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Engaging civil society

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Popovski

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# Engaging civil society: Emerging trends in democratic governance

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Edited by G. Shabbir Cheema and Vesselin Popovski

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# Preface

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Democratic governance is a concept comprising the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their rights and obligations and mediate their differences. Governance becomes democratic when it is infused with such principles as participation, rule of law, transparency, accountability and subsidiarity. Three sets of actors are engaged in the democratic governance process – those from the state, who are primarily responsible for creating an “enabling” political and legal environment; those from the private sector, who create jobs, income, goods and services; and the civil society that facilitates political and social interaction. Roles, capacities, relationships and fostering of interaction among the three sets of actors have been changing over the past few years. This has led to a “paradigm shift” from government to democratic governance corresponding with an evolving role of the state and expanding engagement of civil society.

Since the early 1990s the world has seen a marked increase in the number, diversity, focus and influence of civil society organizations (CSOs). Those engaged in the governance policy realm function at the local, national, regional and global levels, in recognition that improving the quality of the democratic governance process requires actions at all levels. The increasingly integrated nature of the world requires active civil society engagement at local levels to be complemented by open and transparent national political institutions. At the global level, CSOs advocate for global public goods such as debt relief, civil and political rights and environmental protection. In between the national and global levels,

regional concerns are increasingly leveraged by CSOs to address issues that transcend national boundaries but do not garner sufficient political support. At the local level, CSOs are actively engaged in community development, improving sustainable livelihoods through skill development and enabling access to services.

This book attempts to examine the changing roles of civil society and identify factors that influence the effectiveness of civil society in promoting democratic governance. Specifically, the study raises the following questions. To what extent and how has the global civil society been influencing global governance and democratic change? What have been the patterns of growth of civil society in Asia and Africa, including legal frameworks under which CSOs are established? What are the capacity gaps of civil society *vis-à-vis* its assumed roles? What are the mechanisms for the horizontal and vertical accountability of civil society? Finally, how and with what effect has civil society been engaged in promoting democratic change and inclusive governance? Based on the study of civil society engagement, the authors of the chapters highlight roles, capacities and effectiveness of civil society and its constraints in promoting the process of democratic governance.

This book advances several conclusions and trends concerning constraints of CSOs and their contributions to democratic governance. The first few points focus on the current status of civil society organizations within Asia and Africa: the emergence of a new space for them to participate in governance; their changed relationship with government and the private sector; their new roles at the global and national levels; and their increased impact on policy. Then current and upcoming challenges for their continuing contributions to effective democratic governance are highlighted – including the need for vertical and horizontal coordination, the need to improve legitimacy, trends towards improved organizational accountability and the need for capacity development.

The book owes its origin to the Study Group of Eminent Scholars convened by the Ash Institute for Democratic Governance and Innovation, Kennedy School of Government, Harvard University. The study group met at the East-West Center in Honolulu, Hawaii, to discuss the framework of the study and abstracts of the book chapters. The chapters prepared by the authors were edited to ensure complementarity and integration of the manuscript.

This book is the first in a series on trends and innovations in governance in Asia to be launched during the fiftieth anniversary of the East-West Center in 2010. The series is one of the knowledge products of the East-West Center's Asia-Pacific Governance and Democracy Initiative (AGDI) and the Peace and Security section of the United Nations University Institute for Sustainability and Peace based in Tokyo. The other

two volumes in the series deal with building trust in government in Asia and cross-border governance in Asia.

Financial support for the meeting of the study group was provided by the Ash Institute for Democratic Governance, the United Nations University and Soka University of America. We are grateful to Gowher Rizvi, the former director of the Ash Institute, for his intellectual guidance and support, and the staff of the institute for facilitating a grant to the East-West Center. We would particularly like to thank Cameron Lowry, Meredith Rowen and Mark Notaras for their assistance in preparing the final version of the manuscript.

We hope that this publication will stimulate discussions to improve our understanding of civil society engagement in democratic governance and provide policymakers with analytical tools and practices to design and implement innovative ideas to strengthen civil society engagement in democratic governance in Asia.

The views expressed in the book are entirely those of the authors and do not necessarily reflect the views of the United Nations University, the Ash Institute for Democratic Governance and Innovation or the East-West Center.

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16 February 2010*

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# Abbreviations

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ACC	Anti-Corruption Commission (Bangladesh)
ACEF	All-China Environmental Federation
AEDSB	Association for Economic and Development Studies on Bangladesh
AF	armed forces
AI	appreciative inquiry
AIDS	acquired immunodeficiency syndrome
ANSI	American National Standards Institute
APMSO	All Pakistan Muttahida Student Organization
APNS	All Pakistan Newspapers Society
APP	Associated Press of Pakistan
ASK	Ain-O-Salish Kendra (Bangladesh)
AWAM	All Women's Action Society (Malaysia)
BERSIH	Coalition for Clean and Fair Elections
BSO	Baloch Students' Organisation (Pakistan)
CAN	Climate Action Network
CBO	community-based organization
CCP	Chinese Communist Party
CDP	China Democracy Party
CEN	European Committee for Standardization
CEO	chief executive officer
CICC	Coalition for the International Criminal Court
CIDA	Canadian International Development Agency
COP	Conference of the Parties
COPAC	Committee for the Promotion/Advancement of Cooperatives
COSATU	Congress of South Africa Trade Unions
CPD	Centre for Policy Dialogue (Bangladesh)

CPD-PBC	Centre for Policy Dialogue-Policy Brief Comments
CPNE	Council of Pakistan Newspaper Editors
CSO	civil society organization
CTG	caretaker government
DFID	UK Department for International Development
DMIL	Decentralizing the MDGs through Innovative Leadership
DSF	Democratic Students' Federation (Pakistan)
ECOSOC	Economic and Social Council
EI	emotional intelligence
EITI	Extractive Industries Transparency Initiative
EMB	election management body
EPPP	Engendering Political Process Programme (Kenya)
FBCCI	Bangladesh Federation of Chambers of Commerce and Industry
FITRA	Indonesian Forum for Budget Transparency
FSC	Forest Stewardship Council
GDP	gross domestic product
GEF	Global Environment Facility
GGP	Gender and Governance Programme (Kenya)
GMC	Global Movement for Children
GONGO	government-organized non-governmental organization
HINDRAF	Hindu Rights Action Force
HIV	human immunodeficiency virus
IANGO	international advocacy non-governmental organization
ICA	Institute of Cultural Affairs
ICC	International Coordinating Committee of National Institutions for the Promotion and Protection Human Rights
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
ICT	information and communications technologies
IDASA	Institute for Democracy in Africa
IGO	intergovernmental organization
II	Integral Institute
IISA	International Institute of Social Artistry
IJT	Islami Jamiat-e-Talaba
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	international non-governmental organization
INNI	International NGO Network on ISO
<i>IRBD</i>	<i>Independent Review of Bangladesh's Development</i>
IRC	International Rescue Committee
ISA	Internal Security Act (Malaysia)
ISO	International Organization for Standardization
JHF	Jean Houston Foundation
KIPP	Independent Monitoring Committee of the Election (Indonesia)
KKR	Koperasi Kredit Rakyat (Malaysia)
LDC	least developed country

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LEI	Legal Empowerment International initiative
LIFE	Local Initiative Facility for Urban Environment
MDB	multilateral development bank
MDG	Millennium Development Goal
MNA	member of the National Assembly (Pakistan)
MQM	Muttahida Quami Movement (Pakistan)
MSF	Muslim Students Federation
NC	Nagorik Committee (Bangladesh)
NCWO	National Council for Women's Organisations (Malaysia)
NGO	non-governmental organization
NPO	non-profit organization
NPT	National Press Trust (Pakistan)
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
ORID	objective, reflective, interpretive and decisional
PARinAC	Partnership in Action
PfA	Platform for Action
PFUJ	Pakistan Federal Union of Journalists
PML	Pakistan Muslim League
PPP	Pakistan People's Party
PRC	People's Republic of China
PRSP	poverty reduction strategy paper
PSO	People's Service Organisation
R2P	responsibility to protect
R2PCS	Responsibility to Protect – Engaging Civil Society (project)
SA	social artistry
SARS	severe acute respiratory syndrome
SDI	Slum/Shack Dwellers International
SG	UN Secretary-General
SIDA	Swedish International Development Cooperation Agency
SMS	short messaging services
TI	Transparency International
TIB	Transparency International Bangladesh
TNC	transnational corporation
ToP	technology of participation
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TTP	Tehreek-e-Taliban Pakistan
UN	United Nations
UNCSD	UN Commission on Sustainable Development
UNDP	UN Development Programme
UNESCO	UN Educational, Social and Cultural Organization
UNFCCC	UN Framework Convention on Climate Change
UNFPA	UN Population Fund
UNGA	UN General Assembly
UNHCR	UN High Commissioner for Refugees

UNICEF	UN Children's Fund
UNIFEM	UN Development Fund for Women
UNSC	UN Security Council
UNSG	UN Secretary-General
USAID	US Agency for International Development
WFP	World Food Programme
WHO	World Health Organization
WIEGO	Women in Informal Employment, Globalizing and Organizing
WTO	World Trade Organization
WWF	World Wildlife Fund

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# Civil society engagement and democratic governance: An introduction

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*G. Shabbir Cheema*

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Scholars and development practitioners recognize the centrality of governance capacity to achieve sustainable development objectives, including the eradication of extreme poverty, environmental protection, access to basic services and livelihoods and the promotion of economic growth. The 2005 UN *World Summit Outcome* document emphasized that effective democratic governance and public administration are necessary conditions to achieve the Millennium Development Goals (MDGs) in developing countries (UN General Assembly, 2005). Consequently, many developing countries within the Asia-Pacific region have aimed to improve governance systems and processes to promote people-centred and sustainable development. The United Nations, development banks, bilateral development partners and private sector foundations continue to support these national efforts through governance assistance programmes.

In developing countries, many factors can constrain governance capacity to formulate and implement development programmes and policies: elections are not always free, fair and regular; parliamentary processes may be dominated by the ruling élite without adequate interface between parliamentarians and constituents; checks and balances between the executive and legislative branches may be inadequate; and weak rule of law may discourage foreign and domestic investments. High levels of corruption can further impede trust in government and inhibit the latter's capacity to bring about change. Other challenges can include weak local governments; a lack of inter-agency coordination where cross-sectoral interventions are needed, in areas such as urban and rural development;

inter- and intra-state conflicts; the magnitude of deficiencies in basic social services; and low levels of participation and engagement by civil society, particularly women, in economic and political activities (UN Development Programme, 2002).

To reform governance systems and processes, developing countries have followed a two-pronged approach: first, the implementation of systemic changes in national and local political institutions; and second, governance interventions in selected sectors such as education, health, water, shelter and services. Within each approach, civil society organizations (CSOs) are playing an increasingly important role and expanding at the local, regional and global levels to improve and promote democratic governance – i.e. governance characterized by participation, access and rule of law. At the local level CSOs are actively engaged in community development, skill improvements for sustainable livelihoods and access to basic social services. At the national level they often perform a watchdog function to improve the quality of electoral and parliamentary processes, work for public interest law reform, enhance access of the poor to justice through paralegal services and seek the accountability of public officials by informing media about violations by public officials. Between the national and global levels, CSOs are increasingly leveraging the regional dimension to address issues that transcend national boundaries, such as human trafficking and cross-boundary water management. At the global level CSOs also perform advocacy functions for global public goods, such as debt relief for highly indebted and least developed countries, greater awareness of climate change, implementation of UN conventions and treaties dealing with civil and political rights, transparency in global governance and increased foreign assistance from the donor community.

## The concept of civil society

The concept of civil society has been defined differently by scholars, although there is an emerging consensus on its key characteristics. As indicated by Chandhoke (2003, 2007), it was not considered as an alternative to or independent of the state, at least until the 1980s. For Habermas (1989), civil society is a space or a body of private persons who articulate a deliberative exchange of reasoned arguments about public goals and the common good, thus creating a public sphere. Nancy Fraser (1992) contests the conception that a functioning democratic public sphere necessarily requires a sharp separation of associational civil society and the state. Cohen and Arato (1992: ix) define civil society as “a sphere of social interaction between economy and state, composed above all of the intimate sphere (especially the family), the sphere of associations (espe-

cially voluntary associations), social movements, and forms of public communication”.

The most commonly used definition of civil society is a sector of associations, or “a space between the family and the state where people associate across ties of kinship, aside from the market, and independent of the state” (Elliott, 2003: 8–9). According to Gordon White (1994: 379), the definition that is common to most uses of the term is that of “an intermediate associational realm between state and family populated by organizations which are separate from the state, enjoy autonomy in relation to the state and are formed voluntarily by members of society to protect or extend their interests or values”. Putnam’s (1996) notion of “social capital” stresses the dimensions of reciprocity and trust in CSOs as key elements of their contribution to democratic processes and the building of democratic institutions. Alagappa (2004: 32) points at the uses of the notion of civil society as a distinct sphere, a space and a site for governance and strategic action. Perceptions of civil society and its role in democratic change are influenced by two different traditions in the fields of democracy assistance and democratic governance, one rooted in democracy promotion and the other related to development practice (Carothers, 1999). While the former is based on a definition of democracy as a value in itself, the latter addresses democracy only in as much as it is a variable contributing to development. In practice, the two traditions complement each other (Cheema, 2005).

In the field of democracy assistance, Larry Diamond (1994: 5) defined civil society as “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.” He adds that it excludes “political efforts to take control of the state”.

The United Nations, the World Bank and the Organisation for Economic Co-operation and Development (OECD) define civil society in an almost identical manner. The UN definition includes “all groups outside government such as community groups, non-governmental organizations, labour unions, Indigenous Peoples’ organizations, charitable organizations, faith-based organizations, professional associations and foundations”.<sup>1</sup>

The World Bank uses the term “civil society” to refer to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. CSOs therefore include a range of organizations:

community groups, non-governmental organizations (NGOs), labour unions, indigenous groups, charitable organizations, faith-based organizations, professional associations and foundations.<sup>2</sup>

The OECD describes civil society as “encompassing a wide range of organizations. In a broad sense, it includes all non-market and non-state organizations and structures in which people organize to pursue shared objectives and ideals . . . civil society also includes farmers’ associations, professional associations, community-based organizations, environmental groups, independent research institutes, universities, faith-based organizations, labour unions, and the not-for-profit media, as well as other groups that do not engage in development work”.<sup>3</sup>

## About this book

This book attempts to examine the changing roles of civil society in global and national governance. It identifies factors that influence the effectiveness of civil society in promoting democratic governance. Specifically, the study raises the following questions.

- To what extent and how has the global civil society been influencing global governance and democratic change?
- What have been the patterns of growth of civil society in Asia and Africa, including legal frameworks under which CSOs are established?
- What are the capacity gaps of the civil society *vis-à-vis* its assumed roles?
- What are the mechanisms for the horizontal and vertical accountability of civil society?
- How and with what effect has civil society been engaged in promoting democratic change and inclusive governance?

The study is divided into four parts. Part I discusses roles that CSOs have played in intergovernmental mechanisms, including in human rights and climate change, and their partnership with governments to advocate changes in global governance. It also examines the roles of transnational civil society and international advocacy NGOs and networks in promoting accountability and transparency in global governance. Part II discusses legal empowerment, norm- setting and capacity of civil society. It also examines innovative leadership roles of CSOs in “integrated development” and the promotion of effective electoral and parliamentary processes.

Part III presents case studies of five Asian countries: Bangladesh, the People’s Republic of China, Japan, Malaysia and Pakistan. Each country case study discusses the history and pattern of growth of civil society, legal frameworks for civil society, CSOs’ internal capacity to deliver on

their mission, upward and downward accountability and the impact on democratic change in the country. Part IV presents an overview of the factors that constrain or facilitate CSOs' contributions to democratic change in Africa. It also discusses the consequences of top-down approaches to civil society in Africa and the impact of donor assistance through CSOs.

## Part I: Civil society and global governance

The rapid pace of globalization has led to two important changes in global governance. First, the member states of the United Nations have become increasingly interdependent. As a result, world populations now have a greater awareness of their commonalities and shared interests. Furthermore, there is a heightened necessity for intergovernmental cooperation to respond effectively to economic and political issues. These phenomena have opened the door for the creation of new CSOs which can bridge and address mutual concerns at the global level. Second, non-state actors, which include CSOs, have found that they have a larger role within this scenario. They can advocate for new public goods that receive insufficient attention from the international community or individual member states, such as the environment, poverty eradication, human rights and gender equity.

Over time, CSOs have grown to play an increasingly active role in the United Nations and related intergovernmental processes. Back in 1945 they helped to establish the United Nations. Due to alignments in Cold War politics, this involvement at the international level continued less visibly during the 1960s. However, by the early 1990s their dynamic role was consolidated, in line with the statement by the UN Secretary-General that CSOs should be considered "full partners in international life". With the Economic and Social Council (ECOSOC) accreditation process in 1996, the number of CSOs associated with the United Nations expanded rapidly. The recommendations of the 2004 Panel of Eminent Persons on UN-Civil Society Relations led to their increased participation in various UN bodies, as well as in the design and monitoring of the Millennium Development Goals (MDGs).

CSOs propel the United Nations beyond the declaratory stage and support the implementation stage of development. They therefore expand the capacity of the United Nations, extend its reach into societies and mobilize societal support for the organization. Today, CSOs provide expert knowledge to the UN system and the UN Secretariat, advocate viewpoints of various groups in society which are not reflected through

government delegations and serve as channels of communication and dissemination concerning global norms, standards and public goods.

Vesselin Popovski (Chapter 2) discusses the changing patterns of relationships between CSOs and global governance. He describes the evolution of civil society's roles in the UN system. Specifically, he examines CSOs' roles in global advocacy and the normative intergovernmental processes of the United Nations, and their participation in the programmes of such UN entities as UNICEF, the UN Development Programme (UNDP), the World Food Programme (WFP) and the UN High Commissioner for Refugees (UNHCR). He presents examples of CSOs' role in promoting global public goods, including the environment and climate change, human rights protection and refugees. He introduces the idea of four "United Nations" in terms of the practice of decision-making at the intergovernmental level.

The increasing impact of civil society on the governance of global institutions can be partly attributed to the deficiencies of democracy today, especially in developing countries. As John Clark argues (Chapter 3), several factors have created a vacuum, which has resulted in more space for civil society to play a larger role: low levels of citizen participation, inadequate representation and weak mechanisms for accountability. CSOs provide information and structures for citizens to become further engaged in governance. Moreover, globalization has resulted in widening economic inequalities, which provide the impetus for debt relief and anti-corruption strategies. For such purposes, CSOs have learned and evolved to work transnationally, and particularly to focus on specific issues relating to globalization and global governance. Often the reform agendas of donor countries and global CSOs are complementary. Both focus on promoting transparency of global institutions through streamlining and simplification of the processes of global governance, the extension of the reach of the global institutions to citizens, improvements in the information policies of these institutions and the promotion of their role in the global movement for greater transparency. Some policymakers and development practitioners, however, are concerned about the increasing influence of CSOs in global governance and question their legitimacy and accountability. But by promoting the accountability of global institutions, CSOs may contribute to a new agenda for "ethical globalization" that works for all and not just for a few.

International advocacy NGOs (IANGOs) and networks are playing important roles in global governance. For example, Jubilee 2000 mobilized support from government and non-governmental organizations in both industrialized and developing countries to campaign for debt relief for highly indebted poor countries. It produced policy changes that resulted in the reduction of debt for some of the least developed countries

(LDCs). Transparency International (TI) has been proactive in campaigning to reduce the erosion of development work by corrupt practices. It has mobilized support for an OECD treaty to make international bribery illegal, and promoted cross-sector collaborations to reduce the influence of corruption. NGOs such as Global Witness and Africa-Canada Partnership identified the links between human rights atrocities and the trade in illicit diamonds.

John Clark (Chapter 3) examines the role of transnational civil society in promoting transparency and accountability in global governance. He argues that there is a close parallel between the array of governance reforms CSOs advocate and the reforms donors promote to their recipient governments, and that a key part of this process is the promotion of transparency, in particular through four sets of activities: demystifying the processes and institutions of global governance, extending the reach of those institutions to affected citizens, reforming information policies of the institutions and encouraging those institutions to become active advocates for transparency.

One of the critical issues relating to the role of civil society in global governance is the credibility, legitimacy and accountability of IANGOs in transnational policy-making and implementation. L. David Brown (Chapter 4) examines the capacities and accountabilities of international advocacy NGOs and networks that affect their roles in global governance and problem-solving. He identifies six factors that influence the legitimacy of social actors: *legal legitimacy* (compliance with regulations and laws); *normative legitimacy* (shared values and norms); *political legitimacy* (representing the interests of members); *pragmatic/technical legitimacy* (expertise, capacities and services); *associational legitimacy* (ties to legitimate actors or institutions); and *cognitive legitimacy* (expectations about the world). He states that many IANGOs, such as Transparency International, base their legitimacy on expertise and information, national legislation and universally accepted principles of good governance. IANGOs offer *representative accountability* to the members who elected them for the mission of the organization, *principal agent accountability* to the funders who require performance reports and *mutual accountability* through shared values and aspirations.

Brown further identifies three approaches to enhance IANGO credibility, based on the experience of the past few decades: clarifying the mechanisms through which IANGOs comply with the existing standard of legitimacy, such as the publication of annual reports and audited financial statements by Oxfam International; using improved accountability systems, such as the accountability, learning and planning system of Action Aid International that increases the role of recipient communities in assessing programmes and learning from experience; and designing new

standards of accountability and legitimacy as new problems emerge, such as the promotion of the OECD treaty to make corruption in international business dealings illegal. The Charter of Accountability for International NGOs, recently initiated by an alliance of IANGOs focused on a variety of advocacy issues, is an important step to improve their accountability.

## Part II: Legal empowerment, norms and capacity of civil society

Global institutions have also influenced state-civil society relations, and issues such as poverty that affect people directly. Global debates on poverty require maturity to move towards the genuine creation of international institutions that legally empower the global poor. One example is the UN Commission on Legal Empowerment of the Poor, which was co-chaired by Madeleine Albright and Hernando de Soto and consisted of 20 eminent persons from around the world (CLEP, 2008). The commission examined the core issue of power relations between the poor and the élite. Naresh Singh (Chapter 5) discusses the role of civil society in the legal empowerment process, the ways in which the poor can mobilize around their shared challenges and opportunities to begin to generate necessary changes from the bottom up and the concept and process of legal empowerment. He attempts to delineate the linkages between governance, legal empowerment and the role of civil society as a catalyst for change in the promotion and implementation of the legal empowerment agenda.

The commission advocated the use of law as an instrument for empowering the poor, and promoted the role of CSOs in transforming power relations in the areas of property rights, labour rights, business rights, access to justice and the fostering of a climate of the rule of law. The commission's global agenda, to be implemented at the national and local levels, resulted from global and national consultations involving CSOs and the member states of the United Nations. The legal empowerment agenda aims to empower the poor through four pillars or areas of intervention: first, access of the poor to justice and rule of law; second, a functioning property system that includes a system of rules to define the rights and obligations between people, a functioning market for the exchange of assets and an instrument of social policy; third, the recognition of the labour rights of the poor; and fourth, business rights including access to basic economic services, infrastructure services such as shelter and water, and new business opportunities through specialized programmes.

One of the constraints in power relations in developing countries is the “élite capture” of facilities and services. In order to deal with this issue, the commission provided a framework of action for CSOs. Membership-based organizations such as trade unions, farmers’ groups, women’s groups and faith-based organizations can play an important role in legal empowerment of their constituents, protecting and fighting for the rights of their members and seeking new economic and political opportunities. These organizations, however, need the support of a wide range of other CSO actors, including human rights groups, academics, lawyers and legal aid organizations, donors and multilateral organizations. Their effectiveness will partly depend upon the legal basis of their formation, the legal framework under which they operate and the quality of their interactions with actors from the state and civil society.

International CSOs also play a vital role in establishing and promoting international norms and standards concerning issues that affect people directly, such as legal empowerment, anti-corruption strategies and deforestation. William Ascher (Chapter 6) presents experience of three international CSOs in promoting international norms.

TI was established in 1993 as a network of NGOs with national chapters to combat corruption. TI national chapters organize workshops and training programmes to draw the attention of governments and citizens to take effective steps to reduce corruption. They publish reports, often focused on operations of institutions such as the judiciary and the ministry of interior, and pressure governments through the media to take necessary actions. TI publishes an annual ranking of domestic corruption in countries around the world. Its Corruption Perceptions Index is based on many global and country-specific indices and rankings developed by other sources. It cooperates with international organizations such as the UNDP and the World Bank to clarify corrupt practices in governance and mechanisms to combat these. For example, it forged a partnership with the World Bank in the adoption of TI’s voluntary disclosure programme (World Bank, 2006). Despite its limitations, such as the focus on perceptions instead of reality, TI’s Corruption Perceptions Index is widely recognized by scholars as methodologically rigorous. Policymakers in developing countries recognize and pay a great deal of attention to the annual index as an indicator of their performance in combating corruption.

Another international organization that has played a vital role in international norm-setting is the International Organization for Standardization (ISO), which establishes quality standards for both products and production processes. It has established more than 17,000 standards in wide variety of sectors, such as agriculture, construction and information society. CSOs such as engineering societies and business associations

have been members of the ISO from the very beginning. The ISO is monitored by the International NGO Network on ISO (INNI), which consists of a coalition of environmental groups. The goal of INNI is to ensure that the ISO-created environmental standards protect the environment and serve public interest.

