimes changes faster than the actual implementation of policy, as in the case of recipient responsibility and the women- and poverty focus where the rhetoric was in line with Norad’s policies while actual implementation was less easily achieved.

The story about LAP has revealed some key findings, based on the questions which constituted the analytical framework. Firstly, on the question of the degree of volunteerism in the donor and recipient organizations, the history shows that neither NBA nor NEBA may be classified as mass grass root organizations. Yet both organizations represented their interest group in proportionally large numbers, and the intensity of the volunteerism among the individuals involved in LAP was high.

Secondly, on the question of whether civil society development aid through organizations particularly facilitates and particularly requires true and equal partnerships, the answer is more complex. In the case of LAP it is clear that the actors involved saw themselves as equal partners working together towards a common goal. The Norwegian lawyers emphasized the common framework of the law that they shared with the Nepalese lawyers, which they felt made cooperation easier and based on equality and respect. This argument supports the thesis promoted by the Rattsø report, namely that so called natural partners form truer and more equal partnerships than cooperation between other development aid organizations. The question of natural partners in development aid is at the moment empirically unexplored, and the accuracy of the assumptions about such partnerships provides interesting topics for further empirical research. However, despite the lawyers’ comprehension of the partnership between the two bar associations as one based on equality, evidence in the archival material indicates the opposite. On several occasions, NBA has entered internal processes in NEBA and strongly influenced the outcome by threatening to withhold funding from Norway. Put bluntly, the project seems to have been relatively donor driven throughout the entire period it has functioned, even though issues surely have been discussed in meetings between the associations.

The third question regards the focus on women, the impoverished and other marginalized groups, which are particularly targeted recipients in Norwegian development aid. The question is whether
LAP has met these expectations as required by Norad. The rhetoric in funding applications and letters to Norad, as well as the reports written by NEBA, highly emphasize women and the poor as particular target groups of the project. Yet, there is little evidence of much follow-up by NBA during the implementation of the Women’s Wing part of the program, despite some very few exceptions where concern about the lack of funding and bad conditions for this work was expressed. The task of imposing ideas of gender equality onto a society like Nepal, where women’s position so clearly is inferior to men’s, might be impossible. Yet, it seems that awareness about women’s issues might not have been as high among either the Norwegian or the Nepalese lawyers through the implementation of the program, as is indicated in the communication with Norad. In recent years, the WW part of the project seems to have been characterized by a stronger engagement and commitment among those involved with it in Nepal, and thus is regarded as quite successful, yet it receives a relatively small share of the total funding. Focus on the poor is also a challenge in a society where high caste lawyers’ lives are very different from the lives of low caste workers in the countryside, and the project has been criticised for not having clear parameters for selection of clients for LAP. It is clear that the focus on reaching women and the poor directly with legal aid through LAP has perhaps not been as successful as has been indicated to Norad, even though many individuals indeed have been helped.

This thesis argues, however, that despite the fact that LAP has not contributed to the improvement of people’s legal rights by creating a mass grass root movement, LAP has had positive effects which are linked with the fourth question asked in this thesis, namely whether the development of the civil society contributes to strengthening democracy. The analytical narrative in this thesis indicates that over time, LAP has indeed contributed to a democratization process in Nepal. Not as a grass root project which mobilizes from below, but rather through strengthening a small elitist organization, influencing its thinking on issues related to democracy and human rights, so that it can use its networks, position and social and political status, and lobby issues through the political system. That way, the project indirectly reaches more people than it would have as a small grass root project, and it contributes positively in a democracy perspective, as democratization from above.
Bibliography

Primary sources

The Norwegian Bar Association’s archive. All documents regarding the Legal Aid Project in Nepal. At the time of research the archive was unsorted. These sources are marked NBAA in the footnotes.

Norad’s archive regarding the Norwegian Bar Association’s Legal Aid Project in Nepal marked with an agreement number: GLO-0746 NPL-92/011. After 2007 the agreement number changed to GLO-3762 GLO-07/117. These sources are marked NA in the footnotes.

Printed primary sources


Støtte til private organisasjoner virksomhet i utviklingsland, Norad 1991.


Internet sources


Norge Online, URL: http://katalog.nol.no/mette-r%C3%B8ed-heyerdahl-s-fond_b984519354.html, collected 29 April 2008.


Secondary sources

Published works


**Unpublished works**