International advocacy NGOs and networks have also been playing an important role in experimenting with and developing new methodologies and approaches to promote people-centred development. Often these are based on years of pilot testing in communities around the world. Three examples of such IANGOs are the Integral Institute, the Institute of Cultural Affairs and the Jean Houston Foundation, discussed by Robertson Work in Chapter 7.

The Integral Institute (II) has identified four essential aspects of governance and development: *individual consciousness*, *individual behaviour*, *culture* and *whole systems*. The integrated approach to development advocated by the institute is based on the argument that these four dimensions, their interrelationships and institutional/organizational dimensions should be necessary building blocks in designing and implementing development policies and programmes.

The Institute of Cultural Affairs (ICA) has developed a leadership method called the technology of participation (ToP), which consists of a group discussion process, a workshop process for building consensus, an action planning method for turning ideas into accomplishments and a four-step participatory strategic planning process. For over 30 years this approach has been effectively applied around the world within corporations, villages, slums, NGOs, government agencies and intergovernmental organizations such as the United Nations. The approach was applied to the Local Initiative Facility for Urban Environment (LIFE), funded by the UNDP, which was implemented in cities and towns in 15 countries around the world and was evaluated as one of the flagship UNDP programmes.

The Jean Houston Foundation (JHF) has elaborated a new style of creative leadership approach named social artistry (SA), which has also been used widely. The UNDP used the approach to localize the MDGs in selected developing countries, such as Albania, Kenya, Nepal and the Philippines. The approach aims to develop capacities of the individual, group, culture or society to realize their full potentials. It goes beyond the traditional command-and-control leadership style.

The above and other IANGOs have developed innovative leadership methods that can potentially make a huge difference in improving the quality of local participation and local governance and development. These methods deal with deepening individual consciousness, facilitating behaviour within groups, transforming culture and designing whole systems.

Massimo Tommasoli (Chapter 8) addresses the role of civil society actors in electoral and parliamentary processes, including such activities as voter education, organized national election observation, training of temporary election staff and candidates, lobbying policymakers and electoral administrators for better policies and electoral legislation protecting individual rights and freedoms, or for stricter legislation on campaign financing, etc. He also examines some conditions that enhance CSOs' capacity to influence government policy and legislation and extend citizen participation in public affairs.

### Part III: Experience in Asia

To understand the dynamics of civil society engagement, there needs to be an analysis of the context-specific history and pattern of growth, the legal framework under which it is established, CSOs' capacity to deliver on their mission and their upward and downward accountability. Also important are the CSOs' role in democratic change, and the stage of political development of the respective country.

The history of civil society engagement and the pattern of growth are both necessary to understand the democratic governance practice in a country. They reveal the evolution of CSOs, the conditions under which they were formed, the relationship between state and civil society and the modes in which civil society groups have been active (watchdog, advocacy, etc.). The corresponding pattern of growth is crucial to understanding civil society engagement dynamics. The history and pattern of growth also explain the unique typology of civil society in each country.

The legal basis for CSO formation and the legal framework in which civil society operates are perhaps the key dynamics between state and civil society. Through these mechanisms the state can somewhat dictate the rate of CSO formation and in what sectors, through permissive or harsh standards for formal recognition of organizations and the associated direct financial support, tax benefits or other costs.

In order to perform their tasks effectively, CSOs require capacities for fundraising and financial management, information gathering and research techniques, and communications skills to attract broad publicity. Other capacities that can facilitate their roles are networking skills to develop coordinated advocacy, documenting and upscaling best practices, professionalism and trust-building to educate citizens, and willingness and ability to "speak truth to power". These capacities allow for the sustainability of their work, and ultimately organizational sustainability. The Philippines is a textbook illustration of a burgeoning and active civil society that is quick to champion specific issues, often for a narrow

public, but lacks the capacity to ensure these organizations are not ephemeral.

Two important issues in civil society engagement within the region are upward accountability of CSOs to the government and downward accountability to the communities they serve. In contrast to many governments, CSOs frequently lack clear, enforceable rules that govern the ways in which their officials relate to beneficiaries. Exacerbating such issues, CSOs are often highly dependent on international donors whose programme priorities can overlook or undermine the needs and aspirations of their intended beneficiaries. For all of these reasons, it is feared that the gap between local priorities and NGO accountability can be wide.

With the widespread growth of civil society in Asia over the last decade, many governments within the region have officially made civil society a participant in national development. However, the level of this participation varies widely across and within countries. At one extreme, civil society may partner with government for planning, policy-making and decision-making; receive access to government budgetary resources and external assistance; and is tapped to assist in public service delivery and project implementation. At the other, countries may publicly profess a policy of civil society participation, but do not translate this into action. In yet other cases, governments create and support the operations of CSOs and use these for specific purposes. To date, a few governments continue to consider civil society a threat and prohibit its organization. Furthermore, local governments may also vary widely in their posture and attitude towards civil society in terms of its participation in governance and local development processes, particularly where government is decentralized and local governments possess some measure of autonomy.

## Part IV: Experience in Africa

Goran Hyden (Chapter 14) assesses the constraints and opportunities of civil society for democratic change in Africa. He discusses the nature and quality of associational life in African society, drawing attention to the distinction between formal and informal rules that guide collective action and also the prevalence of small-scale groups and community associations. He identifies the role civil society plays in politics, especially with regard to key aspects of democratic governance such as providing input into policy, holding public officials accountable and participating in partnerships with government. Finally, he focuses on the factors that constrain the contribution of civil society, including the rudimentary nature of the socio-economic structures, the lack of a civic tradition and the legacy of authoritarian political rule, as well as the growth of multi-party

politics, pressures from international agencies and globalization, which exposes Africans to new values both in the diaspora and at home.

Kadmiel Wekwete (Chapter 15) discusses civil society engagement in local development and change in Africa. Based on case studies, he argues that there is a new paradigm shift in Africa from top-down, centralized development to a “local development” paradigm based on devolution to local governments and active engagement of civil society to provide a holistic framework to formulate and implement local development policies and programmes.

## Emerging trends

In recent years CSOs have expanded tremendously in terms of their role, number, size, activities, focus areas and influence. This phenomenon has been particularly evident in Asia, where they now play a pivotal role in strengthening effective democratic governance. This book identifies a series of emerging trends for civil society engagement. It advances seven arguments concerning the factors that led to their growing influence within the region and obstacles they must overcome in order to continue their contributions to democratic governance. These are based on global and regional reviews, as well as country case studies presented in the book. The first few points focus on the current status of CSOs within Asia: the emergence of a new space for them to participate in governance; their changed relationship with government and the private sector; and their new roles at the global and national levels, including their increased impact on policy. Then current and upcoming challenges for their continuing contributions to effective democratic governance are highlighted: the need for vertical and horizontal coordination; the need to improve legitimacy; trends towards improved organizational accountability; and the need for capacity development.

### *New space for civil society*

In comparison to other regions, the role and activities of CSOs in Asia were traditionally more circumscribed, as governments had taken an active role in the promotion of economic development while limiting the ability of these organizations to form and participate in governance. These conditions changed during the course of the 1990s, which laid the foundation for the increased growth of CSOs within the region: legal conditions for the existence of CSOs generally improved; fiscal cut-backs and conservative market philosophies led to declines in service provision and access; and many democratic transitions generated greater

expectations on behalf of citizens, but reform measures were left uncompleted. Globalization, the communications revolution and economic liberalization measures compounded these issues by increasing the flow of information and resources both within countries in Asia and at the supranational and subnational levels.

These factors created a space for CSOs to increase their participation in governance processes, while improving their ability to organize (case studies of Bangladesh, Malaysia, Indonesia and Pakistan in this volume). While many reforms had been implemented to promote effective democratic governance in Asian countries, many countries had reached a turning point at which additional results could not be achieved without the increased involvement of CSOs. Neither governments nor the private sector were able to address these gaps on their own, due to organizational and bureaucratic limitations, conflicts of interest and other issues. In contrast, CSOs at national, regional and global levels had two characteristics in their favour: the flexibility to approach and mobilize diverse populations; and the credibility and independence to challenge existing policy. Consequently, new activist CSOs appeared at the national and local levels.

### *Relationships with governments and the private sector*

This space has modified both the roles and the relationships of CSOs. The ways in which CSOs interface with governments and the private sector have changed. As mentioned above, CSOs previously had a much more limited role within many countries in Asia, as they were not completely trusted by governments as a full partner in development. To the contrary, their potential for mobilizing citizens on behalf of development issues was frequently feared and perceived as being in opposition to government (Indonesia, Malaysia, Pakistan). Subsequent to the events of the 1990s, this relationship changed and evolved. As CSOs came to play an increasingly essential role in filling the gaps that had been left by governments and the private sector, their function and existence also gradually become more acknowledged and appreciated within the region. As such, national development efforts became less government-centred and more focused on the joint contributions of governments, civil society and the private sector, not as competitors but as partners in the governance process.

### *Roles at the global and national levels*

The role of CSOs at the global level has changed (see Chapters 2, 3 and 4). The book demonstrates that CSOs are now vital actors in global gov-

ernance, which includes normative intergovernmental processes that deal with issues of development, security, human rights and disarmament. Global CSOs now play a key role in the definition and establishment of international norms and standards, as well as in the implementation of development objectives. Norms and standards are mutually agreed upon by members of international and regional organizations, and then communicated to the national and subnational levels, where CSOs can advocate on their behalf, pressuring governments for their institutionalization and helping implement them in practice through partnerships to improve service delivery and access, as well as monitoring and assessing government policies and practices.

In terms of direct implementation, CSOs work in many areas related to the Millennium Development Goals, such as poverty reduction, sustainable development (including climate change and population issues), the rights of women and children, education, health policy and partnerships for development. They also promote democratic governance by increasing the transparency of actions at the international level, promoting anti-corruption and accountability initiatives and advocating on behalf of marginalized groups. Through these roles, CSOs have become increasingly influential in determining the global discourse on development issues. They now generate and disseminate data, provide their analysis of the same and allow for a greater heterogeneity of viewpoints to impact international debates – many of which are critical of actions by international institutions, government or the private sector – or present local, national and regional perspectives on development to the larger world.

At the national level, CSOs' roles have also expanded in three significant ways within Asia. First, the breadth of activities in which CSOs engage has increased. CSOs now commonly play roles that include advocate, facilitator, coordinator, researcher, educator, trainer, watchdog, mobilizer and service provider. These functions continue to expand within Asia, as CSOs identify new ways in which they can contribute to the advancement of social aims. Second, the sectors and focus areas that CSOs address have also multiplied. Whereas once their activities were often limited to projects that were officially sanctioned by the government, many of these restrictions have lessened. Consequently, CSOs now operate in diverse areas related to governance. Third, this process has created a diverse universe in terms of the types of CSOs that may be operating within a country at any given time. Some organizations may have a more narrow focus in terms of objectives and activities, others may take a broader approach as umbrella organizations, and yet others fall somewhere in between.

### *Vertical and horizontal coordination*

This diversity has meant that CSOs must constantly keep track of developments in their focus areas, as well as developments with other CSOs that can potentially play a complementary or symbiotic role. This awareness and coordination must take place both vertically and horizontally in order for CSOs to be most effective in fulfilling their stated policy objectives. Hence, good links between the global, regional, national and local levels are essential for CSOs to realize change. On the one hand, national and local CSOs must keep apprised of global developments and discourse in order to recognize larger trends that can affect their support. On the other, global CSOs must also stay informed about what is taking place at regional, national and local levels in order to ensure that their work remains relevant and their organizations have legitimacy. This entails keeping themselves updated *vis-à-vis* different local issues, concerns, perspectives and factors that are inhibiting or promoting effective policy implementation.

In practice, faulty or insufficient linkages between CSOs often cause problems. Tension can emerge between local and global CSOs, as the former can perceive global CSOs as promoting the agenda of developed countries. Experience has shown that when global CSOs underestimate the implications of their actions at the international level, they face many obstacles. For example, Oxfam vastly underestimated the strength of local lobbying groups. As a result, it needed to restructure the time-frame and the ways in which it sought to impact policy. The global campaign to combat forestry was more effective, because local actors focused on changing local government policy in their own regional context, as opposed to simply targeting certain developing countries for norm-setting. This lesson became clear during the initial stages of the implementation of the Global Environment Facility (GEF), and led to the establishment of the GEF Small Grants Programme to provide direct support to local civil society.

### *Partnerships between global and national CSOs*

Forging mutually reinforcing alliances and partnerships between global and national CSOs has strengthened CSO engagement. Global civil society has been instrumental in global advocacy of development, security and human rights issues and in increasing funding sources and flows outside government control. National and local civil society have been playing a vital role in providing an alternative channel of information to citizens, advocating and promoting the interests of the poor and marginalized groups and improving access to services. A mutually dependent

and reinforcing relationship between global and national civil society has strengthened both, though there are differences between the two in terms of their priorities and experience.

### *Legitimacy and accountability*

In coming years, a key obstacle to be overcome by CSOs concerns the issue of their legitimacy. As these organizations come to play an increasingly significant role in policy identification, implementation and assessment, the question of their legitimate moral authority will come increasingly into play. CSOs often question the policies of elected officials, yet they themselves are not elected. Similarly, CSOs often advocate for anti-corruption measures, yet their internal accounts are frequently unavailable to the public. Citizens may question how representative their views are, especially in the case of global CSOs with insufficient linkages to the ground level. The methods they employ in development efforts, the projects that have been chosen or discarded, their correlation to the understood mission of the organization and the resources that have been invested are other frequent issues of interest. In extreme cases, CSOs may engage in fraudulent activity, which further demonstrates the importance of measures to enable stakeholders to hold them accountable.

A related accountability issue is that CSOs operating in Asia and Africa often have diverse stakeholders, with differing concerns and degrees of power. Large donors, government agencies and international institutions often have more voice as stakeholders, since they hold the purse strings and impact on the legal climate (see Chapters 11, 14 and 15). Therefore, their policy concerns and requests for responses by an organization tend to receive more attention, whereas the concerns of customers and staff may be deprioritized. If CSOs continue to place more value on their accountability to the former group, this short-term approach will effectively undermine their credibility over time.

This book acknowledges an increasing trend towards reinforcing the legitimacy of CSOs through strategies that improve their transparency, accountability and credibility to the general public. As the contributors explain, six types of legitimacy must be addressed: legal, normative, political, technical, associational and cognitive. Different approaches have been tried within Asia to strengthen this legitimacy: transparency mechanisms (published mission, vision and values statements; publications; annual reports; audited accounts; reporting and disclosure systems and processes); participation mechanisms (community consultations with board members, negotiated domain standards); evaluation mechanisms (codes of conduct, contract provisions, organizational monitoring, evaluation systems, independent programme evaluations, peer reviews and

social audits); and complaint and redress mechanisms (review panels, juries and ombudsmen).

Many CSOs now use these methods to improve their own governance. Increasingly, groups of CSOs have pooled their expertise and formed partnerships with other governance actors to provide sectoral standards that can be used as a basis for assessing CSO behaviour (negotiation domain standards in Pakistan and India) and create codes of conduct and peer reviews (such as the Philippine Council for NGO Certification). Moreover, new CSOs have formed to provide consultancy services to other organizations that wish to assess their accountability and management practices (for example the Society for Participatory Research in Asia).

### *Capacity deficits*

A final but considerable challenge to CSOs in the years ahead relates to capacity deficits, which can further complicate the legitimacy issues posed by accountability insufficiencies. The rapid expansion of CSOs has not been accompanied by increasing capacities and resources. Consequently, they may be unable to identify or institutionalize steps to improve the way they operate; form the complex relationships with stakeholders, governance partners and fellow organizations required; train and retain staff; and participate in necessary stages of the policy process as it relates to their mission. Even assuming that CSOs have the financial capacity to identify and implement measures to ensure that they operate transparently and accountably, they may be incapable of following through and achieving desired effects through their organizational capacity. In many CSOs that operate at or below the national level, capacity deficits are often most visible in the areas of technical expertise, financial management, operational ability (using data generated by accountability systems to re-define roles, responsibilities and approaches) and human resources (staff identification, training and retention). However, contributors have shown that results could also be achieved through enhanced capacity development in the areas of research and policy advocacy management.

In conclusion, civil society is now playing a vital role in stimulating democratic change in many ways: direct involvement at different stages of the electoral process, including voter registration, voter education and electoral monitoring; engagement with parliamentarians to communicate concerns of citizens; the provision of paralegal aid and other support mechanisms for access to justice; access to media to highlight abuses of power; the protection of rights of minorities and marginalized groups; supporting the independence of the judiciary; and holding local officials

accountable to improve access to services. However, in order to ensure that they remain effective advocates of the public good, they must strengthen their linkages with other organizations, address issues related to their legitimacy, strengthen accountability through various measures, without subtracting from their organizational flexibility, and improve capacities.

## Notes

1. See [www.fao.org/tc/NGO/index\\_en.asp](http://www.fao.org/tc/NGO/index_en.asp).
2. See <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html>.
3. See [www.oecd.org/dataoecd/59/10/39499103.pdf](http://www.oecd.org/dataoecd/59/10/39499103.pdf).

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Part I

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Civil society and global governance

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## 2

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# The role of civil society in global governance

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*Vesselin Popovski*

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For the United Nations System, the partnership with Civil Society is no longer an option, it is a necessity.

Kofi Annan, 1999 Montreal World Civil Society Conference

## Introduction

The processes of globalization produce major challenges for global governance. It is much more difficult to govern today than it was 20 years ago. Governments need to engage non-governmental sectors both to make informed decisions and to implement these decisions. Accordingly, national and international civil society organizations (CSOs) have gradually evolved and developed from being observers and critics of governments to being (in parallel to their traditional “watchdog” function) active participants in various governance mechanisms. CSOs today play larger roles in promoting global public goods, including human rights protection, gender equality, adaptation to and mitigation of climate change, disarmament, prohibition of excessive lethal weapons, international cooperation and development, etc. There is a broad acceptance of the strong necessity to engage civil society in governance and decision-making,<sup>1</sup> but there is not yet enough acknowledgement of the necessity to provide for capacity-building and to reform the mechanisms of global governance.<sup>2</sup>

The nature of threats and challenges in the world has changed. The threats we face today are non-territorial, interlinked and chronic; they

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*Engaging civil society: Emerging trends in democratic governance, Cheema and Popovski (eds), United Nations University Press, 2010, ISBN 978-92-808-1188-9*

are global, and more difficult to identify and address. Accordingly, solutions to these threats and challenges can only be global – they cannot be addressed and resolved separately. Modern threats concern all actors, and demand the engagement of all actors. Globalization has produced “de-statization” of global governance. The traditional international state system that existed for centuries after the Treaty of Westphalia has been challenged by its own deficiencies and by the emergence of a variety of non-state actors that can complement, but also complicate, global governance. It is widely recognized that the world today can no longer be governed by state actors alone. Non-state actors are becoming more powerful, dominant and accountable.

This chapter addresses these dynamics through four sections. The first looks at the relationship between states and civil society; the second section discusses the role of CSOs in advocacy and norm-setting by highlighting the roles that CSOs have played in four key areas of global governance – democracy, human rights, gender and climate change. The third section runs through the roles that CSOs have played in partnership with the United Nations, including through intergovernmental mechanisms; and finally, the chapter concludes by briefly considering the nature of the relationship between CSOs and the United Nations in the future.

## States and civil society

Civil society occupies the middle ground between the state and the private sector; it is engaged neither in government activities nor in commercial activities directly. However, indirectly it has both political and economic focuses – it is supposed to monitor state activities, but also support market freedom. The civil society literature (Carothers 1999; Rodan, 1997, 2001), especially when mobilized to support human security or peacebuilding, usually refers to social capital (Lehning, 1998) – it presents people as willing to associate, cooperate, learn and participate in democracy.

Civil society is generally considered to be morally superior to the state, although this has been made more as a proclamation rather than proven empirically. Some extremist organizations with malevolent agendas can similarly be registered as non-governmental organizations (NGOs), as benevolent organizations and charities are. The existing literature does not necessarily provide a clear normative answer as to why civil society is seen as morally superior to the state. The sub-state level is closer to people, but does this mean that civil society necessarily strives for good? Can civil society be classified in some circumstances as “un-civil” society? Furthermore, some may point out that in situations of proper constitu-

tional separation of powers, governments are elected, scrutinized and accountable to heads of state, parliaments, judiciary, media etc. and, ideally, made responsible for their policies and actions to the people, but that this is not the case with the non-governmental organizations, which are not necessarily exposed to the same standards of accountability. Civil society, as well as states, needs to be made accountable, otherwise, as pointed out by Sandra MacLean (2001: 31–50), some civil society activities could be a potential source of conflict. Andy Knight (1999: 256) also wrote that “not all elements in civil society are benign and progressive. Some of them represent the criminal underbelly of society and others represent reactionary and exclusionary movements.”

Recently, there have been some encouraging developments in introducing accountability mechanisms for civil society. Frank Vibert (2006), director of the European Policy Forum, assessed existing criteria and codes of conduct, examining in particular the “Accountability Charter” signed by 11 international NGOs in 2006. He made a strong argument for monitored self-regulation (Vibert, 2007) that can provide higher legitimacy and deeper accountability by civil society. Similarly, Helmut Anheier (2004) addressed the need for more emphasis on the “civil” in civil society, through proper measurement of expenditures and evaluation of the effectiveness of its actions.

Civil society has been gradually recognized as a repository from which to learn to cooperate, resolve disputes peacefully and identify and achieve common goals. The human security concept, which focuses mainly on people, regards them as recipients of rights to be satisfied by efforts from states, rather than by non-state actors. The human security (Commission on Human Security, 2002; Thomas and Tow, 2002) and peacebuilding (Cousens, 2001; Chandler, 1999; Richmond, 2004) literature has started to pay more attention to civil society, both as a source of stability and as means of achieving peace and security ends. Leading theorists see it as a factor in imposing “constraints on state sovereignty through the mobilization of international civil society to safeguard international norms”, and the “sharing of power between state and non-state actors in a globalizing world” (Thomas and Tow, 2002: 178). In practical terms the reliance on civil society has translated into the work of various NGOs: “The main focus of civil society-building has often been local NGOs as a sphere for articulating needs independently of vested political interests and involving grassroots community voices” (Chandler, 1999: 110).

States and civil societies can be in competition, but they can also be in partnership. Lucian Pye (1999: 764) wrote that civil society, which consists of diverse autonomous interest groups, can exert pressure on the state, promote liberal democracy and critically address the underlying causes of social conflict. Civil society can support the state to meet the expectations

of citizens, but it can also challenge the state and demand changes. It could be a supportive or a corrective force, depending on how states respond to the expectations of people. States can develop progressive practices that are shared by civil society as a result of such pressures.

The moral superiority of civil society can strengthen the legitimacy of the state. And the state can exercise its power and be a guarantor of social peace and human security. Social peace cannot be built without legitimacy, without meeting the needs of people, but also without the power of states to preserve a stable evolution. Peacebuilding, therefore, is pushing for the strengthening of both state and civil society. Although some may see that according to theory the two are to be expected to be in conflict rather than in harmony, I would like to point out that a conflict between state empowerment and civil society empowerment is not necessary. In fact, state empowerment, or state-building, is supposed to enhance institutions that, ideally, take charge of democratic progress, respect of human rights, strengthening of the rule of law, economic and social development and all other functions and activities that are on the agenda of civil society. If states properly exercise all these functions, CSOs will have less worries, will not need to exercise much pressure and will have even less need to engage in “naming and shaming” and other measures that antagonize the state. The conflict between the state and civil society would arise when a state does not, willingly or otherwise, perform its functions properly. In summary, civil society can enhance the state and collaborate in assisting with state functions, but it can also prod the state, challenge its policies if these are seen as anti-popular and where necessary even lead public protests.

## Advocacy and norm-setting

Civil society has a crucial role nationally and internationally in helping and encouraging – and if need be, prodding and shaming – governments into taking the actions to which they have given international endorsement. CSOs are increasingly essential actors before, during and after governmental decision-making. The voices of relevant and competent CSOs need to be heard and need to be listened to.

Advocacy is not new: slavery was abolished by governments after strong public advocacy and outrage manifested by citizen groupings – what we now call CSOs. The same is true of the downfall of apartheid, of colonialism, of communism. Although there is still a long way to go, in recent decades the world has been changed for the better by the women’s rights movement, the environmental movement and CSO coalitions on such themes as landmines, the International Criminal Court, de-

veloping world debt reduction, poverty and the responsibility to protect. The world is also bettered by the patient and professional year-round work of the hundreds and thousands of NGOs that have a consultative relationship with the UN system, working on the rule of law, labour standards and decent work, anti-corruption, sustainable development, social justice, reproductive health and standard-setting in so many areas of the economy and daily life.

Closely connected to the activities of CSOs in advocacy is their role as actors in the processes of international norm-setting. Civil society has the potential to identify the various needs for global safety and environmental standards, often creating norms that are then adopted by nation-states. A prominent example is the shift from the “health for all” norm to the claim for “access to essential medicines” in the late 1990s. Given the weak implementation of the “health for all” norm, which has been a slogan of the WHO since its establishment in 1948, CSOs along with the global health community have identified the need for affordable medicines and put a stronger focus on the WTO and TRIPS. Under the influence of the successful campaigns led by CSOs, the “access to essential medicines” norm was widely adopted in the wake of the HIV/AIDS epidemic and the unaffordability of anti-retrovirals. This example shows that, in the phase of norm generation, CSOs can gain a role as the main norm carriers (Hein and Kohlmorgen, 2009: 19–20).

Furthermore, governments and international organizations adopt global norms, such as those established by the International Organization for Standardization (ISO), because they reduce transaction costs and conflicts among nation-states. Norm-setting is a facet of governance that CSOs take on because governance has clearly expanded beyond the domain of governments.

This partial listing indicates the growing need, and growing trend, for civil society to foster networks within which advocacy and operations are mutually reinforcing. CSOs need to develop, practise and monitor codes of conduct that will underpin their work, legitimacy and accountability. If CSOs are to be partners of the United Nations, they must be effective and reliable partners. Here, too, networking is essential.

The United Nations and its member states count on competent and responsible CSOs to deal with the multiple challenges of the modern world. Equally, CSOs need to count on responsive and accountable governments that will fulfil their commitments. One linkage that governments should always remember is that millions upon millions of members, supporters, affiliates and volunteers who make up civil society are also *voters*. Their decisions, when elections come, will take account of effective partnerships between the state and civil society. CSOs represent participatory democracy at its best.

## Civil society in key global governance issues

CSOs cooperate across local, national, regional and global levels, in recognition that improving the quality of democratic governance processes requires actions at all these levels. The positive impacts of CSOs in creating change in democratic transition, promotion of human rights, the struggle for gender equality and addressing climate change, among other issues, have relied on active national civil society engagement being complemented by globally focused NGOs.

While global CSOs advocate for the aforementioned global public goods such as democracy, civil and political rights, debt relief and more effective development assistance by attempting to influence transnational institutions, their national-level organizations are focused on improving the quality of governance in their own countries. National organizations may be either branches of global CSOs or unaffiliated. In either case, they have added credibility to advocate for international norms and values through their understanding of the unique national contexts in which they operate. However, issues of concern to citizens do not stop at nation-state boundaries. For this reason, regional organizations can form a bridge between national and global organizations, particularly in addressing issues that may impact across national boundaries but do not have sufficient global political profile.

Complementing global, regional and national CSOs are local CSOs working at the grassroots level on community development and sustainable livelihood projects, whether for poor farming communities or urban slum dwellers. The existence of strong links between these groups and those operating at a higher level is crucial in ensuring that often abstract global thinking filters right down into local actions. It is only natural for global civil society to be more concerned with global agendas than with the specificities of local service delivery constraints. Therefore, there is a need for civil societies to work in parallel at all levels to ensure that local and national forces influence policy debates and are not overpowered by global “one-size-fits-all” approaches.

I will illustrate, with a few examples, the role of civil society in addressing global governance issues and facilitating positive changes.

### *Democracy*

Civil society is an expression of people’s voices, and certainly one of its primary tasks is to ensure the adequate representation of people’s interests in policy-making and government. Also, the gradual rise of civil society has been a result of struggles against anti-democratic regimes, and therefore ensuring democratic decision-making is naturally a high pri-

ority for civil society. Jan Aart Scholte (2001: 17–18) focused on the role of civil society in enhancing democracy in global governance, and recommended CSOs establish the following five types of contributions.

- Support public education activities, prepare handbooks and information kits, produce presentations, organize workshops, circulate newsletters and supply information to and attract the attention of mass media.
- Give voice to stakeholders, provide opportunities to relay information, testimonials and analysis to governance agencies, social circles like the poor and women who tend to get a limited hearing through other channels, empower stakeholders and indeed shift politics toward greater participatory democracy.
- Encourage debate about global governance and put a variety of perspectives, methodologies and proposals forward. For example, civic groups have been instrumental in generating debate and raising ecological issues, making qualitative assessments of poverty, promoting schemes of debt reduction in the South etc.
- Increase public transparency of global governance and bring regulatory frameworks and operations into the open, where they become susceptible to public scrutiny. Often citizens are not aware of what decisions are taken in global governance: by who, from what options, on what grounds, with what expected results, and with what resources to support implementation.
- Increase public accountability, monitor the implementation and effects of policies regarding global relations and press for corrective measures when the consequences are adverse. For example, civic actors have pressed for, and subsequently participated in, independent policy evaluation mechanisms for the World Bank and International Monetary Fund (IMF). Through an accountability function, civil society can push authorities in global governance to take greater responsibility for their actions and policies.

Hilary Wainwright (2004) offered an analysis of how the role of the civil society for enhancing democracy can be utilized and made effective. After presenting several examples, some positive, some negative, she concludes that civil society has the potential to empower democracy, and she demonstrates how political, economic and social conditions were developed for this potential to be fully realized.

### *Human rights/justice and accountability*

The second example concerns human rights, where several major occurrences of severe human rights violations and acts of genocide in the 1990s, such as in Rwanda, Bosnia and Herzegovina and Kosovo, have highlighted the need for institutionalized international criminal accountability.

From the very beginning, civil society actors played a major role in pursuing this goal until the establishment of the International Criminal Court (ICC) by the Rome Statute of 1998, which was achieved with the significant support of the Coalition for the International Criminal Court (CICC).

In 1995 the CICC was established by a steering committee including major NGOs such as Amnesty International, Human Rights Watch, the International Federation of Human Rights and many others. Today the coalition represents a diverse, dynamic global network of over 2,000 CSOs which are organized around national and regional networks, as well as sectoral caucuses with a focus on thematic issues like universal justice and victims' rights. The CICC's objectives include the facilitation of civil society as an actor in the Assembly of State Parties, the provision of technical and legal expertise and the promotion of education and awareness of the ICC and Rome Statute (Coalition for the International Criminal Court, 2007).

On the occasion of the CICC's tenth anniversary in March 2005, the UN Secretary-General congratulated the CICC as "the Coalition [that] helped to mobilize civil society support for the negotiation of the Rome Statute, for its early entry into force, for the establishment of the Court, and for the start of its work. In short, the Coalition has proved itself a true global partnership for justice" (Coalition for the International Criminal Court, 2005).

Another more recent example of CSO involvement in a human-rights-related realm of global governance concerns the "responsibility to protect" (R2P) doctrine. As is well known, one of the UN's greatest failures was its questionable response to mass atrocities. Former Secretary-General Kofi Annan clearly argued in a 1999 speech to the UN General Assembly that "the core challenge to the [...] United Nations as a whole in the next century" would be "to forge unity behind the principle that massive and systematic violations of human rights – wherever they may take place – should not be allowed to stand" (Annan, 1999). Recognition of this multifaceted R2P is today seen as one of Annan's most substantial legacies, realized also by the establishment of the International Commission on Intervention and State Sovereignty (ICISS) and unanimously approved by the heads of state and government at the world summit in September 2005.

The involvement of civil society is capable of making R2P more effective by pressurizing and eliciting political will from state actors whose political will to intervene for humanitarian causes is limited by domestic political considerations for instance.

The world summit in September 2005 was the crucial event that brought together governments, the United Nations and an alliance of

NGOs to address R2P strategies. Following the summit, major CSOs like Human Rights Watch, Oxfam, the International Crisis Group and others formed a coalition that resulted in the establishment of a global centre for R2P in 2008 and a global NGO coalition, spearheaded by the Responsibility to Protect – Engaging Civil Society (R2PCS) project. Since then, a series of global consultative roundtables has produced three important outcomes.

Most importantly, the coalition is helping to address the lack of understanding about R2P by developing educational tools and materials, collecting knowledge from monitoring and disseminating information about R2P. Given the potentially unlimited reach of CSOs in the field of dissemination, the value of coalitions like R2PCS is most considerable.

Secondly, the coalition strives to awaken the consciences of policy- and decision-makers like government officials, but also the media, on the importance of R2P. The strategy is to strengthen a normative consensus on all levels through advocacy, briefing and lobbying.

Responding to concrete cases of mass atrocities on international and regional levels is, thirdly, an aim which the coalition strives to achieve by developing public pressure on human rights violating governments or by providing early-warning information on genocide (Responsibility to Protect – Engaging Civil Society, 2008: 13–17).

The role of CSOs in the sphere of R2P can be described as a second pillar: “the commitment of the international community to assist states in meeting the obligations” to protect their population from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from their incitement (Luck, 2008: 1). This pillar is placed between the first, the state’s responsibilities to protect, and the third, the responsibility of states to respond promptly and decisively if acts of mass atrocities occur.

### *Gender*

Despite international commitments, goals like gender equality are still far from being realized, even though gender issues directly relate to all parts of society. Civil society plays a significant role in the realization of gender-relevant goals like the empowerment of women in the economy and in institutions of power and decision-making, and the protection of women from violence.

CSOs first appeared as a significant visible actor in the preparation and realization of the Fourth World Conference on Women in Beijing in 1995. Two primary strategies were of concern in the preliminary stages: to increase the visibility and awareness of gender topics in governments; and to identify critical areas of concern for ongoing debate beyond the conference. The result of the Beijing conference was the Platform for Action

(PfA) through a political framework with six components, among them the intention to integrate a gender perspective in all aspects and spheres of society – an aspect of the “gender mainstreaming” approach.<sup>3</sup>

CSOs can take up several roles in the processes connected to the pursuit of gender equality, because their position in the centre of society allows recognition of gender issues that are often not identified by institutions or governments. Their roles include being advocates, catalysts and trainers. As advocates, NGOs are at the forefront of protecting women’s rights as human rights, introducing the idea of a rights-based approach to health services for women and addressing the needs of girls. NGOs can act as catalysts when male-dominated government departments are not familiar with implementing gender-relevant policies, for example in relation to women’s healthcare. And thirdly, many NGOs traditionally undertake various kinds of training to alert people to a gender-sensitive approach to all aspects of life, e.g. work and health, including HIV/AIDS (Haslegrave, 1998).

Another approach of civil society in the field of gender is the example of the Gender and Governance Programme (GGP) in Kenya. Here, CSOs together with the UN Development Fund for Women (UNIFEM) empowered and supported women to take part in Kenya’s 2002 general elections. Today, the GGP is in its second phase – the Engendering Political Process Programme (EPPP) – which strives to ensure that women’s issues remain relevant in the national polity. The EPPP supports transformative leadership concerned with gender equality across all levels of government, and strengthens women’s leadership within communities and at a national level. It contributes to transforming leadership and governance at all levels in Kenya, and thus, together with civil society, helps to establish greater gender equality.<sup>4</sup>

### *Climate change*

CSOs are important actors at the forefront of the environmental movement, particularly around the issue of climate change. Especially at the UN Conference on Environment and Development (the Earth Summit) in Rio de Janeiro in 1992, CSOs played a critical role in producing Agenda 21 and the UN Framework Convention on Climate Change (UNFCCC).

As in other areas, the trend towards coalition-building in civil society is clearly visible, as resources can be shared and synergies used to meet ends more effectively. One example is the Climate Action Network (CAN), a global coalition of over 450 NGOs that since 1989 has promoted government and individual action to limit human-induced climate change.<sup>5</sup> CAN also represented hundreds of CSOs at the Bali COP meeting, and thus took an active part in advocating for civil society and those

most affected by climate change. Today, nearly all major environmental NGOs use CAN to coordinate their positions and find new policy strategies.

Generally, green CSOs seek to attain influence by working with negotiators, governments and decision-makers and providing their expertise. From positions as outsiders, CSOs can promote compliance with international agreements by pressuring governments and important actors. Major global activist groups like Greenpeace and the World Wildlife Fund (WWF) engage in a dual strategy, using both strategies simultaneously. Additionally, environmental CSOs tend gradually to construct knowledge and include scientists and academic staff in their activities to cope with increasingly complex issues; advisory CSOs wholly depend on their intellectual basis rather than on their members (Guldbrandsen, 2005: 4–6).

## Role of civil society in the United Nations

The relationship between the United Nations and civil society is not new. In fact, it dates back to 1945 when the organization was established with the support of civil society. CSOs have provided expert knowledge and advice to the United Nations, both to the secretariats that implement UN decisions and to many UN field offices. CSOs bring to the United Nations the views of important constituencies whose voices are not adequately reflected in governmental delegations and whose knowledge and views can be important inputs to informed decision-making. In a report on the UN's fiftieth anniversary, Andrew Rice and Cyril Ritchie (1995) wrote: "In the decision-making process, competent input from CSOs enhances responsible output from governments."

CSOs can be utilized as major channels of dissemination to their members and to the public of information on UN activities, and potentially help to fill in the knowledge gaps left by the inadequate – and often irresponsibly hostile – coverage given to the United Nations by the media. CSOs can build support for UN programmes, and participate jointly in these programmes through education and mobilization directed to the public and constituencies. Examples include various "UN days" (World Food Day, World Refugee Day), "UN years" (microcredit, desertification) and "UN decades" (literacy, water for life).

There are also specific cases where close cooperation with international and national CSOs is indispensable to UN agencies in carrying out their missions. Both UNICEF and the UNHCR contract and interlink with CSOs in multiple field operations. The WFP and the UNDP designate partner CSOs as executing agencies for given projects, and the same is true on occasion for UNESCO and others.

One of UNICEF's strategies for implementing the World Fit For Children action plan, which was adopted at the UN Special Session on Children in 2002, was the approach of "partnerships for shared success". With this strategy, UNICEF held formal agreements with hundreds of CSOs in 160 countries and regularly consults NGOs for policy formulation at its headquarters. Furthermore, UNICEF was able to share lessons-learned knowledge through its involvement in the Global Movement for Children (GMC), a global coalition of not-for-profit organizations which are devoted to creating a world fit for children. The close interdependence of UNICEF with civil society also has the potential to mobilize society for the cause of children's well-being. In 1990, for example, UNICEF's World Summit for Children in New York stirred over a million people worldwide to join in candlelight vigils (UNRISD, 2007: 2).

To an even higher extent, the UNHCR's activities are based on cooperation with CSOs in the field, with between 33 per cent and 50 per cent of UNHCR's operational budget disbursed through NGOs, both national and international, with priority given to the former. The first major approach towards the integration of civil society was the Partnership in Action (PARinAC) initiative in 1994, which resulted in significantly expanded resources and operational capacity. Innovations such as standby agreements have their origins in this period.

Between 1994 and 2006 the UNHCR channeled \$5.4 billion through CSOs and implementing partners, and today there exist 649 project agreements with implementing NGOs, most of them local or national organizations. Such numbers clearly underline the significance of CSOs and partnerships in the activities of the UNHCR. A wide range of strategies and tools link partners from civil society and NGOs to the work of the UNHCR, such as emergency response agreements and the Protection Surge Capacity Project, which was developed together with the International Rescue Committee (IRC) and provides the UNHCR with protection staff.

However, civil society is not only an indispensable contributor to the work of UNHCR agencies, but often turns out to challenge and criticize its work, thus revealing possibilities for improvement from an outside perspective. This was the case when in late 2008 several South African CSOs listed a joint complaint about the UNHCR, stating its ineffectiveness in addressing several expulsions which resulted from xenophobic outbreaks.<sup>6</sup> Such claims should be regarded as coming from a legitimate voice of civil society, and be valued in terms of their potential to improve the work of UN agencies and their respectful dialogue with CSOs.

As with UNICEF and the UNHCR, civil society is of significant importance for the implementation of UNDP programmes. Collaboration with CSOs that articulate the needs and aspirations of the poor in ac-

cordance with the principles of the UNDP is nowadays a *sine qua non* of good practice. Here, civil society represents a group of actors which are needed for participation in, and legitimization and endorsement of, improved governance from within a state, given that external help often has some limits in terms of sustainability.

The collaboration between CSOs and the UNDP is largely of mutual interest. Most notably, the relationship of trust between developing country governments and the UNDP makes it possible for the UNDP to broker some space for a government-CSO dialogue and further engagement. Moreover, the UNDP has a coordinating role for CSOs in the UN system and is a source of resources for civil society. A major challenge for the UNDP is to improve the strategic and mainstreamed partnership with civil society, which goes beyond project-driven engagement. However, since several evaluations in the 1990s highlighted the inadequate integration of CSOs and the lack of engagement with progressive segments of civil society movements, lessons have been learned. In May 2000 a UNDP CSO advisory committee was established to implement formal status arrangements with CSOs. It proposed the priorities and strategies for collaboration, and provides new mechanisms to negotiate what does and does not fit on an agenda for real UNDP-CSO partnership.

Five broad areas of mutual concern and potential collaboration have been identified: poverty reduction, inclusive globalization, conflict prevention and peacebuilding, human rights and development, and private sector engagement. The establishment of local and regional CSO committees is an especially critical step for the realization of key cooperation principles, which include trust, horizontality, cooperative agenda-setting and individual accountability.

Bringing together CSOs to debate and provide both policy and operational advice at the regional or country level has proven to be of major importance for the UNDP. Among forms of cooperation are advisory groups or committees around particular themes, such as governance, poverty, MDG monitoring, etc. One example is the UNDP's Capacity 21 programme in Mexico, where citizen participation in environmental management was strengthened through national and regional consultative councils for sustainable development. The project could contribute to the establishment of various NGOs and the expansion of their institutional capacities (UNDP, 2001).

The examples of UNICEF, the UNHCR and the UNDP clearly show the mutual interest and critical need for UN-CSO partnerships, not only for policy implementation in the field. However, given the integrative, stabilizing or deliberating functions of CSOs from within a country, it becomes even clearer that the empowerment of civil society itself should represent a key goal for UN agencies.

Beyond collaboration with the largest and most prominent UN agencies, there are a lot of good partnership practices with other UN and non-UN multilateral agencies that merit reference. For example, the World Bank for years funded the entire administrative budget of the NGO-World Bank Committee, some of whose actions were confrontational to Bank programmes, and which sought to offer contrasting alternatives to Bank approaches. The UN Electoral Assistance Fund has also provided assistance to NGOs to monitor national elections in member states. Both of these examples illustrate the complex role of CSOs in both working with and being critical of nation-state and multilateral actors.

Other examples of CSOs leveraging their influence include the 1990 World Conference on Education for All held in Jomtien, organized jointly by four intergovernmental secretariats – an “equality of participation” event where governments, intergovernmental organizations (IGOs) and NGOs all had the single status of participants, without the existence of a hierarchy. Interestingly, when the post of UN High Commissioner for Refugees was open, a number of declared candidates accepted invitations to respond publicly to questioning on their motivations by a major INGO network. Indeed, on the most recent occasion (2005), the UNSG invited NGOs as well as governments to submit candidate nominations. This innovation reflects the rising influence of NGOs and might well be universalized across UN agencies in the future.

There are good examples of intergovernmental cooperation with civil society. Here are some examples of best practice.

- The committees which monitor the implementation of the UN Convention on the Rights of the Child and the UN Convention against Torture conduct review sessions in which the principal substantive input is from national and international CSOs. It should be noted that both these conventions (and many others: discrimination against women, landmines, child soldiers, small arms) owe their origins and effective coverage to NGO initiatives and professional input.
- The UN Conference on Environment and Development (Rio de Janeiro, 1992) adopted the frame of nine major groups (eight covering civil society and one for business and industry) as the institutional mechanism of partnership with governments in advocating and implementing Agenda 21. The follow-up UN Commission on Sustainable Development (UNCSD) has year by year strengthened the use of this mechanism, to the point where, since the World Summit on Sustainable Development (Johannesburg, 2002), representatives of the major groups are an integral part of the preparation for and decision-making of the UNCSD.
- The governmental process leading to the World Summits on the Information Society (Geneva, 2003 and Tunis, 2005) made it possible for an

“official” civil society bureau to be created, representing a plethora of stakeholders (some 25 “civil society families”) and engaging in open dialogue with the summit governmental bureau.

- There are several examples of full integration of CSOs within a UN organ on an equal footing with intergovernmental units or agencies: the Safe Motherhood Global Initiative; the Committee for the Promotion/Advancement of Cooperatives (COPAC); the International Land Coalition; the programme board of UNAIDS; the Inter-Agency Standing Committee of the UN Office for the Coordination of Humanitarian Assistance; and the Global Cooperative Campaign against Poverty, coordinated by the ILO and the International Cooperative Alliance.
- The Security Council itself has practised the “Arria formula” for several years to bring to its members independent NGO perspectives and fresh, often field-based information, notably relating to crisis situations. Arria-formula sessions are now frequently supplemented by informal meetings of Security Council members with NGOs at both New York and field-mission levels.

There have also been several welcome steps being taken to open new doors to cooperation.

- In July 2005 the Global Conference for the Prevention of Armed Conflict – entirely organized by NGO networks – was held in the United Nations at the invitation of the SG. The conference had services, support and participation paralleled by an annual NGO conference of the UN Department of Public Information. Moreover, leaders were invited in September to an open debate of the Security Council on conflict prevention and resolution, leading to a UNSC presidential statement incorporating the words “The Security Council underscored and will strengthen its relationship with civil society.”
- In June 2005, as part of the preparations for the UN summit of September 2005, civil society hearings were held under the auspices of the UNGA president. While there should of course have been other steps and other involvement by civil society in the substantive lead-up to the summit, the June hearings were a significant breakthrough in dialogue with governments, several of which explicitly requested that the experience be renewed. Through their contributions, the majority of CSOs at the hearings demonstrated high levels of competence and responsibility. In 2006 the UNGA president undertook to facilitate three thematic hearings in relation to UNGA special topics (HIV/AIDS, least developed countries, migration) and one general civil society hearing.
- Other initiatives of the 2005 summit that involved – and must continue to involve – UN-CSO partnerships, if the decisions are to be truly implemented, include the renewed commitment to achieving the MDGs; the creation of the UN Peacebuilding Commission; acceptance and

implementation of R2P; establishment and functioning of the Human Rights Council; elimination of gender discrimination and violence against women and girls; responses to major diseases; an effective central emergency revolving fund; and implementation of the Guiding Principles on Internal Displacement.

In 2002 the then Secretary-General Kofi Annan appointed the Panel of Eminent Persons on UN-Civil Society Relations to report on interactions between the United Nations and civil society and provide proposals for enhancing such relations, in order that the United Nations becomes more effective in its work. The panel's report (known as the Cardoso Report), released in 2004, stated that the UN's engagement with civil society was now "a necessity for the UN, not an option".<sup>7</sup>

The panel's report laid out a total of 30 separate proposals in nine areas of reform. A central theme in many of these proposals was that there should be increased participation of CSOs in the UN's multi-constituency processes, including in the UNGA for example. In maximizing partnership opportunities, UN agencies were also encouraged to place increasing priority on country-level engagement, in order to level the playing field between "North" and "South" country CSOs. As of 2005, about 67 per cent of all NGOs in consultation with ECOSOC came from developed countries – only 20 per cent of the world's nations. In this regard, the panel recommended that new accreditation mechanisms be introduced that encourage, rather than preclude, relatively poorly resourced developing country CSOs from being engaged by the United Nations.

The report drew attention to the difficult issue of CSO accountability, which has come into view particularly since NGOs have greatly proliferated and become more visible, especially since 1996 when ECOSOC accreditation reforms were institutionalized. CSOs remain relatively unregulated in many parts of the world, including with respect to their engagements through the United Nations. A lack of international standards of NGO accountability has allowed far less credible organizations to undermine the effectiveness of credible NGOs. The report concluded that developing countries sometimes view NGO involvement as another channel for developed countries to push their agendas and question their accountabilities. This legitimate concern over NGO accountability is one underlying factor behind the confidence deficit between CSOs and member states.

The SG provided a response that reiterated the key findings and proposals of the report. For example, to address the representational imbalance between North and South NGOs, the SG committed to create a single trust fund to provide "financial support for travel and accommodation of representatives from accredited NGOS from developing countries to attend [UN] intergovernmental meetings".<sup>8</sup>

Beyond the panel's report and the SG response, the idea of a code of conduct for NGOs is also worth further exploration. The code of conduct can be an instrument to ensure that NGOs commit themselves to the aims of the UN Charter and act in a manner that respects the inter-governmental character of the United Nations. There should be a level playing field for NGO involvement, in that the NGOs attending UN meetings are truly representative of the world's population. This brings up the crucial issue of participation of NGOs from developing countries.

Positively, there is a general consensus within the United Nations about the need for continued dialogue and interaction between member states and NGOs. At the same time, there are different expectations and preferences about how to manage and develop this dialogue further. Member states generally appear to be open to increased consultation with NGOs as long as there are clear parameters that are understood and respected by all. NGOs are valued for their expertise in a variety of areas, their role as partners in implementing various development programmes and their capacity to provide early warning in cases of potential conflicts.

These are just some of the initiatives being looked at. This is a healthy process towards a realistic framework for balancing interests and respecting the different roles of member states and CSOs within the United Nations. It is also a positive sign of the growing maturity of the international community in welcoming the role and contributions of civil society groups. CSOs may not be able to claim to be the representatives of certain defined groups of people, but they can definitely give a voice to a wide range of opinions that emerge from various segments of society.

Improved sustainable development outcomes require a stronger symbiosis between global civil society and global institutions. CSOs propel the United Nations beyond the declaratory stage and assist with the implementation stage of development projects. CSOs are both valuable and valued because they expand the capacity of the United Nations, extend its reach into societies and mobilize societal support for the United Nations.

After the 1990s saw rapid CSO expansion, in terms of both numbers and engagement through the UN system, the debate since 11 September 2001 has focused on whether the global public space for civil society action has narrowed. While some believe that the space has widened with new initiatives, many believe that the war on terror and the increased scrutiny of CSOs has restrained and even disabled many CSOs. The narrowing of the global public space is also related to ongoing problems within CSOs, including a lack of both legal and financial empowerment and still underdeveloped relationships with the UN system. To address this, the creation and institutionalization of a permanent forum for CSOs has been suggested – for example a People's Assembly with civil society representation similar to the General Assembly and operating in parallel

to it. Such a mechanism would help formalize the role of CSOs in the UN system and among the member states. It is clear that the United Nations must create a larger global public space for CSOs to assist in managing global problems.

## Conclusion

With globalization, CSOs have evolved from being observers and critics of governments to being a crucial part of global governance. The role of civil society is not only to be an external supporter, but more and more to become an integral part of global governance. This is widely acknowledged, and various mechanisms have already been established and proven to be efficient. Still, there is a long way to go. Civil societies maintain symbiotic relationships with national governments, multilateral organizations and markets. They create a role for themselves in global governance, engaging in norm-setting for the international state system. These norms, eventually adopted by nation-states, become rules and laws and govern international relations.

Particularly in the fields of gender equality, human rights protection and climate change, CSOs have proven themselves to be an extremely efficient and cooperative force. It is unsurprising therefore that the UN system and its various organs have gradually developed cooperative relationships with CSOs.

## Notes

1. There is a gradually growing literature on the need to expand the role of civil society in global governance: Weiss and Gordenker (1996); Willetts (1996); Smith, Chatfield and Pagnucco (1997); Fox and Brown (1998); Keck and Sikkink (1998); Waterman (1998); Boli and Thomas (1999); Foster and Anand (1999); Cohen and Rai (2000); Florini (2000); Higgott, Underhill and Bieler (2000).
2. For a fair and constructive critical assessment see the comprehensive work and publications by Professor Helmut K. Anheier, founder and first director of the Centre for Civil Society at the London School of Economics and Political Science, in particular Anheier (2005, 2006).
3. See the Beijing Declaration and its Platform for Action (PfA) – A Brief Overview, available at <http://ww2.unhabitat.org/programmes/genderpolicy/beijing.asp>.
4. See the Gender and Governance Programme in Kenya, available at <http://gendergovernancekenya.org>.
5. See Climate Action Network, available at [www.climatenetwork.org/about-can](http://www.climatenetwork.org/about-can).
6. See [www.tac.org.za/community/node/2332](http://www.tac.org.za/community/node/2332).
7. See [www.globalpolicy.org/component/content/article/226-initiatives/32340-panel-of-eminent-persons-on-united-nations-civil-society-relations-cardoso-panel.html](http://www.globalpolicy.org/component/content/article/226-initiatives/32340-panel-of-eminent-persons-on-united-nations-civil-society-relations-cardoso-panel.html).
8. See [www.globalpolicy.org/component/content/article/226-initiatives/32340-panel-of-eminent-persons-on-united-nations-civil-society-relations-cardoso-panel.html](http://www.globalpolicy.org/component/content/article/226-initiatives/32340-panel-of-eminent-persons-on-united-nations-civil-society-relations-cardoso-panel.html).

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# The role of transnational civil society in promoting transparency and accountability in global governance

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*John Clark*

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## Introduction – The context of democracy in a globalizing world

The term “governance” refers to the qualities, rather than the forms, of government. Its components include well-constructed mechanisms by which governments are accountable to, listen to and are fair with their citizens, as well as being efficient, honest and cost-effective. None of this is possible unless governments are transparent – informing citizens about all manner of activities and choices, not just what they want them to hear. It also requires a commitment to democracy in its broadest sense, i.e. to the notion that citizens – directly or indirectly – should be at the heart of decision-making over issues that affect them (though governments disagree about the range and scope of such issues). Hence centrally planned regimes such as China and Viet Nam have, in recent years, given a great deal of attention to democracy and accountability at the decentralized level (though for them, national democracy writ large remains an anathema).

Improved educational levels, modern information technology and the increasing sophistication of associations of various forms – including the modern array of political parties that has evolved – all make it possible for citizens to engage in matters of governance in a variety of ways, beyond (in most countries) the right to vote in periodic elections. However, just as democracy is becoming more meaningful in the sense of affording opportunities for civic engagement, its image has become increasingly tarnished due to a variety of “democratic deficits” (Clark, 2003).

Two deficits are particularly pertinent to this chapter. Firstly, the political party basis to electoral democracy is outmoded. Until the middle of the twentieth century, the fault-line in politics was between very broad classes. Take the United Kingdom, for example. In the eighteenth and nineteenth centuries the political battle-lines were composed of farmers and industrialists, and the battle was over which sector should be in the ascendancy. From the late nineteenth century to the post-war period the contestation was between the upper and lower classes, and the issues of contention concerned the ownership of the means of production and the promotion of equity in income and access to opportunities and services. Today, however, there is no such single political fault-line – but hundreds. We each identify with different issues, and it is unlikely that a single political party will have a platform that matches our particular palette of interests. And, as constituents of democracies, we increasingly prefer to be represented according to the *issues* we care about rather than the place where we live.

The second deficit relates to globalization, and specifically the fact that policy made in a global institution or by a small group of powerful governments (even by *one* powerful government!) may have enormous impact on citizens who have no meaningful voice concerning those decisions. Indeed, the most challenging political issues of our times are increasingly global in nature; but while there is an array of global institutions to implement the collective decisions of governments, there is no global parliament of legislators.

Due to the increasing interconnectedness of the world we live in, an important paradox is unfolding: while a great deal of the *substance* of politics has been globalized (trade, economics, climate change, HIV/AIDS, the SARS pandemic, terrorism, etc.), the *process* of politics hasn't. Its main institutions – elections, political parties and parliaments – remain rooted at the national level. Civil society organizations (CSOs), on the other hand, have proved better able to adapt to working in the international arena by joining together to form strong global organizations and networks (Held, 2002).

The history of democracy has been about the evolution of mechanisms by which citizens play a role in shaping government policies and holding officials to account. The efficacy of democratic tools, therefore, can be judged by the degree to which they narrow the gulf between citizens and the decisions that affect them. This chapter argues that among the various roles for civil society, the one that is coming most rapidly to ascendancy is that of strengthening democracy through advocacy and promoting greater and meaningful transparency within the international arenas that are fast becoming the crucibles in which new policies (relevant to all countries) are forged; traditional instruments of democracy hold little sway in that realm.

Few CSOs, however, carry a popular mandate as determined by mass memberships (trade unions are exceptions). Most owe their power base to their credibility with the media, legislators and policymakers, and to their broad popular appeal and base of citizen activists who promote the CSOs' campaigns. The lack of demonstrable mandates leads many governments and parliamentarians to challenge the legitimacy of CSO power – implying that they are bogus or anti-democratic. While there are important issues concerning the governance of civil society, such criticisms often reveal a stubborn resistance of the political establishment to recognize the changing nature of democracy.

The common assumption is that democracy largely means *representative* democracy – the opportunity to vote every few years for politicians who sit in parliaments to represent their constituents' interests across the spectrum of political matters. While it remains important, this has been greatly eroded in recent years throughout much of the world as citizens become increasingly disenchanted with electoral politics. Moreover, the more politically active citizens (a minority, but comprising those most likely to drive change in society) increasingly seek opportunities to take part in democracy in different ways. Through joining NGOs, pressure groups, social movements, protests etc., they are forging *participatory* democracy – entering directly into the debates that most interest them.

It could be argued that participatory democracy is not *new*, but the earliest democracy of Ancient Greece in which all native-born free men could gather in the forum to speak and vote on any issue that concerned them. This was rule (*kratein*) of the people (*demos*). As city-states grew, such decision-making became unwieldy and the practice emerged of electing delegates to represent a constituency.

In traditional democracy we are grouped according to where we live; our neighbourhoods form the constituencies for which we elect our parliamentary representatives. The range of political parties often assumes that our class and income, and the locality where we live, are the determinants of our politics. Participatory democracy is changing the *geography* of politics. It allows us to aggregate differently – with others who share our burning concerns wherever they live. In other words, shared *locality* is supplemented by shared *interests* – and, thanks to modern information and communications technologies (ICT), such communities of interest can be global as easily as local.

CSOs are not just tools by which citizens advance their direct interests. They are the conduits for ethical arguments. In earlier times the Church monopolized this role in Western politics. The separation between state and Church has hence been one of the liveliest debates in political theory, albeit the two institutions often promoted the same vested interests and were led by the same families. Now, ethical challenges to govern-

ments – which often relate to governance (i.e. *qualities* of governing) – have become the preserve of CSOs and independent media as religious organizations have become less influential in society and politics in many countries, especially in Europe and Asia.

### Civic engagement at a time of globalization

Given the increasing role of civil society in permitting meaningful civic engagement in governance, and at the same time the increasing prominence of transnational policy and institutions, it is not surprising that there is a strong civil society dynamic addressing issues of global governance through transnational activities. Paradoxically, the forces of globalization that are so fiercely resisted by a growing protest movement also afford transnational civil society opportunities to grow immeasurably in strength.

Though some economists maintain otherwise, most now recognize that wealth and income gaps are growing; this is true *within* most countries and also *between* countries (Faux and Mischel, 2001; Hurrell and Woods, 1999). This is largely because new opportunities are leading to the rich getting richer, rather than that the poor are getting absolutely poorer, but signs of political and social tension relate to the economic polarization of society. The richest 20 per cent in the world as a whole enjoyed a 12 per cent increase in their incomes in real terms from 1988 to 1993, while the poorest *half* saw no growth at all and the poorest 5 per cent suffered a 25 per cent fall in income. There is a parallel polarizing of political power, with the United States and European Union emerging as unchallenged policymakers in areas of economics and politics that affect all the world's people. The widening political and economic inequality is the principal reason why globalization is controversial, and civil society movements roundly blame globalization for this.

Although democracy has spread throughout the world as the dominant mechanism of government, citizens have become more and more disillusioned with it. We resent seeing the politicians we elect using their power to further their own interests and those of their friends while ignoring *our* plight; we are disappointed in their inability to correct the problems of government that we find most serious – and perhaps they don't seem interested in. Do they – and perhaps even our governments – have any real power in important areas of policy that affect our lives? Increasingly, important decisions are reached not at the national level but globally – by the powerful nations (the G8) or in intergovernmental forums (such as the World Trade Organization or the IMF), and indeed by global corporations. These forums may be accountable to *some* governments for

*some* things, but they don't regularly come under the purview of national parliaments, as would major national decisions, and there's no supranational parliament to fill the void. In short, though economics has become globalized, politics hasn't.

Outside the G8, most national governments are experiencing dwindling autonomy as they become powerless to buck trends set by global powers, particularly in the economic realm. For example, developing countries find that they now have little latitude to set tariffs, exchange rates or interest rates at levels that differ substantially from what "the market indicates". Similarly they must increasingly accept "received wisdom" when it comes to currency controls, labour market policies and taxation regimes. Paradoxically, just as *formal* democracy has spread into new areas of the globe for the first time, *substantive* democracy – the ability to participate in decisions affecting everyday life – has been eroded by this loss of autonomy of nation-states (Kaldor, 2000).

### The democratization of democracy: Civil society's influence on the global stage

By connecting together internationally in an array of networks, CSOs have greatly helped shape the debate about globalization. Together with a surprisingly vociferous protest movement, they are often described as "anti-globalizers". While they do critique globalization in different ways, some with more hostility than others, most such CSOs see themselves as not anti-globalization *per se* but part of a widening "global social justice movement" that seeks to moderate the forces of globalization and harness its very clear power for the good of poor people; in other words to press for *ethical* globalization. Though this may be called a movement, it is very loose; not a coherent network of groups uniting in solidarity around common conditions or common aims, but a network straddling those who seek specific reforms (e.g. regarding third world debt) and those who want to smash capitalism. Its bonds stem from what its constituents *don't* like, rather than what they call for (Carothers, 1999; Castells, 2004).

What has made this global movement powerful is that it resonates strongly with a widening public conviction that political power is leaving them behind – that *real* decisions are stitched together by political and corporate leaders in opaque global forums, and not by the ballot box at the national level. This adds to disenchantment with electoral politics. What's the point of voting for politicians who are consumed by issues that are short term and local, when the issues of greatest concern are long term and global?

As a result of the growing influence of civil society, today's multilateralism is different to that of 30 years ago. Before, governments would come together to discuss an emerging issue until there was sufficient consensus for an intergovernmental resolution. Then governments and intergovernmental organizations would work on implementing this agreement. Today, it is increasingly likely that a civil society movement and a crescendo of public opinion puts a new issue on the global agenda; next a few like-minded governments become first among their peers to recognize the power of the case and start pressing for global action; together with the leading civil society protagonists they form an *ad hoc* coalition on the issue; and this builds public and political support for global action through iterative processes of public debate, policy dialogue and perhaps pioneering action to demonstrate ways to redress the problem. Such *global policy networks* have shaped responses to issues as diverse as climate change, gender relations, poor country debt relief, affordable treatment for AIDS, landmines, the trade in small arms and the campaign for the International Criminal Court (Cardoso Panel, 2004).

These shifting informal and opportunistic alliances of governments and non-state actors around specific policy issues comprise an exciting new phenomenon.

### Civil society roles in strengthening global governance

CSOs' campaigns on issues of globalization and global governance address the actions of global institutions and powerful governments (e.g. the inappropriateness of specific policies), but more importantly they also address *how* those institutions function, their culture, their reward systems, their decision-making processes etc. – in other words their governance – and they succeed in explaining to the public how global decisions are reached and how global institutions work (not always objectively, it should be added). They have thus come to have increasing influence over such matters.

CSOs have made many seminal contributions to the management of globalization and ensuring that global institutions are more transparent and accountable to citizens. As with issues of governance at the national and local levels, such reforms can be divided into five elements (World Bank, 1992). These elements combine to ensure that institutions are honest, fair, responsive, efficient, concentrate on citizens' priorities and inform citizens scrupulously about their programmes and how they might affect them, and about their rights of redress and involvement. The five pillars of "good governance" that apply equally to institutions that are local, national or international are as follows.

- *Transparency.* CSOs are powerful not just as conduits to disseminate information about what blocs of governments, international agencies and others are doing (based on their research, evidence gathering and eye-witness experience – anecdotal as this may be), they also inform citizens about how these institutions work and make decisions. During the WTO ministerial talks in Seattle and Doha, for example, millions of people logged on to various CSO websites every day to find out what was going on and what it all meant. CSOs have also campaigned successfully for organizations such as the World Bank to bring into the open swathes of documentation that was previously confidential, and they continuously press for observer access and public minutes for all intergovernmental meetings.
- *Accountability.* By pressing national media and national parliaments around the world to give serious attention to how the IMF, WTO and other global bureaucracies are behaving and to tackle the excesses of corporate greed and sleaze, CSOs working transnationally are drawing these powerful *global* players into national accountability structures. By setting up their own watchdogs and international campaigns, they are also introducing new, albeit informal and self-appointed accountability mechanisms. In the absence of regional or global parliaments, these are the only effective international mechanisms for citizen accountability.
- *Rule of law.* Good governance requires a comprehensive framework of clear and well-understood laws that are predictably applied to protect citizens and all their legitimate interests. But there is little in the way of international law, and even that is generally subservient to national legislatures. Hence only national concerns are well protected by laws; global ones are mostly ignored or are covered by exhortative but toothless treaties. Many global social justice CSOs campaign for globally rigorous laws, regulations and rules for intergovernmental processes and TNCs. The treaties on climate change, landmines and whaling are examples of their achievements, as are the International Criminal Court and the inspection panels or ombudsman offices within intergovernmental organizations. The latter afford due process to those who have been disadvantaged by the actions of those organizations.
- *Citizens' voice.* The right to know what is going on is one thing, but CSOs seek more active citizenship. They want seats in intergovernmental deliberations, public consultations on issues that have societal implications and participatory approaches in programmes and projects. They advocate public and legislative hearings to which CSOs can give evidence. And – through their public campaigns and media coverage – they make sure that (a select sample of) citizens' voices are heard.

- *Efficiency and equity.* Good governance must provide value for money and equality of opportunity. The internal processes of institutions must guard against sloth and wastage and ensure that the concerns of all, including minorities, are heard. CSOs which act as watchdogs on the workings of the global institutions or which lobby on behalf of minorities therefore want a right be heard – albeit a “voice, not a vote” in international forums. Global social justice CSOs also campaign for a greater voice for the South in international forums and are increasingly vocal in campaigns to curb the power of the “G1” – the USA.

The United Nations has played a major role in consistently engaging CSOs in its deliberative processes – particularly in the “big conferences” of the 1990s. This has helped shape an emerging set of *cosmopolitan political rules and norms* which transcend national sovereignty, and which are enforced (albeit imperfectly) by international institutions – especially in areas of human rights, gender relations and the environment (Held, 2002). Although some governments resist these trends, constructive and strategic engagement with civil society is a vital defence against the challenges the United Nations itself faces today. A United Nations that is more attuned to global public opinion, that is strongly connected with leading CSOs and that is strategic in its ability to broker dialogue with diverse stakeholders is better able to ensure that the challenges come into the open and are dispatched, and that global governance is strengthened. In short there is a symbiosis: civil society is strengthened by opportunities the United Nations affords, but this gives a new *raison d'être* that in turn empowers the United Nations and makes it seem more relevant (Cardoso Panel, 2004).

Good governance, at both national and global levels, needs informed and responsible citizens. Hence transparency, education and free debate are its greatest allies and ignorance and prejudice are its worst enemies.

## Transnational civil society and the promotion of transparency

CSOs make four distinctive contributions towards making instruments of global governance more transparent and more active in promoting transparency.

- *Demystifying processes and institutions.* By studying how the instruments of global governance function and sifting through large volumes of impenetrable documentation, CSOs have been able to explain these matters in lay terms to a broader public. Of course, these interpretations are subjective, and may cast the official body in the worst possible light, but since those institutions have generally done little themselves

to publicize their functions or demonstrate a willingness to be accountable to citizens, they have only themselves to blame. Some, such as the World Bank, have made strenuous efforts to engage with CSOs and as a result have contributed to enhanced civic engagement in their work (especially in borrowing countries) and at the same time have seen a considerable reduction in the hostility of civil society campaigns (Clark, 2002).

- *Extending the institutions' reach to citizens.* Through working with global institutions to organize consultations or exercises of participation, by translating officially available information (albeit usually a subjective and edited version) into local languages and by disseminating information about those institutions through their resources centres and communications channels, CSOs are able to ensure that a widening group of citizens are informed about and have opportunities to engage with those institutions. For example, the Bank Information Center (based in Washington, DC, but with branches in a number of countries) has greatly extended the knowledge of affected citizens concerning the projects and policies of multilateral development banks (MDBs).<sup>1</sup>
- *Reforming information policies of global institutions.* CSOs have promoted new or reformed information policies within those bodies, hence rendering them more transparent and accountable to citizens. For example, an international network of NGOs has worked for over 20 years to win successive reforms in the disclosure policy of the World Bank. First the concentration was on getting information about approved projects and policies into the public domain; then there was pressure to establish public information centres where the newly released Bank documents could be readily accessed and documents could be translated into local languages; then the attention shifted to transparency of the country assistance strategies and related documents; then there was pressure to make available draft documentation – arguing that consultation is meaningless unless the plans for projects etc. are shared; and later the focus shifted towards the transparency of the board of executive directors, arguing that all votes and statements should be made public. Most of these reforms have been won (although the minutes of board meetings remain confidential) and similar reforms have been successfully promoted in the other MDBs (Fox and Brown, 1998; Clark, 2002).
- *Encouraging global institutions to become active advocates for transparency.* Pressure groups such as Article XIX and Transparency International have successfully lobbied international organizations, including the World Bank, the UNDP, the G8 and the OECD, to be proactive in encouraging governments in the South to reform their information policies as part of their policy dialogue with clients over governance

reform. When opportunities to develop new policies arise, these groups often act as consultants or partners in seeking to harvest them.

The growing concern about corruption in international development has heightened attention to transparency, since it is impossible to seek to stem the leakages of corruption unless there is transparency in public accounts at local, national and international levels. The most successful organization in promoting this issue is Transparency International (see its website: [www.transparency.org](http://www.transparency.org)). Though most widely known for its ranking of governments according to the Transparency Index and Corruption Perceptions Index that it has devised, TI also promotes transparency in international organizations and monitors what they do to promote the accountability of their clients. Similarly, organizations like Publish What You Pay and a network of NGOs supporting the Extractive Industries Transparency Initiative (EITI) have done a great deal to press for transparency in the reporting of revenues from the oil and mining industries.

A symbiosis is emerging between CSOs and global institutions in such areas. Organizations such as the World Bank, the UNDP and bilateral donors frequently team up with both international and national NGOs in promoting transparency, such as the Transparency and Accountability Network in Philippines, IDASA (Institute for Democracy in Africa) in South Africa and FITRA (Indonesian Forum for Budget Transparency) and Indonesian Corruption Watch in Indonesia. Similarly, the NGO networks for the EITI in Azerbaijan and Nigeria have been exemplars for how civil society, business organizations, international institutions and progressive people in government can work together to make enhanced transparency a reality. Through the Affiliated Networks on Social Accountability (in Africa and East Asia respectively) the World Bank is financing the capacity building of such transparency-promoting CSOs.

### Action and reaction: The backlash against global civil society

As we have discussed, global civil society is starting to impact on the management of global change. No longer can a group of seven finance ministers spend a weekend in a hotel near the White House, announce a “Washington Consensus” on a monetarist approach to international economics and escape with little public controversy. And corporate CEOs are routinely challenged to demonstrate “corporate social responsibility”. Today, citizens everywhere are more economically literate and more politically savvy than before the internet age. They want to know what’s going on, what it means to them, and they want to have a say. We’re all in the debating chamber now! And with transnational CSOs as the

well-trusted crack forces of this new civic consciousness, the potential is almost unlimited. As Jodie Williams said on receiving the Nobel Prize on behalf of the International Campaign to Ban Landmines in 1998, “Together, we are a superpower!”

Superpowers, however, are inevitably resented. The clear ascendancy of policy-oriented NGOs and interest groups over the last decade has been greeted by increasingly aggressive counter-strategies by governments, intergovernmental agencies and corporations, and by the establishment media. Hence a *Financial Times* journalist (Martin Wolf, 1999) fulminated about “the claims of NGOs to represent civil society as a whole and, as such, to possess legitimacy rivalling – perhaps even exceeding – that of elected governments is [*sic*] outrageous”. Similarly *The Economist* (2000) demanded to know “who elected Oxfam, or, for that matter, the League for a Revolutionary Communist International? . . . In the West, governments and their agencies are, in the end, accountable to voters. Who holds the activists accountable?” In 2003 the right-wing think-tank American Enterprise Institute announced that it was forming, with others, “NGO Watch” to monitor such objectionable practices of NGOs.

Whether CSO leaders like it or not, such critics do raise important issues. In their attacks on CSOs, three words recur: legitimacy, representativity and accountability. It may indeed be the case that a pressure group truly represents very few people and, though advocating public interest issues, is not meaningfully accountable to the public beyond its members. However, this does not necessarily mean that its legitimacy is impaired, and it should certainly not call into question its right to campaign. If such groups purport, falsely, to have a wider membership or deeper experience of the issue than they do, they are acting fraudulently and this does indeed impair their legitimacy. But if a small group energetically espouses a cause it passionately believes in, this is completely legitimate. It might be irresponsible of journalists or legislators to follow blindly or echo a case presented by such a group without checking the details, but such groups have an inalienable right, enshrined in international human rights law, to advocate their cause.

Democracy is *strengthened*, not weakened, when minority voices can be heard directly. NGOs, unions, protest movements and intellectuals can join the deliberative process directly. It is no longer necessary to prove that you were elected or have a large constituency before you can speak. Certainly there are pressure groups that punch well above their weight – either because of special authority in their field or their special communication pull. Some manage to get mass-media support on the basis of flimsy but sensationalist evidence.

Trade unions have mass memberships and people join because they *want* a union to represent them. Some NGOs also have mass member-

ships (such as environmental organizations), and churches similarly may have large congregations – but it is less clear that these members feel themselves to be represented by these entities. Likewise, the suffragettes 100 years ago didn't need to prove (by membership lists or democratic procedures) that they spoke for all women. Representativity isn't simply about speaking *on behalf* of a constituency. It is also about speaking with expertise on an issue – representing the *facts* – and being able to demonstrate the *support* of a constituency. More important than the number of members it can claim is the quality of the experience it wields, and the degree to which others in the field admire this expertise.

### A civil society agenda for ethical globalization

There is clearly a growing head of steam for a new departure. As the Nobel Prize-winning economist Amartya Sen (2000) says, “The real debate on globalization is, ultimately, not about the efficiency of markets, nor about the importance of modern technology. The debate, rather, is about the inequality of power, for which there is much less tolerance now than in the world that emerged at the end of the Second World War.” Equity of power, opportunity and resources is the cornerstone of what would be an ethical approach to the management of globalization. Civil society is the driving force – and has growing opportunity. Summits rarely happen these days without some involvement of CSOs, and these are no longer just optional extras after the important delegates leave. Heads of governments are keen to reach out to hear their citizens' voices. The prime minister of Belgium, Guy Verhofstadt, for example, convened a special conference in October 2001 to ensure that civil society concerns about globalization were heard. Political leaders increasingly seek to attend (or at least to demonstrate that they are tuned into) the annual World Social Forum, and it has become standard to invite numerous CSO leaders alongside political and corporate chiefs to the World Economic Forum.

The starting point for ethical globalization must be transparency. This implies a duty on the part of all transnational institutions to make available information about their programmes and *intended* programmes so that anyone affected will know what is coming and has a chance to voice their concerns. It also implies a duty of all governments to be open about their votes and the positions they take in international forums.

Civil society networks are helping to press this case, and are increasingly effective at winking such information out themselves (either through official channels or by “back-door” routes). And they are creating their *own* widely used, non-commercial new media channels to disseminate such information, thereby helping to demystify the processes of

globalization. They are also networking across national and sectoral divides in their advocacy. While not presenting an alternative to formal democracy, this is helping to introduce a set of global political values and norms and a new sense of accountability of those holding public office to a *global public*.

Participatory democracy knows many styles of engagement. Hence the future of contention is largely in the hands of the official institutions themselves. The more transparent they become, the more responsive they are to dialogue, the more confident CSOs will be in constructive engagement. But if they insist on secrecy and ignore groups who want to engage constructively, then we will see citizens' anger and street protests becoming all the stronger.

Until the world's leaders create respected global democratic institutions that *formally* connect citizens with the governance of global institutions, the *informal* and admittedly self-appointed accountability roles CSOs play in matters of global governance are the only route by which citizens come close to the levers of transnational power. Global civil society, by itself, is not *the* answer; but it is vital to making an answer *possible*. And this is needed all the more in the face of the mounting world polarization triggered by the Iraq war.

## Conclusion

Civil society has a profound impact on the governance of international institutions and the processes of globalization. The influence of CSOs in this respect is partly due to the deficiencies of democracy today that render large gaps in the mechanisms of accountability and civic engagement. CSOs provide both the information and the structures that enable citizens to engage with global institutions; and as a result the widening political and economic inequalities that have emerged during this period of rapid globalization have become more widely recognized and the subject of transnational campaigns. For such purposes, CSOs have learned and evolved to work transnationally, and in particular to focus on specific issues relating to globalization and global governance. There is a close parallel between the array of governance reforms they advocate and the reforms donors promote to their recipient governments. A key part of this process is the promotion of transparency, in particular through four sets of activities: demystifying the processes and institutions of global governance, extending the reach of those institutions to affected citizens, reforming information policies of the institutions and encouraging those institutions to become active advocates for transparency. A symbiosis is emerging between civil society and global institutions in promoting trans-

parency as the foundation of governance reform. However, there is a backlash against CSOs, as many resent their increasing influence on the global stage. Questions have surfaced about the legitimacy, representativity and accountability of CSOs themselves; questions that are important, but not difficult, to address. Finally, in promoting transparency and accountability of global institutions – rather than opposing globalization *per se* – CSOs are in effect starting to define a new agenda for the reformed management of globalization – for ethical globalization.

## Note

1. See [www.bicusa.org](http://www.bicusa.org).

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# International advocacy NGOs and network credibility in global governance and problem-solving

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International advocacy NGOs and networks (IANGOs) are playing increasingly important roles in global governance and problem-solving. Consider the following.

- Jubilee 2000 mobilized movements in both industrialized and developing countries to campaign for debt relief for highly indebted poor countries in the years leading up to the millennium. The campaigns eventually gained support from governments and intergovernmental organizations to produce policy changes that enabled significant reduction of debt for some of the poorest developing countries (Donnelly, 2002).
- Transparency International has campaigned to reduce the erosion of development work by corrupt practices. It has mobilized public opinion against corruption in many countries, fostered an OECD treaty to make international bribery illegal and fostered cross-sector collaborations to reduce the influence of corruption in critical problem areas, such as the Extractive Industries Transparency Initiative (Galtung, 2001).
- Small NGOs like Global Witness and Africa-Canada Partnership identified the links between human rights atrocities and the trade in illicit diamonds. They then partnered with larger NGOs like Amnesty International and Oxfam International to engage transnational corporations and national governments in the Kimberly Process to produce an international regulatory system that dramatically reduced the illicit trade (Smillie, 2007).

What does it take for civil society actors, such as the IANGOs, to become credible actors in transnational problem-solving and policy-making? This chapter examines the problem of credibility for civil society actors in transnational arenas, and suggests frameworks for understanding their legitimacy and accountability and how those attributes can be strengthened.

The issue of credibility is alive for many different kinds of institutions, including governments and businesses as well as civil society actors. The focus here is on civil society advocacy organizations, because they are emerging as important global actors and because their credibility is often subject to intense challenge by the targets of their advocacy activities.

## Credibility for IANGOs

Why have the issues of legitimacy and accountability become so salient in recent years? In part the rise of credibility concerns emerges from the nature of civil society organizations (Brown, 2008: 3–4). For example, civil society organizations (CSOs) are often organized around core values that underlie their missions and strategies and shape their day-to-day activities. Value-based organizations are particularly sensitive to challenges to their legitimacy, especially on value grounds. CSOs, and IANGOs in particular, often focus on supporting marginalized groups to participate in governance and problem-solving. That participation may challenge existing patterns and actors in decision-making and generate counterattacks to preserve the status quo. CSOs often serve multiple stakeholders rather than the accountability claims of well-defined primary stakeholders. While businesses are primarily accountable to owners and shareholders and democratic governments are primarily accountable to citizens and voters, the primary accountability of most CSOs remains unclear (Brown and Moore, 2001; Frumkin, 2002). IANGOs, for example, face accountability claims from constituents they represent, donors who provide support, regulators that certify their compliance with legal requirements, members who support their activities, allies in advocacy campaigns and advocacy targets that expect well-informed positions and arguments.

The rise of credibility concerns has also been driven by factors and events that are part of recent history (Brown, 2008: 4–5). There are, for example, widespread concerns about the legitimacy of many different institutions, not just civil society. Indeed, by some surveys CSOs are more trusted than governments or business, even though all those institutions have been declining in public trust for most of the last decade.<sup>1</sup> Questions have also been raised by cases of widely publicized misbehaviour by civil society actors, such as the mistaken analysis of the Brent Spar oilrig

by Greenpeace and the questionable real estate dealings of the Nature Conservancy. Critics of IANGOs have been quick to seize on problems that undermine IANGO credibility as advocates of the public interest. In part this reflects a third factor – the rise of IANGOs and other civil society actors as influential figures in global governance and problem-solving – that makes them more visible and, for some powerful actors, more important threats.

These historical developments and the challenges inherent in the nature of civil society actors have combined to pose significant credibility concerns to leaders of IANGOs.

## Defining credibility

*Legitimacy* refers to the appropriateness of and justification for an organization's existence and activities in the eyes of key actors in its environment, including the general public. *Accountability*, in contrast, refers to an organization's answerability for its performance to specific stakeholders. Accountability refers to specific claims that a stakeholder might make upon an organization, while legitimacy refers to more generally held perceptions and recognition of its relevance and appropriateness.<sup>2</sup> Attacks on IANGO legitimacy frequently accuse them of being “unaccountable” or “illegitimate”, and reflect the links between the concepts. Questions about accountability can undermine legitimacy, and questions about legitimacy may sometimes be answered by improving accountability.

## *IANGO legitimacy*

The legitimacy of social actors can be grounded in many factors that influence how much stakeholders and wider publics recognize their existence and activities as justified and appropriate. At least six bases have been articulated as potential sources of legitimacy for CSOs and networks:<sup>3</sup>

- *legal legitimacy* grounded in compliance with regulations and laws
- *normative legitimacy* from embodying and acting for shared values and norms
- *political legitimacy* from representing the interests of members or constituents
- *pragmatic/technical legitimacy* based on expertise, capacities and services
- *associational legitimacy* created by ties to legitimate actors or institutions
- *cognitive legitimacy* from fit with widely held expectations about the world.

The most common challenges to the legitimacy of IANGOs are that they are “unelected” or “unrepresentative”. Some IANGOs do base their legitimacy, at least in part, on representing constituents with a stake in the issue. The Jubilee 2000 campaign, for example, mobilized citizens in both industrialized and developing countries to support debt relief, and so drew on political legitimacy as a base.

Many other IANGOs, however, ground their legitimacy on other bases. Transparency International, for example, does not claim to speak for an organized and easily identifiable constituency. It rather claims legitimacy on the bases of its expertise and information, legislation that defines corruption as illegal, widespread values on honest dealing and its associations with key policymakers in many sectors. So its legitimacy is grounded in pragmatic/technical, normative, legal and associational bases. The IANGOs involved in the Kimberly Process brought new information about the impacts of the trade in illicit diamonds on populations subject to gangs trading in “blood diamonds”. They did not claim to represent those victims, but corporate and government participants knew that the IANGOs’ combination of pragmatic/technical, normative and associational legitimacy could be used to launch a consumer boycott of diamonds if necessary. The increasingly widespread publicity for the consequences of the blood diamond trade created a strong incentive to regulate them.

Assessing the legitimacy of a particular IANGO calls for examining its mission and values, and the bases on which it can claim legitimacy. In many situations this analysis may be stimulated by external attacks that may be grounded in distorted perceptions about the IANGO’s legitimacy claims, such as the assumption that political representation is the only basis for legitimate advocacy. Thoughtful leaders of IANGOs can clarify in advance of such attacks the most appropriate bases for their legitimacy claims, and so be prepared for challenges that distort the IANGO’s mission and values.

### *IANGO accountability*

The accountability of a CSO involves relationships with specific stakeholders to whom it is answerable for performance promises. Those relationships can be constructed in accordance with several models, including representative accountability, principal-agent accountability and mutual accountability.

*Representative accountability* emphasizes the obligations of representatives to their constituents (Behn, 2001; Walker, 2002; Weber, 2003). This model has roots in political theory and is often applied to public sector actors. IANGOs that are governed by elected officials who seek to carry

out the mandate of their constituents, such as Slum/Shack Dwellers International (SDI) or Women in Informal Employment, Globalizing and Organizing (WIEGO), offer representative accountability to their constituents. To the extent that external stakeholders recognize that representative accountability, the IANGO gains political legitimacy. In representative accountability, violations of constituent mandates can lead to electing new leadership or other sanctions.

*Principal-agent accountability* focuses on motivating agents to achieve the goals of their principals (Jensen and Meckling, 1976; see also Cutt and Murray, 2001). From this perspective, the major challenge is to design incentives that will keep the agent faithful to the principal's interests. Principal-agent accountability emphasizes the fiduciary responsibilities of agents and contractual definitions of economic and legal incentives that encourage agents to act for their principals. If Transparency International agrees to use World Bank funds to develop an anti-corruption programme, for example, the agreement can specify the performance that the Bank expects in return for its funding. When funders contract with IANGOs to deliver programmes, they may require financial reporting and performance measures to make sure that promised results are delivered.

*Mutual accountability* develops compacts that bind members through shared values, aspirations and relationships of trust (Behn, 2001; Weber, 2003; Ospina, Diaz and O'Sullivan, 2002; Ashman, 2001). The parties to mutual accountability define shared goals and "buy in" to responsibility for achieving them. Relationships and trust become critical to implementing shared analyses and plans (Brown, 2007). While the cross-sector accountability in the Kimberly Process was largely based on contractual agreements and agency relations, the alliance among the civil society participants was based more in shared goals, relationships of reciprocity and trust, and mutual accountability.

Table 4.1 summarizes differences among these underlying models. CSOs use different models of accountability with different stakeholders: donor relations often depend on principal-agent contracts; relations with constituents may be shaped by representative mandates; and relations with allies may depend on mutual accountability to compacts grounded in histories of trust and cooperation. Using different models can create confusion, both among CSO staff who are not sure which criteria to apply and among stakeholders who have diverse expectations. These issues make active discussion and explicit negotiation of expectations an important aspect of using mixed models of accountability.

For any of these accountability models, a core question is "Who is accountable to whom, for what and how?" CSOs have to identify and prioritize among many stakeholders with accountability claims to answer

Table 4.1 Models of accountability relationships

	Representative	Principal/agent	Mutual
Status of parties	Constituents most important	Principal most important	All parties important
Influence relationship	Representative acts for constituent	Agent is subordinate to principal	Mutual respect, trust and influence
Desired outcomes	Defined in general by constituents; specifics by representative	Defined primarily by principal; agent gets compensation	Defined by shared values and problem definitions
Transparency	Representative open to constituents	Agent is open to principal	Parties are open to each other
Source of incentives and sanctions	Political support Media publicity Regulator oversight	Legal and economic Courts enforce contracts	Social and moral Peer networks enforce

Source: Brown (2008: 38).

the “to whom” question; they have to define measures of performance and negotiate expectations with stakeholders to answer the “for what” question; and they have to construct communications and feedback systems by which stakeholders can learn about and sanction performance to answer the “how” question. Analysts have suggested that the key mechanisms include participation, transparency, evaluation and complaints and redress mechanisms that enable stakeholders to negotiate expectations, see results, assess impacts and hold the organization accountable (Blagescu, 2004).

## Sources of legitimacy and accountability standards

Decisions about accountability standards may occur at quite different levels of analysis (Brown and Moore, 2001; Brown, 2008). In some cases standards are set at the *societal level* by government legislation and regulation, or by the articulation of widely held values and expectations. Government laws about registration and audits or public expectations about appropriate CEO salaries can set standards whose violation will undermine the organization’s legitimacy. Other standards may be created and enforced at the *domain level* by communities of organizations that negotiate shared expectations for appropriate behaviour. The Sphere standards for international relief organizations define appropriate practices from the experience of multiple organizations in the same domain. Still

other standards may be set at the *organization level* by strategic choices of leaders that balance the diverse accountability expectations presented by organizational missions, values, strategies and stakeholders. While civil society leaders sometimes do not recognize their choices about responding to accountability pressures, they often in fact have substantial flexibility to decide how they balance those demands.

The process by which standards are set also varies considerably across issues and challenges. In some cases, standards can be set by administrative decision and enforced in terms of “rule-based accountability”. Accounting standards, for example, are defined by expert decision and enforced uniformly across many organizations and contexts. Other standards need to be tailored to particular situations and applied in terms of “negotiated accountability”. Performance standards in complex and ambiguous settings, for example, may be constructed by discussions among the parties that produce shared expectations for results that are tailored to particular circumstances and capacities. Such standards are constructed by political and social debates and discussions rather than by administrative application of general rules (Morrison and Salipante, 2007).

In arenas where few societal standards have been set by government regulations or widely held public values, domain negotiations and organizational strategic choices can become critically important sources of credibility standards. The international arena, for example, has few commonly accepted institutions and widely authorized decision-makers that can set standards, particularly in the arenas characterized by few governance institutions and poorly understood problems. Many IANGOs conduct advocacy campaigns in just such loosely governed and poorly understood arenas, where struggles over emerging problems and challenges – such as international debt relief, reducing corruption in business dealings or interrupting links between illicit diamonds and human rights violations – require the creation or recreation of standards and systems. Organizational strategic choices and negotiated domain standards offer possibilities for evolving and testing new responses that can become international norms and rules. The processes of social and political construction of new standards may be more important than the use of expertise and administrative decisions for such contextually diverse and rapidly changing challenges.

## Enhancing IANGO credibility

At least three approaches to enhancing IANGO credibility have emerged from debates and innovations in practice over the last decade: clarifying how IANGOs comply with existing standards of legitimacy; constructing

and using improved accountability systems; and constructing new standards of legitimacy and accountability in response to emerging problems.

### *Clarifying compliance with existing standards*

When questions are raised about the legitimacy of IANGOs, one response is to show how they comply with existing standards of legitimacy. Demonstrations of compliance require that the IANGO should first *clarify the grounds for its claims to legitimacy*. Responding to questions about “Whom do you represent?” and challenges to political legitimacy makes little sense if the IANGO bases its legitimacy on technical/pragmatic grounds, such as its expertise, or normative grounds, such as action on behalf of widely held values. The criticism that Oxfam International was an “unelected” actor in the Cancun WTO negotiations reflects the assumption that its legitimacy is based on political representation rather than on technical expertise. Failure to clarify bases for legitimacy can subject the IANGO to justifying its activities on grounds selected by critics but inappropriate to its mission and strategy.

A second element of clarifying compliance is to *identify and comply with relevant existing standards*. IANGOs can comply with existing legal and regulatory expectations, follow national and international regulations governing registration and financial reporting for legal legitimacy and match their organization and practices to widely held expectations for cognitive legitimacy. When Oxfam International publishes annual reports and audited financial statements, it demonstrates compliance with national and international legal expectations. When Transparency International prohibits active political figures from leading its national branches, it reduces the likelihood of actual and perceived political manipulation of its national and international reform campaigns. When IANGOs operate in highly regulated arenas or areas in which public values and judgements are well developed, they are vulnerable to legitimacy challenges when they do not comply with key regulations, values and expectations.

Compliance alone may not be enough. A third element of clarifying compliance with existing standards may be *informing stakeholders and the public about that compliance*. For many IANGOs, websites and annual reports are important vehicles for making information widely available about their goals and values and how their activities fulfil their claims to legitimacy. Engaging in advocacy may in itself help to inform wider audiences about the IANGO and its claims to legitimacy: when Jubilee 2000 mobilized tens of thousands of demonstrators to ring the G8 meetings in the United Kingdom in the service of debt relief for poor countries, it demonstrated in a very visible way that it represented concerns of a significant segment of the voting public. Sometimes

information about legitimacy standards and IANGO activities can be provided as part of a wider public education initiative: when an *Economist* article denigrated social and cultural rights as not real “human rights”, Amnesty International criticized inaccuracies in the article directly to the editorial board, but it also mobilized comments from a wide range of experts on the Amnesty website – in the process informing wider publics about broader definitions of rights and its own initiatives to support them. Active efforts to inform and influence key stakeholders about legitimacy bases and claims are often central to creating and maintaining legitimacy with wider publics.

A fourth element in clarifying compliance with existing standards is to *build associations with individuals, practices and institutions widely regarded as legitimate*. In some cases legitimacy can be enhanced by adopting systems and structures that are widely recognized as appropriate to such organizations. Most IANGOs, for example, have created international boards to supervise their secretariats, so demonstrating that their governance arrangements conform to wider international practice. Recruiting advisers and board members who are widely known and respected is also common: Transparency International’s advisory board includes 10 former national presidents and prime ministers as well as a number of CEOs of transnational corporations and foundations. Such associations lend legitimacy to the organization, even if those advisers have relatively little to say about its activities and impacts.

Clarifying the IANGO’s compliance with existing standards of legitimacy is often a response to criticism or anticipated questions about the appropriateness of and justifications for its role and activities. This approach to legitimacy challenges puts a premium on the organization’s capacity to articulate its bases for legitimacy and convey to wider publics how its existence and activities are consistent with those bases.

### *Constructing accountability systems*

A second general approach to building IANGO credibility is to construct accountability systems that enhance the capacity of various stakeholders to hold the organization accountable. Accountability systems define “who is accountable to whom, for what and how”.<sup>4</sup> Creating such systems requires assessing the IANGO missions, strategies and stakeholders in order to articulate accountability aspirations, and then constructing systems for negotiating expectations and evaluating performance so that stakeholders can create consequences for good and bad performance.

*Assessing accountabilities* for CSOs is often challenging when so many diverse stakeholders may have accountability claims. Even when the answer to the “who is accountable?” question is clear, answers to the “to

whom?” question may be multiple and contested. Assessing accountability involves articulating the IANGO’s mission, goals and strategy in order to identify which stakeholders have mission-based claims to some degree of accountability. Should Oxfam International be accountable to donors, poor constituents, government regulators, campaign allies and/or its own staff? If the organization is not to be overwhelmed by accountability claims, it may have to prioritize among identified stakeholders. Such priorities can be developed by applying legal, moral and prudential criteria to establish which stakeholder claims will receive more or less attention. Given a map and priorities for stakeholders, IANGOs can identify current or possible challenges to their accountability and articulate aspirations for what an improved accountability system might accomplish.

Given an assessment of accountability needs and aspirations, *constructing an accountability system* involves negotiating performance expectations with high-priority stakeholders, developing shared indicators of performance, communicating results and enabling stakeholders to impose performance consequences, and building organizational capacity to support the accountability system in the future. A number of IANGOs are experimenting with different forms of accountability systems. ActionAid International, for example, has created an accountability, learning and planning system that dramatically expands the role of communities served by its programmes to participate in assessing and learning from them. Oxfam Great Britain now publishes an “accountability report” that details its accountabilities and how they are being met. The challenges of building a credible accountability system are particularly thorny for organizations like IANGOs that seek to influence long-term policy formulation and enforcement at the international level, where events take place over long periods of time and are subject to a wide range of influences. While it is clear that the Kimberly Process has reduced the trade in illicit diamonds, it is much less clear what role any single organization has played in that reduction, since dozens of actors have been active in shaping and implementing the regulation process.

Enhanced *accountability systems have multiple uses*. The construction and use of an accountability system may enable the IANGO to enhance its legitimacy and support by answering questions about accountability. The performance information generated by the system may also be used to enhance operational capacity by enabling programme learning and improvement. It may also be used to enhance strategic choices about value creation and the positioning of the IANGO in a rapidly changing context. As Oxfam International has assessed the impacts of its transnational trade campaigns, for example, it has learned that early plans for six-month campaign operations greatly underestimated the time needed for many campaigns, and that for transnational campaigns to have benefits

for grassroots groups might require integration with improved national policies and institutions as well. So accountability systems can contribute to strategic and operational learning as well as to enhancing IANGO credibility with key stakeholders.

### *Constructing new standards*

A third general approach to enhancing credibility is to construct new standards that are appropriate to changing circumstances or emerging problems for which existing standards are inappropriate or actively harmful. The standard of “sound science” as a test for regulating pollutants, for example, was challenged as creating delays in regulation that could have catastrophic environmental consequences, and the alternative standard of the “precautionary principle” was introduced after considerable debate to enable quicker response to dangerous situations (Maguire and Hardy, 2006). Such new standards and institutions may emerge from actions that highlight problems with existing standards, which may generate arguments for alternatives that can be combined into new discourses that integrate past and present arguments, which in turn produce institutional innovations that shape future actions. The creation of new standards and institutions often involves a cycle of identifying problems, articulating options for solving them, integrating alternative discourses to reframe the issues and creating new standards and institutions from those evolving discourses.<sup>5</sup>

IANGOs are often central to the *identification of problems with existing standards*. Recognizing the impacts of existing policies and practices on their stakeholders, particularly poor and disenfranchised groups, is central to many IANGO missions and goals (Brown and Timmer, 2006). In the Kimberly Process, two small NGOs published analyses that uncovered the links between human rights atrocities and the trade in illicit diamonds. Similarly, Transparency International challenged the existence of corruption in international business at a time when many thought it was an inevitable part of “the way things are”. Its campaigns have led to widespread publicity about perceived corruption levels and a variety of national reform movements. Given their interest in the problems of impoverished and marginalized groups, IANGOs are well positioned to identify problems that might otherwise pass unnoticed. The victims of the trade in illicit diamonds had little voice or visibility with the major actors in the trade, and the victims of “inevitable” corruption may be entirely unaware of its existence.

IANGOs are often positioned to *articulate arguments for alternatives*. They may have wider experience and perspectives than actors who are caught up in existing arrangements, and they have commitments to im-

proving the lot of marginalized participants who are harmed by them. Transparency International has proposed a variety of approaches to reduce corruption, from treaties making bribery illegal to national reform programmes, publishing rankings of perceived national corruption and international regulatory regimes like the Extractive Industries Transparency Initiative. IANGOs in the Kimberly Process made the case for regulation of the diamond trade as a way to reduce the flow of munitions to support criminal gangs masquerading as opposition movements. They also raised the possibility that the diamond industry might be seriously harmed by boycotts of “blood diamonds”. Arguments against the status quo or existing standards create the possibility of constructing new discourses in place of existing frames and expectations.

*Creating new discourses involves challenging existing frames and building new ones* that respond to new arguments and experience. In some cases a new discourse may completely overturn the paradigms on which existing institutions are based; in others a synthesis of old and new discourses creates the basis for new standards and institutions. Transparency International’s early engagement with the OECD nations emphasized the corrosive effects of corruption on resources allocated for development and generated a discourse about ending implicit and explicit support for corruption in industrialized country legal systems. IANGOs in the Kimberly Process helped construct a discourse about the necessity of regulation to protect the diamond trade from the taint of “blood diamonds”. The creation of alternative discourses is often a contentious process, particularly when proposed alternatives affect the interests of powerful actors. National governments and transnational corporations initially resisted the proposals of IANGOs in both the transparency and the diamond trade discussions, but it gradually became clear that the costs of continued resistance might be significantly higher than those of creating new regulatory systems.

The articulation of new discourses provides bases for *creating new standards and institutions* for managing critical issues. Transparency International encouraged the creation of an OECD treaty that made corruption in international business dealings illegal for corporations from all OECD countries – a significant change for countries in which businesses had taken legal tax deductions for bribes paid to get new business. The treaty in essence created a more level playing field among corporations from those countries. More recently Transparency International has worked to create standards and systems that reduce temptations for government and corporate corruption through increased transparency about payments from extractive industries. The Kimberly Process created institutions to regulate the diamond trade that have reduced the estimated illicit share of the trade from 15 per cent to less than 1 per cent. New

standards and institutions shape new actions, which may in turn set off a new cycle of problem identification, argument articulation and discourse development.

The construction of new standards and institutions is a difficult process, often involving many different stakeholders across national boundaries and societal levels. But when novel problems emerge in contexts without clearly authorized policymakers, the renegotiation of standards and institutions among stakeholders can be essential to problem-solving. Studies of the management of environmental risks, large dam construction and many other problems suggest that multi-stakeholder negotiations, often involving civil society actors like IANGOs, may be central to effective transnational action (Social Learning Group, 2001; Khagram, 2005: 230–231; Rischard, 2002).

To return to the question of IANGO legitimacy, it is worth noting that the civil society actors in the corruption and diamond trade campaigns could not claim political legitimacy as representatives of affected constituents. The victims of the illicit diamond trade were impoverished, disenfranchised and unable to organize themselves to influence the events that led to the human rights abuses. The victims of corruption were widely diffused and often not aware of the illicit and secret transactions that diverted funds intended to support development interventions. Imposing a strict “representation” test for IANGO legitimacy would have ended the campaigns against corruption and blood diamonds before they started – campaigns that have now mobilized national governments, transnational corporations and intergovernmental organizations to solve widely recognized transnational problems.

## Civil society organizations and global governance debates

CSOs are playing important roles in a number of global governance debates. Technological changes, environmental limits, expanding populations and growing global interdependence are increasing the demand for rapid social learning and innovation to deal with emerging problems that cannot be easily managed by existing discourses, paradigms and institutions. Civil society actors may have much to add to the multisectoral debates, conceptual breakthroughs and institutional innovations required by these social learning and institutional renegotiation processes. They may be particularly important as problem identifiers, issue amplifiers, enablers of grassroots voice, builders of bridges among diverse stakeholders and evaluators of problem-solving success or failure.<sup>6</sup>

Their success will depend in substantial part, however, on their ability to create and sustain widespread credibility as actors in the public inter-

est. If they can be discredited as illegitimate and unaccountable, their roles in global governance debates will be greatly reduced. So attention to the issues of legitimacy and accountability – whether by clarifying compliance with existing legitimacy standards, creating accountability systems or constructing new standards and institutions – will be vital to their future roles. In this context the initiative of an alliance of IANGOs across a wide range of advocacy issues to construct a Charter of Accountability for international NGOs is an important event.<sup>7</sup> The charter is designed to be consistent with the wide range of national accountability expectations and at the same time to create standards and implementing institutions by which its signatories can be held accountable. The charter secretariat is working with the Global Reporting Initiative to construct reporting requirements that are analogous to the “triple bottom line” (financial, environmental and social measures) that is being adopted by a wide range of actors. The Global Reporting Initiative is creating an “NGO Supplement” that will be validated in a multi-stakeholder process and updated as needed by shifting contexts and evolving roles of civil society actors.

Civil society participation in global governance debates is also creating new institutional forms for dealing with complex problems. The Kimberly Process and the Extractive Industries Transparency Initiative are both cross-sector systems that mobilize the resources of civil society, business and government to work on problems that would be hard to resolve without their combined capacities. Social learning and governance in the global arena may be increasingly dependent on the capacity of civil society and other actors to convene diverse stakeholders, build consensus on new ideas and discourses, organize new institutions and actions across sectors and learn from experience to craft appropriate responses to transnational challenges.

In addition to their influence on particular global governance issues and institutions, civil society actors can also contribute to shaping global legitimacy and accountability standards. IANGOs have been forced to attend to their own credibility because they raise questions about the legitimacy and accountability of other transnational actors, from national governments to transnational corporations to intergovernmental organizations. Responses from those targets have raised questions about the credibility of their IANGO challengers in turn. In these debates, there is potential for all the parties to raise their own and others’ standards for living up to the best of their stated missions and goals. The debate over legitimacy and accountability in part reflects a multisectoral “credibility crisis” that affects many sectors and organizations. The evolution of the credibility discourse can enhance many standards and institutional arrangements in a transnational arena that can benefit greatly from those changes.

## Notes

1. See Globescan data, available at [www.globescan.com/rf\\_ir\\_first.htm](http://www.globescan.com/rf_ir_first.htm).
2. See, for a more detailed discussion of these differences, Brown (2008: Chapter 3).
3. This analysis draws on syntheses of the literature on legitimacy for private sector organizations by Suchman (1995); for public agencies by Brinkerhoff (2005: 1–16); and for civil society actors by Brown (2001) and Jacobs, Jepson and Nicholls (2006). For a discussion of the institutional aspects of legitimacy see Scott (1995: 45).
4. See Brown (2008: Chapters 3 and 4) for a detailed discussion of assessing accountability and constructing accountability systems.
5. See, for a discussion of the relationships among discourses and institution-building, Phillips, Lawrence and Hardy (2004).
6. For an analysis of civil society roles in transnational social learning see Brown and Timmer (2006).
7. See Brown (2008: Chapter 6); see also the charter's website for more detail, available at [www.ingoaccountabilitycharter.org/](http://www.ingoaccountabilitycharter.org/).

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## Part II

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# Legal empowerment, norms and capacity of civil society

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## 5

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## Civil society and the challenge of changing power relations between the poor and the élite

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*Naresh Singh*

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### Introduction

This chapter addresses a well-recognized but much-avoided subject, that of changing power relations between those who have and those who do not, and the roles of civil society organizations (CSOs) in doing so. While locating this debate in the context of state-society relations, and recognizing that without state engagement and support lasting change will be elusive, this chapter seeks to identify a concrete agenda for action which demands changes in laws and market arrangements and a leadership role for membership-based organizations. The recent report of the UN Commission on Legal Empowerment of the Poor (CLEP, 2008) provides an excellent working agenda as a basis for these discussions. This agenda seeks to use the law as the instrument of empowering the poor, but provides a broad enough canvas for a comprehensive examination of the roles of CSOs in transforming power relations, covering as it does transformations in the domains of property rights, labour rights, business rights, access to justice and the fostering of a climate of the rule of law. These domains cover all aspects of the livelihoods of the poor, as will be described below. In addition it provides a welcome departure from welfare and trickle-down approaches to poverty eradication. One of the greatest impediments to successful CSO action in challenging power relations is agreement on a concrete agenda for action. As such, this agenda – the result of widespread global and national consultations involving CSOs and states – will be taken as the basis for discussion on the roles of CSOs in transforming power relations.

Most current and past poverty reduction strategies were designed on the basis of economic growth and trickle down or on redistribution. Governments were supported to enhance their capacities to provide public goods and services, including health, education, security and stability, and a macroeconomic environment to stimulate growth and investment. This continues to be necessary, but is not sufficient. More equitable distribution of opportunities for participation of the poor in growth has been hoped for, but remains largely unrealized because of structural and institutional arrangements which have not been working for the large majority of people, most of whom have had to seek refuge in the informal sector to eke out a living. In short, while public poverty (shortages in public goods and services) requires continued attention, much greater attention needs to be given now to addressing the structural and institutional arrangements which exclude the majority of people in poor countries from the economic, social and political life of their countries and incapacitate them from getting themselves out of poverty.

The livelihoods of the poor (as for the non-poor) are based on the activities, assets and entitlements available to them, which they can use to get themselves out of poverty. Activities include working for an employer (labour) or for oneself (entrepreneurship). Assets include human, social, natural, physical and economic capital, and the relationship between the owner and the asset is referred to as property rights. Entitlements are used in this context to refer to freedoms and public goods and services based on equitable access to justice and the rule of law. An agenda for legal empowerment of the poor can therefore be developed on the basis of labour rights, legal instruments for entrepreneurship, property rights and access to justice and rule of law. Legal empowerment is about the transformations in structures, institutions and processes which are necessary for the poor to have greater control of the factors influencing their livelihoods. Its goal is to ensure that legal protection and economic opportunity are the right of all and not the privilege of a few. Action is therefore guided by the twin goals of protection and opportunity, and is accordingly anchored in the human rights and market-based approaches to development.

Since the majority of the poor and excluded make their livelihoods in the so-called informal economy, special attention is being directed to this phenomenon, with the clear recognition that the formal and informal are not separate entities – one is always present in the other, and in many countries the informal appears as the norm. The goal of the legal empowerment agenda is not technical formalization of the informal, but the systemic legal and political transformations required so that the poor and all others can use the instruments of the law to reduce poverty and create wealth and prosperity.

The next section presents a brief summary of the agenda for legal empowerment of the poor and provides the basis for the discussion of the roles of CSOs in the sections which follow. The subsequent sections cover *setting the stage for CSO action*, which analyses the preconditions for successful action; *towards an action framework*, which offers an analysis of various actors, their influences and relationships; and *taking action*, which gets down to practical considerations.

## Empowering the poor: The legal empowerment agenda

As mentioned above, this agenda is based on the four pillars of access to justice and the rule of law, property rights, labour rights and business rights.

### *First pillar: Access to justice and rule of law*

First among rights is that which guarantees all others: access to justice and the rule of law. Legal empowerment is impossible when, *de jure* or *de facto*, poor people are denied access to a well-functioning justice system. Where just laws enshrine and enforce the rights and obligations of society, the benefits to all, especially the poor, are beyond measure. Ensuring equitable access to justice, though fundamental to progress, is hard to achieve. Even if the legal system is technically inclusive and fair, equal access to justice can only be realized with the commitment of the state and public institutions. Legal empowerment measures in this domain must:

- ensure that everyone has the fundamental right to legal identity, and is registered at birth
- repeal or modify laws and regulations that are biased against the rights, interests and livelihoods of poor people
- facilitate the creation of state and civil society organizations and coalitions, including paralegals who work in the interests of the excluded
- establish a legitimate state monopoly on the means of coercion, through, for example, effective and impartial policing
- make the formal judicial system, land administration systems and relevant public institutions more accessible by recognizing and integrating customary and informal legal procedures with which the poor are already familiar
- encourage courts to give due consideration to the interests of the poor
- support mechanisms for alternative dispute resolution
- foster and institutionalize access to legal services so that the poor will know about laws and be able to take advantage of them

- support concrete measures for the legal empowerment of women, minorities, refugees and internally displaced persons and indigenous peoples.

### *Second pillar: Property rights*

Ownership of property, alone or in association with others, is a human right. A fully functioning property system is composed of four building blocks: a system of rules that defines the bundle of rights and obligations between people and assets, reflecting the multiplicity and diversity of property systems around the world; a system of governance; a functioning market for the exchange of assets; and an instrument of social policy. Each of these components can be dysfunctional, operating against the poor. When the system functions fully, it becomes a vehicle for the inclusion of the poor in the formal economy, and a mechanism for their upward social mobility. When the entire system or a single component is dysfunctional, the poor are deprived of opportunity or discriminated against.

As reforms of property rights are inherently risky, full attention should be paid to securing the rights of the poor. Women, who constitute half the world's population, own only 10 per cent of the world's property. Indigenous people and others also experience active discrimination. To ensure group rights, imaginative legal thinking is required. Providing the absolute poor with rights and access to assets means direct social interventions.

To be fully productive, assets need to be formally recognized by a system encompassing both individual and collective property rights. This includes recognition of customary rights. Embodying them in standard records, titles and contracts, in accordance with the law, protects households and businesses. Evictions should only be an option in circumstances where physical safety of life and property is threatened, where contract agreements have been breached or under fair eminent domain procedures. Eviction must be by due legal process, equally applicable, contestable and independent, and where the cost of eviction is fully compensated. Property rights, including tenure security, should not only be protected by law, but also by connecting the property of the poor to wide societal interest (by increasing the range of validation of their tenure security). The possibility is opened for the poor to use property as collateral for obtaining credit, such as a business loan or a mortgage. It encourages compliance by attaching owners to assets, assets to addresses and addresses to enforcement – that is, making people accountable. As such, property reform can strengthen access to legal identity and justice. Property records unify dispersed arrangements into a single legally compatible system. This integrates fragmented local markets, enabling businesses to seek new oppor-

tunities outside their immediate vicinity, and putting them in the context of the law where they will be better protected by due process and association of cause. Legal empowerment measures in this domain must:

- promote efficient governance of individual and collective property in order to integrate the extra-legal economy into the formal economy and ensure it remains easily accessible to all citizens
- ensure that all property recognized in each nation is legally enforceable by law and that all owners have access to the same rights and standards
- create a functioning market for the exchange of assets that is accessible, transparent and accountable
- broaden the availability of property rights, including tenure security, through social and other public policies, such as access to housing, low-interest loans and the distribution of state land
- promote an inclusive property rights system that will automatically recognize real and immovable property bought by men as the co-property of their wives or common-law partners.

### *Third pillar: Labour rights*

The poor may spend most of their waking hours at the workplace, barely surviving on what they take from it. But labour is not a commodity. In the same way that property and the physical assets of the poor are recognized, so must the greatest asset of the poor – their labour and human capital – be effectively recognized. The legitimacy, even the acceptability, of the economy depends upon basic labour rights, as does the development of human capital necessary for sustained growth. In turn, the continuous improvement of labour and social rights depends on a successfully functioning market economy. The typical and tired pattern of low productivity, low earnings and high risks must be replaced by the fulfilment of the Declaration of Fundamental Principles and Rights at Work<sup>1</sup> and the Decent Work Agenda, and the strategy to provide protection and opportunity to workers in the informal economy, a coalition described as an emerging global social contract. Here is how:

- respect, promote and realize freedom of association so that the identity, voice and representation of the working poor can be strengthened in the social and political dialogue about reform and its design
- improve the quality of labour regulation and the functioning of labour market institutions, thereby creating synergy between the protection and productivity of the poor
- ensure effective enforcement of a minimum package of labour rights for workers and enterprises in the informal economy that upholds and goes beyond the Declaration of Fundamental Principles and Rights at Work

- increase access to employment opportunities in the growing and more inclusive market economy
- expand social protection for poor workers in the event of economic shocks and structural changes
- promote measures that guarantee access to medical care, health insurance and pensions
- ensure that legal empowerment drives gender equality, thus meeting the commitments under ILO standards that actively promote the elimination of discrimination and equality of opportunity for, and treatment of, women, who have emerged as a major force in poverty reduction in poor communities.

#### *Fourth pillar: Business rights*

The poor are entitled to rights, not only when working for others but also in developing their own businesses.<sup>2</sup> Access to basic financial services is indispensable for potential or emerging entrepreneurs. Just as important is access to protections and opportunities such as the ability to contract, to make deals, to raise investment capital through shares, bonds or other means, to contain personal financial risk through asset shielding and limited liability, and to pass ownership from one generation to another. These rights may not be equally relevant to every entrepreneur, but they are instrumental in poverty eradication and economic development. They must be accessible to all the many micro, small and medium enterprises in the developing world – many operated by women – that employ a large portion of the labour force. The success or failure of this economic sector will often spell the difference between economic progress versus stagnation, increased employment versus widespread joblessness, and creation of a broader society of stakeholders versus deeper inequality leading to a weakened social contract. Legal empowerment measures in this domain must:

- guarantee basic business rights, including the right to vend, to have a workspace and to have access to necessary infrastructure and services (shelter, electricity, water, sanitation)
- strengthen effective economic governance that makes it easy and affordable to set up and operate a business, to access markets and to exit a business if necessary
- expand the definition of “legal person” to include legal liability companies that allow owners to separate their business and personal assets, thus enabling prudent risk-taking
- promote inclusive financial services that offer entrepreneurs in the developing world what many of their counterparts elsewhere take for granted – savings, credit, insurance, pensions and other tools for risk management

- expand access to new business opportunities through specialized programmes to familiarize entrepreneurs with new markets and help them comply with regulations and requirements, and to support backward and forward linkages between larger and smaller firms.

## Setting the stage for CSO action

To kick-start as controversial and deep-seated a change as legal empowerment – an approach that threatens many vested interests – the positive role of national political leadership cannot be overstated. Pursuing a particular policy, such as expanding access to justice, requires a handful of leaders who agree on what the problem is and how to solve it. Some of these individuals may emerge as *policy champions* who drive reform forward by marshalling a broader coalition for change within government, and by overcoming objections and obstacles.

Before proceeding very far with legal empowerment activities, a contextual analysis must be done to establish what reforms are most in demand and which have the greatest likelihood of success. Such an analysis would also give guidance to the implementation process, and tell reformers which risks need to be mitigated and which challenges must be addressed. This improves the likelihood of success. The focus should be on social and cultural factors potentially affecting implementation, on the economic context – which can also both help and hinder – and on the openness and capacity of the state. Supplementing the inventory of these concerns should be a careful analysis of the reach and hold that informal institutions have on the poor. The full contextual analysis is the basis for a feasibility review of various empowerment scenarios.

The distribution of power and wealth also matters for legal empowerment. If ownership of land, capital and other productive assets is highly concentrated, reformers have to be cautious about regularizing the system of economic rights. Entrenching existing inequalities in ownership will negate the value of reform for the poor and can even lead to further marginalization. On the other hand, perpetuating exclusion from formal ownership due to unequal distribution of land and other assets may be an even worse option. Judgement must be married to context.

Legal empowerment will in some cases also create policy “losers”. One example is redistribution of a right or benefit from one group of stakeholders to another when there are mutually exclusive claims to a fixed resource such as fertile land or minerals. Landlords, shopkeepers, moneylenders and other local élites may see a threat from disenfranchised people exercising new rights or reviving latent ones. Professionals may also have a stake in maintaining the disempowering status quo, such as

lawyers who would lose out if laws were translated into everyday language or if inexpensive means of conflict resolution spread. Policy-makers may endeavour to minimize redistributive conflicts by expanding economic opportunities so that different interests can be negotiated to meet the needs of every side, but plenty of potential for confrontation remains as long as important stakeholders believe others' gains come at their expense. This may be linked to the fact that the mutual pay-off to legal empowerment is in the future, and not now.

Resistance may also come from government officials, court officers and others who interpret and administer laws, statutes and regulations. Permits, business licences, tax assessments and the like are sources of power and potential illegal income through bribes, kickbacks and other “rent-seeking” behaviour. Government officials who gain from these legal instruments may sabotage reform. Where possible, they should be given positive incentives to support legal empowerment policies instead of resisting them – for example by offering civil servants promotions, interesting new responsibilities, training opportunities or other perquisites if they help with implementation.

Instead of trying to block reforms outright, powerful economic actors may subtly manipulate them to their advantage – a phenomenon known as “élite capture”. In many countries, for example, speculators pre-empt prospective titling programmes by buying up land from squatters at prices slightly higher than prevailing informal ones. Squatters benefit in the short term, but miss out on the main benefits of the titling programme, which accrue to the people with deeper pockets. The sequential and conditional release of funds is one strategy for countering the persistent problem of élite capture.

Collective counteraction by the poor, to secure their rights in the face of resistance, is difficult. Even if potential policy losers are a minority, such as a handful of large landholders or government bureaucrats, they will tend to organize effectively to defend their vested interests. Prospective winners may not be aware of what they might gain, and may rightly fear that they will lose out if change does not happen quickly. Hence mobilization of allies and supportive stakeholders, and finding ways to manage the critical ones, are fundamental. Success is most reliably won when one delivers measurable and meaningful benefits to the beneficiaries.

## Towards an action framework

To enhance the chances of effective involvement and success, a framework for understanding the opportunities, challenges and limitations of the roles of CSOs will be outlined in this section, followed by an analysis

of who can best become involved in what and how to do so. At its core the empowerment agenda requires changing the power relations between those who have and those who don't, those who are able to use the law to their benefit and those who are not, those who are able to generate immense wealth and those who cannot – in other words to help the excluded gain greater control of the factors influencing their lives and livelihoods in the face of severe opposing vested interests. The role that CSOs will be called on to play will be very different from providing health or educational services or microfinance to the poor. Their role will be more defined by social movements, political contestations, social mobilization and building the capacity of the poor and excluded to struggle for and use their legal rights to get themselves out of poverty. And they will have to play these roles without being outlawed by the state or silenced by the élite.

We can derive a useful analytical action framework by considering a societal situation in which large numbers of people are not able to use the law to make their living as the field of contestation. This situation can be rural or urban, and is the typical situation of most developing countries with large numbers of people living in poverty in the informal sector. The two basic challenges are that the playing field is not level and the rules are not fair. Both are stacked against the poor. On the field are four arenas of action: the state with a given set of actors (individuals and organizations), institutions (rules of the game), goals and motivations; the market with its actors, institutions and logic; formal civil society with its actors, institutions, goals and motivations; and informal civil society (or fourth space) in which activities are more spontaneous, accidental, short-lived and chaotic, but which at the same time gives a survival space for large numbers of the population. This fourth space has its own internal actors, institutions, goals and motivations, but can also have powerful outside actors who have significant influence in this arena. Games are played within each arena and between one or more arenas at the same time. It is in this complex situation that the CSO with an interest in legal empowerment of the poor must develop its game plan, identify its potential supporters and opponents, know its comparative advantages, forge strategic partnerships, define its short-, medium- and long-term goals, chart its strategic pathways and assess its risks and strategies for mitigation.

The crucial factors underlying this framework are power relations and their influence on CSO roles. Some political analysts see civil society in three ideological camps: conservative, liberal and radical. Conservatives see the role of CSOs as advancing freedom towards democracy and economic progress, liberals see them as a countervailing force against an unresponsive and corrupt state and exploitative corporations, and for the radicals they are a repository of the forces of resistance and opposition,

forces that can be mobilized into a counter-hegemonic bloc or a global anti-globalization movement. In practice most of today's development-oriented NGOs are contracted by international organizations and governments to supplement government efforts at providing services to the poor, to foster the neoliberal paradigm and to take the place of collective social movements and their confrontational politics which seek to change power structures rather seeking accommodations within it (Veltmeyer, 2007). Howell and Pearce (2001) concluded that "Donor civil society strengthening programmes, with their blueprints, technical solutions, and indicators of achievement, run the risk of inhibiting and ultimately destroying that most important of purposes of civil society, namely the freedom to imagine that the world could be different."

For their 2008 international conference on the theme "Whatever happened to civil society?", INTRAC (2008), concerned that short-term humanitarian and development interventions do not undermine longer-term civil society strengthening of local associational and institutional structures and life, outlined the main roles of civil society as to help generate the social basis for democracy; promote political accountability beyond party politics; produce social trust, reciprocity and networks; create and promote alternatives through collective action; and support the rights of citizens and the concept of citizenship. It is this call to return to some of its original goals that is central to the agenda of changing power relations.

## Taking action

The challenges and opportunities for taking action will of course be very different in different countries, and depend to a large extent on the nature of the governance arrangements and the presence and strength of democratic institutions. In some countries it will be easier for CSOs to forge partnerships across the action arenas than in others. So, as outlined earlier, a careful contextual analysis will be required in each situation. Across the developing world activists who challenge existing power structures face attacks by police, hired thugs and paramilitaries (*Sunday Tribune*, 2008; Green, 2008). But what would motivate CSOs to take action in this complex and even dangerous undertaking, and what are some of the relevant issues which need to be clarified to lay the groundwork for action?

Active participation has intrinsic merits, creating strong bonds of belonging and purpose. It can build a sense of self-confidence and involvement, enabling excluded groups and individuals to challenge their

confinement to the margins of society. However, “CSO activism can involve exhaustive rounds of meetings, voluntary toil, and confrontations with impervious or insulting authorities. People keep going out of commitment and belief, be it political, religious or simply a sense of duty” (Green, 2008).

The most likely CSOs to initiate action will be membership-based organizations such as trade unions, farmers’ and fisher-folk groups, women’s groups, faith-based organizations, associations of waste pickers, street vendors, taxi drivers etc. Their role in legal empowerment of their constituents will be a natural extension of their current roles in protecting and fighting for the rights of their members and seeking new economic, social and political opportunities. But they will require the support of a range of actors, including NGOs, human rights groups, academics, lawyers and legal aid organizations, donors and the multilateral system. Many of these organizations, with the possible exception of some human rights groups, are not usually in the business of fighting for a change in the status quo power relations between the élite and the marginalized, especially in circumstances where the state is allied with or captured by the élite. This agenda will then only be undertaken when global political awareness and support for such change become evident. Such evidence must be translated into changes in donor and multilateral institutions’ priorities and funding of NGOs. The support of the state is central to success, but experience suggests that this will not always be forthcoming. Vibrant political coalitions at both the grassroots and the policy and political levels will be required to sustain the contestations between the state, the excluded and the élite which will be required for legal empowerment of the poor.

An important factor which will determine the success or failure of the contestation process for legal empowerment of the poor will be the legal basis for CSO formation and the legal framework in which CSOs operate. The stage of political development and the maturity of the democratic process will determine whether the state will dictate to CSOs what their roles should and should not be, and the extent to which they can be active in legal empowerment of the poor. In countries with weak democracies the challenge is likely to be much more difficult and the struggle will be longer. However, at the time of its sixtieth anniversary CSOs are now in a position to utilize the human rights framework, to which most governments have acceded, as a compelling entry point and to embrace a regulated-markets approach which will now be the dominant market paradigm following the global economic crisis. The current crisis can also be used as the enabling environment or critical juncture in which fundamental institutional reform, otherwise very difficult to do, can be achieved.

These conditions are all conducive to pushing governments to make changes in property rights systems, business and labour rights, and the overall access to justice and rule of law framework in countries. Finally, CSOs have an opportunity to be visionary in their outlook and to think of win-win options in which securing greater legal protections and opportunities for the poor and excluded can be shown to be in the best interests of the privileged – in other words to shift from the conceptualization of power as necessarily a zero-sum game to a search for win-win conditions in which power can be a positive-sum game.

## Conclusion

The agenda for legal empowerment of the poor is based on the four pillars of access to justice and the rule of law and property, labour and business rights in a well-functioning regulated market economy. It will require the legal recognition of the rights of a large number of people who are currently unable to use the law to protect and acquire assets effectively and to explore new economic opportunities. While it should not be seen as a panacea, it is difficult to see how poverty will be eradicated without it. It will require the strong involvement of CSOs in roles involving human rights advocacy, democracy building, policy dialogue and political contestations. The task ahead will be as difficult as it will be necessary if we are finally going to make poverty history.

At its best an active and progressive civil society can be profoundly transformative, enhancing the lives of both participants and society as a whole, empowering poor people to demand change and to hold their rulers accountable. Over time, an active citizenship can make states more effective. When states are absent, civil society organisations can step into the breach to keep at least some level of services operating. But CSOs are not a magic path to development, nor are they a substitute for responsive, effective states capable of delivering tangible and sustained improvements in people's lives. In practice development requires both. (Green, 2008)

## Notes

1. See [www.ilo.org/public/english/standards/reim/ilc/ilc86/com-dtxt.htm](http://www.ilo.org/public/english/standards/reim/ilc/ilc86/com-dtxt.htm).
2. "Business rights" need not yet be regarded as a new term in law, but rather as derived from existing rights related to an individual doing business, newly bundled together under this term on the basis of the vital instrumentality of businesses in the livelihoods of the poor.

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## 6

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# International norm-setting by civil society organizations: Lessons for strengthening norms pertaining to legal empowerment of the poor

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*William Ascher*

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### Introduction

In 2008 the Commission on Legal Empowerment of the Poor released a compelling and timely report on the need to make legal protections and access available to the poor (CLEP, 2008). The commission, a civil society entity of highly distinguished members, in alliance with other civil society organizations (CSOs) such as the American Bar Association, has the ambition of establishing an international norm that every government should provide recourse to legal processes and legal protections for low-income people. In many countries, particularly in the developing world, poverty is exacerbated by the fact that administrative and judicial processes are not affordable, low-income people have only tenuous legal standing and legal processes discriminate against the poor in favour of wealthier, more powerful people. Therefore establishing a structure that contributes to sanctions against neglecting legal protections for the poor is a highly worthwhile effort. In so far as it is the responsibility of governments to “make the law work for the poor”, bringing negative consequences to governments that do not strive to provide these protections is the most feasible path.

The norm underlying governments’ obligation to provide legal protections for the poor already exists – but only on paper. The Universal Declaration of Human Rights asserts that “Everyone has the right to recognition everywhere as a person before the law” (article 6); “All are equal before the law and are entitled without any discrimination to

equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination” (article 7); “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law” (article 8); and “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him” (article 10).

However, the neglect of this requirement means that the norm is not truly authoritative. Our premise is that sanctions are necessary for this norm to have maximum effectiveness. Moral suasion can, of course, play a role, but the application of rewards or deprivations for meeting or failing to observe a norm typically has strong potential for increasing effectiveness. We see this in nuclear non-proliferation, reform of corruption, product safety and a host of other spheres.

Commission reports, of course, come and go, and often leave little mark after the initial visibility of their release. The challenge is to institutionalize the effort, and to develop teeth for the sanctions by prompting important decisions to hinge on the degree of compliance with the norms proposed by the commission.

The most promising avenue for institutionalizing the effort is to form an international CSO. Such an organization could avoid capture by governments of nations in need of strong pressures to improve legal protections and access for the poor, as well as negative perceptions of “meddling” by other governments or multilateral organizations. It may be surprising to many that CSOs *can* establish international norms even if the organizations lack significant material resources of their own to induce compliance, as well as instruments of coercion. Indeed, they largely lack formal standing in the international arena dominated by nation-states. Yet, as the cases examined in this chapter demonstrate, CSOs have contributed to the establishment of international norms related to environmental standards, responsible governance, product safety, sustainable forestry and many other spheres.

The way that civil society groups establish international norms that have some degree of effectiveness is by creating standards of behaviour and publicizing degrees of conformity with these standards, thereby triggering actions by others to reward compliance, punish non-compliance, or both. Therefore the questions are how to develop standards of behaviour and the means of assessing compliance; what rewards or punishments will motivate compliance; and how to mobilize those who can impose rewards or punishments.

*Preview of the arguments*

This chapter argues that experience with other civil society efforts to establish international norms suggests that the following measures and tactics should be considered to establish a norm for the legal empowerment of the poor.

- Chapters of like-minded activists should be established in as many countries as possible, even though some chapters will be attacked as holding partisan political objectives.
- These chapters should comprise multiple civil society groups in each country, but should not include government officials or governmental entities.
- Where it is politically feasible, the bar association (or functional equivalent) in each country should be an anchor in each of these chapters.
- These chapters should use the Transparency International (TI) model of holding seminars, workshops, training programmes, etc.
- An international secretariat should coordinate the interchange and joint efforts of the chapters, but each chapter should be independently incorporated within its country.
- The initiatives should not be deterred by criticisms that the approaches, criteria and benchmarks are too stringent, lenient, politicized or arbitrary. Criticism driven by technical concerns or political motives are common whenever benchmarked norms are proposed, and do not negate the value of the initiative.
- The international secretariat should develop aggregate indices of overall performance and progress in providing legal access and protections for the poor in each country – despite the fact that any such indices will inevitably and correctly be criticized as methodologically imperfect. The indices should be used in a widely publicized annual ranking of nations. Rankings are preferable to dichotomous decisions as to whether to certify a nation as having a satisfactory performance or making sufficient progress.
- Two indices are called for: an index of performance, adjusted through regression analysis for the purchase power per capita income of each country; and an index of progress.
- In order to blunt the criticism that the indices and rankings are *ad hoc* or biased, the indices should be composed of sub-measures developed by a diversity of other authoritative, high-profile institutions, even if the resulting combination fails to be completely coherent from a technical point of view.
- The international secretariat and as many national chapters as possible should direct vigorous efforts to persuade bilateral and multilateral de-

velopment assistance agencies to use the rankings and the more fine-grained information on legal protection and access for the poor as criteria for allocating foreign assistance across recipient nations, just as the more generic criterion of “good governance” has become increasingly important for such decisions.

- The international secretariat and national chapters should collaborate to insert the rankings into the broader “doing business” rankings produced by business advisory services and publications (e.g. the Economist Intelligence Unit and the World Economic Forum).
- National chapters of nations with poor rankings should join forces with broad business organizations to publicize to their governments that these rankings deter foreign investment and decisions to locate regional headquarters of multinational corporations in those countries.
- Government funding for the chapters’ operations should be eschewed, but bilateral and multilateral financial support for the international effort should be regarded as acceptable.

## Potentially parallel cases

These courses of action are suggested by the experience in a number of other initiatives by CSOs to establish international norms. Three such initiatives are particularly relevant:

- TI’s efforts to create sanctions against governmental corruption
- the efforts to establish environmental norms for internationally traded products by the International Organization for Standardization (ISO)
- the Forest Stewardship Council’s efforts to certify sustainably harvested timber.

The choice of these cases is motivated by their capacity to illustrate different forms of symbiosis, the dynamics of market response, depoliticization, the role of publicized metrics, agenda-setting by private foundations and government-civil-society interpenetration. These considerations are all relevant to formulating a strategy for increasing the capability of CSOs to strengthen the national and international norms pertaining to legal protections of the poor.

These organizations have had fairly impressive success in establishing international norms observed by national governments and other actors, although assessing degrees of success is difficult and inevitably controversial. Yet it is clear that each of these efforts has succeeded in creating international norms, with some degree of deprivation associated with non-compliance with the norms.

*Transparency International and anti-corruption norms*

The closest parallel to the budding effort to pressure governments to provide greater legal protections for the poor is the case of the anti-corruption efforts of Transparency International (TI). Both address issues of governance; both involve targeting governments and actors that can provide or withhold benefits going directly to governments; and both involve the development of measures that, in ranking national performance, may influence decisions on private sector investment as well as foreign assistance. Indeed, there is a partial overlap between corruption and the weakness of legal protection.

TI was established in 1993 as a network of national non-governmental organizations dedicated to reducing corruption, with an important secretariat located in Berlin. Although the other comparison cases shed some light on the opportunities and risks of the legal protection initiative, in several respects the TI initiative is the closest parallel to the legal protection initiative. For one thing, the TI initiative involves norms to be observed by government, whereas the forest certification and environmental sustainability initiatives apply largely to private actors. In addition, the TI assessments of compliance lend themselves to rankings rather than dichotomous decisions on compliance or non-compliance.

Much of the work accomplished by TI chapters consists of workshops and training programmes to publicize the importance of combating corruption and the approaches for doing so. Any activity related to reducing domestic governmental corruption will focus attention on the issue and thereby exert pressure on the government to address the problem, in so far as the persistence of a known problem constitutes an embarrassment to the government. TI's international operation and national chapters publish reports assessing corruption in particular countries, often focusing on specific institutions (e.g. the judiciary). However, more specific to the establishment of international norms regarding corruption are TI's efforts to establish an international ranking of domestic corruption levels, and its cooperation with international organizations to develop programmes to clarify what actions constitute corrupt practices and mechanisms to reveal where such practices occur. Thus TI has partnered with the World Bank in the Bank's adoption of TI's Voluntary Disclosure Programme, which specifies guidelines for firms involved with World Bank contracts and projects (World Bank, 2006).

It is important to recognize that the TI chapters are non-governmental organizations, and each has to operate within its specific national context. TI chapters do not engage in their own investigations of corruption, but

they do collaborate with other organizations that do so. In some countries, particularly in Eastern Europe and the former Soviet Union, TI has established advocacy and legal advice centres to focus on grassroots-level issues.

The longest-standing (first published in 1995) and most prominent TI ranking of corruption, the Corruption Perceptions Index, is fashioned out of multiple global and country-specific indices and rankings developed by other sources. The 2008 rankings, for example, use survey information from the African Development Bank, the Asian Development Bank, the Bertelsmann Transformation Index, the Country Policy and Institutional Assessment, the Economist Intelligence Unit, Freedom House, Global Insight, the Institute for International Management Development (Lausanne), the Merchant International Group, Political and Economic Risk Consultancy and the World Economic Forum. These sources, in turn, are based on surveys of businesspeople and other observers as to the prevalence and magnitude of government corruption in individual countries. Since 1999 TI has also conducted surveys of businesspeople in emerging market countries and a few developed countries to determine the prevalence of bribing efforts by corporations of the major exporting nations. This Bribe Payers Index is designed to reveal the role of external actors in exacerbating the corruption problems within countries. The Global Corruption Barometer (launched in 2003) is based on TI-sponsored public opinion surveys, managed by Gallup-affiliated national polling organizations, to gauge public attitudes towards the prevalence of corruption within countries.

The high credibility of the TI indices is reinforced by the fact that the flagship Corruption Perceptions Index is a “poll of polls”, relying on many sources. In addition there is an Index Advisory Committee, consisting of university professors as well as members from the World Bank, the International Monetary Fund and the UK Department for International Development.

Nevertheless, the Corruption Perceptions Index has been criticized in several different ways. Some critiques focus on what the index does not include and cannot do. For example, the Tax Justice Network (2007) argues that the index does not incorporate the problem of tax havens, asserting that:

An astonishing *half* of the “cleanest” 20 percent of the countries in this index are tax havens. These are repositories for dirty loot sucked out of the world’s poorest countries. Calling them the world’s “cleanest” does nothing to encourage them to clean up. The index is based on flawed methodology, and a poor understanding of what corruption really is.

It maintains that “finger-wagging at Africans and other poor countries is not only unhelpful, but counterproductive – for it lets half of the crooks off the hook”.

The index has also been criticized for the fact that the rankings are ordinal, rather than cardinal (i.e. asking about the magnitude of bribes and other forms of corruption), leaving no way to estimate the economic losses from corruption (Dreher, Kotsogiannis and McCorrison, 2007), and no allowance for the possibility that the perceptions of the magnitude of corruption may not correspond to the realities (Olken, 2006).

TI’s reports and rankings for particular countries have been criticized, sometimes for being too harsh, other times for being too lenient. TI has also been criticized for taking money from governments, and for allegations of conflicts of interest through the involvement of some TI associates with consulting or training firms. A Corruption Perceptions Index Watch was keen to allege conflicts of interest by TI and its associates, although the group’s web postings seem to have ceased at the end of 2007.

A common problem in the *use* of the indices consists of efforts to measure anti-corruption progress by comparing rankings of a given country over a span of years. One problem with such efforts is that the component surveys for a country may not be the same from year to year. Another problem is that movements up or down the rankings by other countries can change the ranking of a particular country even if the index for that country is not changing. Finally, the perception of corruption may be influenced by the number or importance of corruption cases that are brought to light; ironically, vigorous corruption investigations may give the impression of more corruption.

Despite these criticisms, TI indices and rankings are the measures of choice for most analyses relying on others’ corruption assessments. The sheer visibility of TI dwarfs the visibility of alternative corruption measures – one gross indicator is that 1,440,000 websites reference TI, as indicated by Google listings; references to its indices and rankings number more than 530,000, more than three times as many as any other corruption measure.

What accounts for TI’s success? For one thing, the time was ripe for an emphasis on corruption. The scandals from privatization efforts in formerly socialist countries, other corruption scandals in Western European countries such as Belgium, France, Italy and Spain, the success of popular anti-corruption movements in toppling particularly corrupt regimes, the heightened emphasis on governance on the part of bilateral and multilateral development assistance agencies<sup>1</sup> and the rise of national civil society groups in many countries where they were not previously permitted all contributed to this emphasis.

Second, funding has been abundant from many sources, ranging from development agencies to private foundations. For example, the Soros-funded Open Society Foundation helps to fund several country-level TI chapters, and the MacArthur Foundation has supported the development of new corruption indices.

Third, the TI founders were well connected from the beginning. Peter Eigen, founder and still chairman of TI, was a World Bank staff member, in the prominent position of regional director for East Africa, before leaving to launch TI. The TI board of directors and advisory council feature quite prominent individuals.<sup>2</sup>

Fourth, the “poll of polls” nature of the Corruption Perceptions Index, based on components from numerous credible sources, gives the measure credibility despite the carping over its technical soundness, comprehensiveness or correlation with the elusive reality of actual levels of corruption. Very few would question whether a country near the bottom of the rankings belongs there, even if it is true that some of the corruption arises from interactions with actors from countries higher in the rankings.

Finally, each of the three indices and associated rankings appear to be simple and easily communicated. Whatever the actual limitations in surveying or in correlating perceptions to actual levels of corruption, the indices fit easily into discussions of corruption levels, whether cross-nationally or with respect to individual countries.

### *International Organization for Standardization (ISO) and setting environmental norms through certification*

The International Organization for Standardization (the acronym ISO was chosen to avoid a conflict over the English and French-language designations) has evolved over its long history from having the important though mundane role of technical standardization to a role of establishing the quality standards for both products and production processes. Since its founding in 1947 the ISO has established over 17,000 standards over a broad range of sectors, from agriculture and construction to information technology (International Organization for Standardization, 2008b). Many of these standards are simply technical – e.g. the designation of part sizes – but increasingly the ISO has been able to establish performance standards involving the environmental sustainability of industrial, agricultural and forestry processes (Clapp, 1998).

The formation of the ISO was largely through an initiative by the governmental or quasi-governmental standards agencies that had been involved with the inter-war International Standards Association (Yates and Murphy, 2006: 1). Yet the ISO membership from the very beginning included clearly civil society entities, such as engineering societies and

business associations, typically organized within standards institutes with mixed governmental and non-governmental membership.<sup>3</sup> This result was perhaps a secondary consequence of the fact that many nations at that time lacked government standards, requiring non-governmental organization membership for these nations to be represented. Whether secondary or not, the ISO's civil society status is heavily emphasized by the ISO.

Among the many standards that the ISO has set, those most relevant to this analysis are the environmental standards, largely codified in the so-called ISO 14001 series. The ISO approach is to have third-party evaluators certify whether a firm's environmental management system is adequate: the structures to identify potential environmental impacts, planning mechanisms to address these impacts, monitoring mechanisms, sufficient documentation and communication, etc.<sup>4</sup> It is important to note that, unlike the Forest Stewardship Council's certification philosophy that will be examined below, the ISO environmental certifications focus essentially on whether management initiatives are consistent with progress, rather than whether performance improvements have actually occurred. This form of "input evaluation", in contrast to "output" or "outcome" evaluation, is more easily implemented and often less controversial than tracing out and gauging the short- and long-term results of these inputs. Of course, one can criticize input evaluation as more superficial than output or outcome evaluations – just because firms or agencies organize themselves to pursue particular objectives does not mean that the objectives will be achieved. We shall see the significance of this point for the challenge of making the law work for the poor.

The substance of ISO standards is determined by super-majority decisions aimed at developing as much consensus as possible.<sup>5</sup> In a sense the ISO is an arena of negotiation among representatives of official and unofficial bodies from the 157 countries affiliated with the ISO. This helps to account for the fact that ISO certification is based on firms' willingness to gear up for environmentally acceptable performance rather than the more ambitious requirement of demonstrating acceptable performance.

Of course, this more modest approach has not gone unnoticed by ISO critics. The ISO itself is monitored by the International NGO Network on ISO, which presents itself as representing a coalition of environmental groups: "The goal of the International NGO Network on ISO (INNI) is to ensure that any ISO-created environmental standards serve the public interest and protect our environment. We aim to do this by providing timely information on the activities of ISO to network organizations so that they can activate their members, provide guidance to decision-makers, and shape public opinion" (International NGO Network on ISO, 2008). INNI (*ibid.*) asserts that:

ISO's quiet transformation from creating technical engineering standards to developing standards related to environmental and social policy has gone virtually unnoticed and unchecked by environmental and social justice organizations. Like the World Trade Organization (WTO), the rules established by ISO will have a major impact on national and local environmental issues – from the environmental management standards deployed by major multinational corporations to eco-labeling, water privatization, global warming and corporate social responsibility.

INNI (*ibid.*) goes on to criticize the ISO's weak forestry standards: "The [ISO's] Technical Committee 207 report on forestry management can be used by companies in conjunction with ISO 14001 in lieu of the more rigorous – and credible from an NGO perspective – Forest Stewardship Council certification." It is significant that INNI casts the ISO not as a fellow CSO, but rather akin to the World Trade Organization – an intergovernmental international organization.

Despite these criticisms, the ISO has had remarkable success in numerous areas. ISO standards essentially became the formal standards from the European Union in 1991;<sup>6</sup> similar agreements occurred later in other regional economic groupings. The General Agreement on Tariffs and Trade, and its successor the World Trade Organization, have also largely embraced ISO standards. Even for countries that do not use ISO standards in determining the acceptability of imports that are not ISO certified, the advantages of being able to export to countries that do impose this certification makes it compelling to seek certification.

The success of the ISO is arguably due to four factors.<sup>7</sup> First, from the very beginning the ISO incorporated official governmental entities indirectly, through the mixed governmental and non-governmental membership of the national standardization institutes of the founding nations. Entities such as the US National Bureau of Standards and its counterparts in many other countries have been active in the member bodies (e.g. the American National Standards Institute). This gave the ISO's decisions not only credibility but also greater acceptability on the part of governmental agencies that require standards to be met. These governmental organizations, however, did not make the ISO into an intergovernmental (i.e. multilateral official international) organization, as membership also included private sector organizations, such as the American Standards Association, and the governmental members have to share voting power with the non-governmental entities.

Second, the ISO began with a largely non-controversial, technical mission: standardization rather than standard-setting. The semantic similarity obscures the important difference between providing uniform nomenclature and technical details for products (literally, the specifications for

different sizes and types of nuts and bolts) and setting performance standards. If a multitude of governmental agencies, professional engineering organizations and industry associations agree on standardized terms, measures, etc., there is little for governments or other actors to oppose. It was only gradually that the ISO made the subtle but crucial evolution to setting quality standards.

Third, in those spheres where the ISO does set performance standards, the standards are typically endorsed by the national standards entities, which makes it convenient for governmental agencies to adopt these standards as reflecting the international consensus. For example, the ISO standards embraced by the US member body, the American National Standards Institute, are in turn widely adopted by US government agencies, as mandated by the requirement in the 1995 National Technology Transfer Advancement Act “to the extent practicable, all Federal agencies and departments shall use, for procurement and regulatory applications, standards that are developed or adopted by voluntary consensus standards bodies”. Similarly, the World Trade Organization has recognized ISO standards as “trade legal”.

Finally, the very strong emphasis on the “consensus” and “voluntary” nature of ISO standards and their development distinguishes (though perhaps only superficially) the ISO decisions from those of intergovernmental international organizations such as the World Trade Organization. However, the “voluntary” nature of compliance is valid only in a weak sense of the term, inasmuch as the adoption of ISO standards by national governments, international organizations (including the European Union in accepting imported goods and services) and corporations can impose huge economic penalties on firms that do not adhere to ISO standards and on governments trying to stimulate exports.

### *The Forest Stewardship Council and sustainable logging*

The Forest Stewardship Council, formally established in 1994, accredits certification bodies within countries, such that when these bodies certify that timber is sustainably harvested, the FSC logo can be used. The FSC also promulgates national forestry standards, which have been endorsed by several national governments, and oversees “chain of custody” monitoring to ensure that wood marketed as FSC certified actually is.

The FSC was established, with the leadership of the World Wide Fund for Nature, out of frustration on the part of environmental groups that the 1992 Rio de Janeiro Earth Summit did not yield an intergovernmental agreement on timber harvesting standards. Since its inception the FSC has achieved the endorsement of some companies (e.g. Ikea) in the form of commitments to use or sell only FSC-certified wood or other forest

products; other companies (e.g. Home Depot) market FSC-certified wood products along with uncertified products.

Decisions on FSC standards reflect a complicated effort to incorporate environmental, economic and social concerns, with a three-chamber General Assembly, each chamber with equal “North” and “South” representation by entities reflecting each of the three concerns. These entities include environmental groups, social groups, wood products associations, professional forestry societies, indigenous peoples’ organizations, corporations, community forestry associations and forestry certification organizations.

FSC certification is considered quite stringent, and the qualification for certification, which requires demonstration of good harvesting practices rather than the ISO-style approach of focusing on the management system and not the outcomes, is significantly more onerous than other forest certification systems. In various timber-producing countries, the wood products industry has established certification programmes that rival the FSC (e.g. in the United States the Sustainable Forestry Initiative; in Canada the Canadian Sustainable Forestry Certification Coalition) (Cashore et al., 2007).

The FSC has enjoyed some success – as of 2007 more than 7,500 FSC certificates had been awarded, encompassing 40 per cent of firms in the forest products supply chain; and forests in nearly 80 countries were FSC certified, covering more than 100 million hectares, equivalent to 7 per cent of productive forests globally. FSC-certified sales exceeded US\$20 billion. The FSC is the fastest-growing forestry certification programme (Forest Stewardship Council, 2008).

Nevertheless, the impact of FSC certification has been limited. The International Tropical Timber Organization (2008: 11), though supportive of the FSC, recently noted that “the FSC has been unable to obtain the large-scale participation of small-scale private forest owners and, despite being the leading system among tropical timber producers, its progress is still limited in developing countries, with few exceptions”. The European Union and World Trade Organization recognize the ISO’s forestry standards as acceptable, even though these standards are generally regarded as less stringent.

The moderate success of the FSC can be attributed largely to three factors. First, and perhaps most importantly, the FSC as a council comprises over 50 of the most prominent environmental groups. This fact has great influence over consumers who follow the guidance of these environmental advocacy groups. Second, FSC certification is a straightforward way for firms to signal environmental commitment. Ikea and Home Depot are both FSC members. Third, for wood products marketers (such as Home Depot), any additional costs of purchasing FSC-certified wood can be

recaptured in selling to environmentally committed purchasers, and demand for wood that exceeds FSC-certified supply can be met by non-FSC products. If governments banned the import of non-FSC-certified wood, the situation would be quite different: greater pressure would be on loggers to gain certification, but few governments would risk the economic consequences of supply shortages that such bans would create.

The limitations of the FSC can be attributed to its stringency in a context of less stringent competitors. As an outcomes evaluation, the FSC certification process is significantly more onerous, as well as more stringent, than the alternative certifications. The existence of multiple competing certifications allows the forestry industry and wood products marketers to follow less demanding certification standards and processes and yet still appear credible in the eyes of many purchasers. The ISO's forestry standards carry the ISO's considerable credibility. In addition, the potential endorsers of a certification system have to determine whether a particular process and set of standards would meet demand to a reasonable degree.

It should be noted that the FSC has also been criticized for not being stringent enough. FSC Watch has criticized the FSC for failing to maintain a reliable chain of custody records, certifying unacceptable logging practices, accrediting incompetent certification organizations, etc. (FSC Watch, 2008). Greenpeace, though an FSC member, has released quite critical reports regarding these issues (Greenpeace International, 2008).

## General lessons

This brief overview has highlighted key similarities and differences among these approaches. Table 6.1 summarizes characteristics of the three cases.

The primary lesson is that the experiences of the CSOs described above demonstrate that such organizations can indeed play a major role in establishing international norms through advocacy, mobilization, standard-setting, ranking and certification. Governments, international inter-governmental organizations, corporations and consumers observe these norms in various ways. The lack of their "official" status in the nation-state-dominated system is not as great an impediment as many might suppose.

CSOs such as TI, the FSC and the ISO provide "measurements" that governments, international organizations, firms and consumers use to make decisions. With respect to the governments, how is this different from nation-state governments simply relying on the expertise of sources outside of government – a pattern that has been pervasive for a long

Table 6.1 Key characteristics of three civil society efforts to establish international norms

	Transparency International (TI)	International Organization for Standardization (ISO)	Forest Stewardship Council (FSC)
National-level chapters or members	Yes	Yes	Yes
Nature of performance "score"	Ranking <i>vis-à-vis</i> other countries	Certification of acceptable management system	Certification of acceptable performance
Source(s) of assessment	Multiple ratings ("poll of pools") for Corruption Perceptions Index Commissioned surveys for Bribe Payers Index and Global Corruption Barometer	Accredited certification bodies	Accredited certification bodies
Nature of potential sanctions	Reduction in foreign assistance by governments and/or intergovernmental organizations Political embarrassment Exclusion from intergovernmental organizations	Loss of sales due to import bans	Loss of sales due to consumer boycotts
Indicators of success	Use of rankings in foreign investment decisions Use of rankings in allocating foreign assistance Visibility of initiatives	Adoption of standards by national and intergovernmental international organizations Import restrictions against non-certified products/services Expansion of certifications sought by companies	Expansion of certified forest lands Expansion of certified wood products Expansion of certification sought by companies

time? The standards or rankings established by CSOs boil the assessments down to very simple information that is easy to use in governmental decision-making: a country is ranked *vis-à-vis* other countries, or some product, service or process is certified as either acceptable or unacceptable for such decisions as permitting importation, allocating development assistance funds, etc. When these standards and assessments are made by international CSOs with reputations for impartiality, governments can also take advantage of the fact that decisions based on the rankings or certifications are likely to be seen as less “political” than when governments (or, for that matter, intergovernmental international organizations such as the World Bank) make decisions based simply on input from advisers. For example, if the French government banned timber imports from, say, Indonesia, on the basis of a French government report criticizing Indonesian forestry practices, the question of whether the ban is politically motivated would be more likely to be raised than if France simply invoked the European Union’s embrace of ISO timber certification.

A second important lesson is that the effectiveness of civil society groups in establishing international norms depends on the acceptance of the ranking or certification as a criterion for the decision-making of other parties: governments, international organizations, firms or consumers. None of the organizations reviewed above has sufficient membership to reward or punish on its own. Therefore making information available, digestible and usable is crucial.

A third lesson is that an effort to establish international norms is unlikely to escape criticism. Some will find any given standard to be too lenient; others will question whether it is too harsh in light of the growing world demand for products and services. Some will scrutinize organizations, assessing unethical behaviour (e.g. corruption) to see whether the organizations are themselves violating ethical standards or compromising themselves by taking “tainted” funding. It does not take large resources to cast stones. The positive implication of this, however, is that efforts to establish international norms need not be deterred by such negative reactions, in that they are nearly inevitable.

A fourth lesson is that the composition and funding of CSOs are more varied and complex than the term itself would seem to imply. Many government agencies are members of the national entities that in turn are ISO members; neither TI nor the FSC permit government agencies as members. Yet all three organizations have received funding from governments; TI does have individuals from both national governments and intergovernmental international organizations on its advisory board. Whether to include government officials as members becomes a signifi-

cant design issue. Nor does the distinction between “civil society” and “the business sector” hold, as all three organizations have business sector members at either the international or national chapter level, and some TI chapters have businesspeople on their boards of directors as well.

The fifth lesson is that there is an important decision to be made as to whether the assessment of adherence to the norm should be gauged through continuous variables (i.e. the *degree* of compliance is considered as a continuous dimension), using an index and ranking, or through a simple dichotomy between compliance and non-compliance. For the dichotomous approach to grant or withhold certification, the relevant controversies are over the validity of measurements of compliance levels and the appropriate threshold point between compliance and non-compliance. This subjects the organization to an additional basis for criticism, although it is a clearer signal to decision-makers. In theory, organizations like the ISO and the FSC could rank companies in terms of degree of compliance. In practice, that would be very difficult. Consider the fact that major logging companies operate in several different forests in multiple countries. Determining a single, meaningful index of each company would be extremely difficult, and meaningful ranking of companies operating in very different contexts would be equally daunting.

## Design dimensions relevant to optimizing the effort to improve legal protections for the poor

For simplicity and clarity, let us assume that an initiative to launch a Legal Empowerment International (LEI) is at the earliest “design stage”. Before taking action, the leaders of such an initiative would do well to first identify the design dimensions to be considered in shaping the initiative. The prior analyses of TI, the ISO and the FSC suggest the following dimensions.

- Structure
  - new organization (TI model), or coalition of pre-existing organizations (ISO and FSC model)?
  - inclusion or exclusion of government agencies as members?
  - inclusion or exclusion of government officials as members?
  - inclusion or exclusion of government officials as members of a board of advisers?
  - single or multiple chambers?
  - if multiple, what basis for the divisions?
  - national chapters or strictly international?

- Funding
  - accept government funding?
  - accept intergovernmental international organization funding?
- Assessment of norm adherence
  - rankings or certification?
  - assessment of inputs, outputs or outcomes?
  - assessment of levels of adherence, or progress?
  - absolute levels of adherence, or adjusted for national capacity?
  - conducted by the organization or accredited organizations, or commissioned?
  - single source, or “poll of polls”?
- Targets for endorsement
  - consumers?
  - corporations?
  - governments?
  - intergovernmental international organizations?
  - others?

## Strategies for the Legal Empowerment International initiative

Although the commissioners and staff of the Commission on Legal Empowerment of the Poor have much greater knowledge of the empowerment challenge than does this author, several strategies can be recommended for serious consideration.

First, the remarkable successes of TI, as well as the similarity of the challenges to attack corruption and to attack the neglect of legal empowerment, suggest that the TI strategy should be the baseline for the LEI initiative. Specifically, it requires the formation of an international headquarters accountable to its own board of directors, but supported by independently incorporated national chapters. Like TI, LEI should not permit government agencies or government officials to join, because such involvement would compromise the credibility of the organization. Both international and national organizations would engage in advocacy, training, conferences, workshops, etc.

However, unlike TI, the LEI initiative should take advantage of the many CSOs (human rights groups, bar associations, etc.) that have members, expertise, money and credibility to join in the formation of the national chapters. In this respect, the FSC and ISO strategies are compelling models. Like TI, political parties and groups clearly associated with political parties should not be permitted to join. In many countries the

national bar association is a promising choice to anchor the initiative, although in some countries the legal profession may be reluctant to encourage paralegal services or mediation if it encroaches on their livelihoods. Involving multiple groups in many instances will be worth the risk of criticism for partisanship. The task of pointing out weaknesses in providing legal services and protection to the poor is an intrinsically critical one – there is no way to avoid having defensive government officials accuse either the international organization or the national chapter of partisanship.

### *An index of legal empowerment*

Also like the TI approach, the international organization should develop indices and rankings of performance and progress. The rankings should be disseminated as widely as possible, and it is worthwhile to try to persuade bilateral and multilateral foreign assistance agencies to incorporate the rankings into their decisions on the magnitude of grants or concessional loans to go to particular countries. It is also worthwhile to try to persuade business services such as the Economist Intelligence Unit and the Institute for International Management Development to use the indices of legal empowerment in their country ratings. It is not at all far-fetched to argue that countries with serious weaknesses in protecting rights and providing affordable legal access to the poor are vulnerable to distinct sources of disruption, face distinct impediments to long-term economic growth and pose reputational risks to corporations that do business there. The fact that some of these services already include a “rule of law” measure in their ratings indicates some appreciation for the importance of legal empowerment, although “rule of law” is just one aspect of full legal empowerment.

However, the philosophy behind the LEI indices and rankings must be different, leading to more complicated measures. The main input for a measure of legal empowerment ought to be a “poll of polls” constructed from existing sources, some of which are already cited in the commission’s report (CLEP, 2008). This will lend a degree of credibility to the measures. This input is parallel to the Corruption Perceptions Index. However, there is a major difference between evaluating corruption and evaluating legal empowerment, in that the capacity to provide legal services depends heavily on a nation’s level of economic development. It is not particularly unfair to compare absolute levels of corruption across countries of very different levels of economic development, even if the general understanding is that corruption in many developing countries will tend to be higher. In contrast, the capacity to provide access to legal services is more directly constrained by a country’s economic limitations.

Thus it would be quite unfair – and lacking in credibility – to compare the access to legal services in Burkina Faso and Switzerland.

A related consideration is that denying foreign assistance to nations with weak legal empowerment for the poor is far less justifiable normatively than denying foreign assistance to highly corrupt governments, or refusing to buy timber that logging companies harvest unsustainably. In the case of high levels of corruption, the poor are unlikely to benefit from the assistance; in the case of unsustainable logging, the poor are denied the longer-term benefits of the forest. Therefore the measures that should be presented are *not* the raw index and rankings, but rather measures of attainment in light of each country's economic level and subjective measures of progress.

There are two approaches to overcome this problem. The first is to adjust the raw country scores to control for the economic level of each country, as reflected by per capita gross domestic product (GDP). Per capita GDP can be measured in several ways; the most relevant is the purchasing power parity adjusted per capita GDP. A simple regression analysis would predict the “expected” index of performance; the difference between the actual index and this country-specific expected index is a measure of whether that country is above or below the “typical” country at that level of economic development.<sup>8</sup>

To gauge progress in legal empowerment, we should recall from the corruption indices that the temptation to infer changes by comparing earlier and later rankings leads to misleading conclusions. The same danger holds for rankings of legal protections for the poor, if the changes are gauged in the same way. Instead, there should be a more direct index based on expert judgements of progress, similar to the approach used by Freedom House.<sup>9</sup>

In contrast to the ISO and FSC approaches, it is not feasible simply to certify countries for meeting some threshold of accomplishment in legal empowerment. The various audiences for the indices will either be making non-dichotomous decisions (e.g. how much foreign assistance to grant, not whether or not to grant any) or will use the indices among other measures to determine whether to invest or undertake other interactions with a country. In the latter case, dichotomous decisions may be made, but they would be on the basis of the decision-makers' own criteria.

Whatever approach is used to develop the indices and rankings, the LEI initiative should anticipate both technical and conceptual criticisms. No index can meet all technical criteria; no judgements can avoid being disputed. Someone will argue that aspects of legal empowerment would deserve greater weight. TI, the ISO and the FSC have demonstrated that such criticisms, even if high profile, do not detract from the importance and effectiveness of their efforts.

## Conclusions

As CSOs, the Commission on Legal Empowerment of the Poor and the organizations that emerge from its work can take encouragement from the successes of other initiatives to establish international norms that put significant economic and political pressure on governments and other actors to comply. The leaders of future legal empowerment initiatives will have to wrestle with complicated design decisions in terms of organizational structure and the approaches to assess compliance with the norm of empowering the poor. Yet the cases examined in this chapter provide promising insights in how these decisions can be addressed.

## Notes

1. The World Bank's previous refusal to address the corruption issue directly, on the grounds that the Bank's articles of agreement prohibited political considerations, was reversed in the early 1990s. See Kuper (2004: 182–183).
2. For the early history of TI see Galtung and Pope (1999). They note (*ibid.*: 267) that TI's "high-level professionals, and the access they have to key decisionmakers, means that TI can be more effective than many traditional advocacy groups".
3. For example, the US member of the ISO, the American National Standards Institute (ANSI), "is comprised of a broad range of businesses and industrial organizations, standards setting and conformity assessment bodies, trade associations, labor unions, professional societies, consumer groups, academia and government organizations ... The interests of more than 125,000 companies and 3.5 million professionals are represented through ANSI's headquarters in Washington, DC and its operations office in New York City" (International Organization for Standardization, 2008c). Because of its mixed membership, Boli and Thomas (1999) include the ISO in their edited book on non-governmental organizations.
4. The ISO's 14001 guidelines assert: "The organization shall establish and maintain (a) procedure(s) to identify the environmental aspects of its activities, products or services that it can control and over which it can be expected to have an influence, in order to determine those which have or can have significant impacts on the environment" (International Organization for Standardization, 2004: Section 4.3.1). Whitelaw (2004: 5) summarizes the ISO 14001 philosophy: "the Standard requires an organization to state how it goes about controlling and reducing its impact on the environment doing in practice what it has stated in its environmental policy; recording what has occurred; and learning from experience".
5. The ISO's "final phase comprises the formal approval of the resulting draft International Standard (the acceptance criteria stipulate approval by two-thirds of the ISO members that have participated actively in the standards development process, and approval by 75% of all members that vote), following which the agreed text is published as an ISO International Standard" (International Organization for Standardization, 2008a).
6. In 1991 the European Union's "technical partner" on standardization, the European Committee for Standardization (CEN) agreed to adopt ISO standardizations "whenever possible". See the 1996 speech by then ISO president, Eberhard Mollmann (1996).

7. For a history of the ISO see Yates and Murphy (2006).
8. This approach is commonly used in studies of educational attainment, controlling for socio-economic status of students, schools, regions or countries in order to determine the effectiveness of educational inputs, taking into account that achievement will be held back by lower socio-economic conditions. See, for example, Inter-American Development Bank (2008).
9. The Freedom House methodology for assessing democratic freedoms across a huge set of countries poses checklist questions to regional experts for their subjective rankings on 10 political rights questions and 15 civil liberties questions, each ranked from 1 to 4. "Rule of law" is one of the subsections of civil liberties, with questions on the independence of the judiciary; whether the rule of law prevails in civil and criminal matters, with the police under direct civilian control; protection from political terror, unjustified imprisonment, exile, torture, war and insurgencies; and equal treatment of all segments of the population by laws, policies and practices. See Freedom House (2008).

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# Civil society innovations in governance leadership: International demonstrations of integral development, the technology of participation and social artistry

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*Robertson Work*

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## Overview

As a primary governance actor, civil society has a unique and critical role to play in bringing new approaches, public accountability and diverse perspectives into policy formulation and programme development. Civil society can create and demonstrate innovative leadership processes to enhance participatory or democratic governance. As an alternative to a “command-and-control” leadership style, innovative leadership is facilitative, participatory, collaborative, creative, systemic and profound.

Because civil society contains such a broad spectrum of actors and perspectives, it provides a vast reservoir of ideas, solutions and techniques. Some of these ideas can be applied to governance and development not only by civil society actors themselves but by government and the private sector, and most importantly in active partnerships of these three governance actors. In this way civil society is influencing the very definition and practice of democratic governance.

In this chapter, three innovative approaches pioneered by civil society organizations (CSOs) will be the focus of exploration in their applications around the world to local governance and development, especially as related to achieving the Millennium Development Goals (MDGs). Most of the innovative governance frameworks and leadership methods presented in this chapter were developed by three international non-governmental organizations (NGOs): the Integral Institute, the Institute of Cultural Affairs and the Jean Houston Foundation. Fortunately, re-

ardless of the source of an idea, whether from an NGO, a university, a private firm or a government agency, it can flow into the mainstream, as have these, with great effectiveness and significant results.

First the concept and practice of “integral governance for development” will be investigated; second and third, ideas and techniques of innovative leadership based on the “technology of participation” (ToP) and “social artistry” will be elaborated. Integral development includes institutional and organizational development but moves beyond it, as well as beyond exclusively sectoral and issue-based development, to encompass whole systems, culture and individual values and behaviour. ToP and social artistry provide a needed balance to the current overemphasis on technocratic, bureaucratic, hyper-rational and statistical approaches to leadership in governance and development. Following this elaboration, the chapter shares insights from two UNDP global programmes – the Local Initiative Facility for Urban Environment (LIFE) and Decentralizing the MDGs through Innovative Leadership (DMIL). In 17 pilot countries around the world experiences are examined in which the UNDP utilized an integral development framework and ToP or social artistry approaches to help localize the MDGs in multi-actor partnerships, especially when led by civil society actors or with an active civil society component.

This chapter differs methodologically somewhat from previous ones. While other chapters have taken an analytical approach in order to provide an understanding of past trends and present realities of civil society, this chapter takes a creative approach in envisioning a new role for leadership as seen by civil society in the future of governance, especially decentralized governance. Even so, the chapter is based on empirical case studies from Africa, Asia, the Middle East, Latin America and the Caribbean, Eastern Europe and the CIS. In addition, this chapter discusses governance innovations pioneered by civil society and demonstrated by multi-actor governance partnerships rather than focusing exclusively on the role of civil society as a social agent.

## Exploration of an integral framework for governance and development

Traditional governance and development theory and practice are analytical, linear, rational, bureaucratic, technocratic and statistical, and most often sectoral as well. There is also a deep bias towards the economic aspect of development, with less attention paid to social, political, cultural and environmental dimensions. Traditional approaches can be helpful up to a point, but are ultimately insufficient because the human enterprise is

much more complex, deep and interrelated than these approaches can grasp. There are other dimensions that must be dealt with, and there is the whole interconnected reality in which development takes place that must be recognized. Most often by focusing exclusively on institutional or organizational dimensions, other dimensions are overlooked to the detriment of development outcomes. This is gradually changing, however, with the emergence and elaboration by several NGOs and the UNDP, among others, of a human development paradigm that is holistic, multisectoral and interdisciplinary.

Based on the ground-breaking work of philosopher Ken Wilber, the Integral Institute (II) has identified four essential and often overlooked dimensions of governance and development:

- individual consciousness (individual/interior)
- individual behaviour (individual/exterior)
- culture (collective/interior)
- whole systems (collective/exterior).

Designing and implementing development policies and programmes that take into account these four dimensions and their interrelations as well as the institutional/organizational dimension, which is actually part of these four, can provide greatly accelerated, deepened and sustainable governance and development achievements. What follows is an exploration of each of these dimensions, with a focus on leadership as a key modality of participatory governance that can realize sustainable human development.

### *Individual consciousness*

However much systems, policies, institutions and cultures are transformed, individual people within these structures, whether non-governmental or governmental, are still the bedrock of a society. In addition to competencies, it is the beliefs and attitudes that a person has in her mind that most influence behaviour, both individual and organizational. If a new judicial system, for example, is in place but individual judges and attorneys are not deeply committed to reconciliation and justice, then new buildings, equipment and procedures are in themselves pointless. Or if a parliament is restructured but individual parliamentarians still believe in the appropriateness of corrupt practices, the new structure is subverted. For individuals to move beyond self and subgroup interests, and beyond current confusion and incompetence, individual abilities, values and skills must be enhanced.

Self-awareness and self-management are the foundations of individual capacity. If a leader is not aware of her strengths and weaknesses, that individual cannot be truly present and helpful to others. It is imperative

that one has awareness of one's own desires, fears and negative emotions so that these can be taken into account and overcome. Likewise, individual gifts, abilities, knowledge and goodwill need to be acknowledged and built upon. With self-awareness, one can begin to manage oneself for the benefit of others. Self-management includes management of one's time, relationships, moods, images and behaviour. Individual capacities should be developed in various dimensions where appropriate, including the physical/sensory, psychological/emotional, artistic/imaginal, intellectual/rational, verbal/mathematical, mythic/symbolic, social/interpersonal and integral/spiritual. It is important for leaders to know themselves in order to become part of strong teams.

Practical skills development for leaders is also essential. Individuals can learn how to be more effective in their lives and work. This includes skills of analysis, planning, budgeting, implementation and monitoring, and the reflection that is an ongoing process of learning-by-doing and reflection-in-action.

Individuals, from top leaders to organizational members, need to learn how to be creative, take risks, provide vision and be a moral compass, compassionate, wise and humble in their thinking and action. Without this, governance and development institutions will never achieve development objectives for all people and preserve our eco-systems. Individuals must learn to "wake up" to being profound human beings who take responsibility for their minds, bodies, emotions, relationships and actions within their community and society as a whole. They must learn that there is more to life than power, status and ego. They have been called to be of service to others. The new leader that is needed is a blend of the social artist and social engineer.

The ability to access the deep wellsprings of ethical and humane values is essential to being an effective leader. What is an ethical person in the twenty-first century? How are values inculcated and internalized so that a leader is self-monitoring and does not require external restrictions and the threat of punitive measures? How does an individual learn to be a "good" person who is concerned about the well-being of other people and other life? How are the mind and heart of a Gandhi or a Mandela created? These abilities are the *sine qua non* of effective governance and development.

### *Individual behaviour*

An individual's behaviour flows in large measure from her consciousness, assumptions, values, perception and perspective. To be effective, development must strengthen this linkage and provide channels for creative service. One of the most useful individual behaviours is that of the

*facilitator*. Capacities of group facilitation are essential in a new style of leadership that is participatory and consensus oriented.

Styles of organizational leadership can be seen in stages of development (Emberling, 2005) from authoritarian/exploitative (coercive) to use of rules and roles (bureaucratic) to an emphasis on the pragmatic (results focused) to principled (values based) to perspectivist (systems based). Leaders can learn new ways of being effective that move them beyond authoritarian and bureaucratic modes. By moving into skills and styles focused on results, values and systems, the leader experiences being more effective in her role.

This management style can be learned: it arises from principles of cooperation and trust, and supports formation of alliances, partnerships, win-win solutions and ongoing organizational learning. The facilitator knows that a solution lies within the minds of the people concerned, and therefore creates situations of interaction and dialogue to develop a common mind and action plan. By applying such strengths, they can bring key abilities of a group to important goal-setting and implementation tasks such as strategic planning.

The perspectivist leader relies on a systems view of the organization and its relationship to the environment. She is aware of the limitations of leadership. She is concerned with integrity, flexibility, appropriateness and adaptability. Everyone in the organization is called to personal ownership and responsibility by having created together and “bought in” to the vision, principles and mission of the organization. Each member of the team constantly assesses her own strengths and weaknesses, as well as those of other team members, and strives for appropriate interaction.

Gender mainstreaming and human-rights-based approaches are part of this skill set. Leaders can learn to disaggregate by gender and ensure that women are empowered and participate fully at all levels of decision-making in an organization. The human rights of individual members of an organization are also constantly honoured and monitored. Interpersonal skills are essential to enable people to listen deeply to each other and understand the meaning of what others are trying to articulate, rather than merely the words being used. Thus leaders do not merely embrace diversity but skilfully reintegrate gender, minority, disability and other challenges as strengths in organizations and teams.

### *Culture*

People are always in need of a story that gives meaning and hope to the circumstances of their lives. Non-governmental and governmental officials can access traditional cultural values and stories, and reinterpret

them in ways that bring hope and motivation to a nation or local community. Leaders can learn to explore local cultures and recognize, evoke and build upon the genius of each culture. A culture can be analysed and appreciated at various levels, such as the physical/sensory, the psychological/historical, the mythic/symbolic and the integral/spiritual (Houston, 2004). Effective leaders are also able to move between cultures and enter into other people's belief systems and worldviews.

In addition, leaders need to help the larger society dream its greatest possibility, and out of that catalyse the creation of a new local or national vision and communicate it powerfully throughout the whole community or society. New stories are essential in creating new understanding, empathy and changed attitudes and assumptions that bring the whole society together. New myths, songs, symbols and rites need to be created and shared widely through the society to re-energize people who are experiencing difficulties and challenges.

### *Whole systems*

It is critical for leaders to be able to design new systems, policies and institutions as part of the enabling environment. This requires skills of coalition-building and multi-stakeholder dialogue as well as the ability to see whole systems of economic, political, social, cultural and environmental dimensions and their interlinkages. This kind of integrative thinking can be learned by asking questions about all of the factors and forces involved in a solution and how each aspect influences the others. Systems design is very different from a problem-solving approach, as the focus is on inventing new forms in the future rather than merely responding to a past-oriented problem. It is critical to move beyond the immediate situation and linear projections based on the past to invent never-before-thought-of scenarios for governance institutions and their linkages to development.

Systems need to look at interlinkages of several institutions that are themselves composed of many organizations. For example, a legal system involves institutions of access to justice, deliberation and reconciliation, and includes organizations such as courts, law firms, advocacy groups, media and NGOs. Systems also comprise all geo-social levels and linkages of macro, meso and micro, with a concern for both vertical and horizontal flows of information and resources and the capacity to scale up. Policies are seen as collective agreements that guide collective actions and establish the rules of the game.

Within such a four-quadrant integral framework of development, what civil-society-led leadership approaches can be effectively utilized to improve governance processes and outcomes?

## Innovative leadership methods of the technology of participation and social artistry

The Institute of Cultural Affairs (ICA) has developed an array of effective leadership methods called the *technology of participation* (ToP). ToP has been applied around the world with great effectiveness for over 30 years within corporations, villages, slums, NGOs, government agencies and intergovernmental organizations such as the United Nations, including the UNDP's global LIFE programme, which will be discussed below. ToP comprises group facilitation methods of:

- a group discussion process (ORID: objective, reflective, interpretive and decisional)
- a workshop process for building consensus
- an action planning method for turning ideas into accomplishments
- a four-step participatory strategic planning process that elicits the group's vision, identifies blocks and enabling factors related to that vision, creates strategies to deal with those blocks and ends with an accountability-based implementation plan.

In addition, Dr Jean Houston and the Jean Houston Foundation (JHF) have elaborated a new style of creative leadership aptly named *social artistry* (SA). SA methods have been applied around the world for the past seven years and were utilized in the UNDP's global DMIL programme to localize the MDGs in 2002–2006 (discussed below). Social artistry works at four levels:

- physical/sensory
- historical/psychological
- symbolic/mythic
- unitive/spiritual.

Social artistry leadership moves far beyond traditional “command and control” to a leadership style that is inspiring, interactive, experiential, intuitive and profound. The hallmark of social artistry is the development of the capacities of the individual, group, culture or society to realize its full potential. The social artist is committed to creating a world that works for everyone.

What follows is a selection of some of these NGO-developed innovative leadership methods that can make a huge difference in improving local governance. In addition, a few other powerful frameworks and methods are presented that have been developed by other CSOs, including Harvard University.

### *Methods to deepen individual consciousness*

National and local leaders of non-governmental and governmental organizations need to be vigilant of their own thoughts and feelings as they

interact with others and engage in the difficult decisions related to governance. Fortunately there are many modalities and tools available. Emotional intelligence (EI) helps strengthen self-awareness, self-management and relationship awareness and management. One expert recommends that a leader should spend 40 per cent of her time on self-management – of one's time, tasks and ego – in order to manage others more helpfully (Hock, 1999). Keeping a daily journal helps leaders stay in touch with the present moment and the evolution of their own thinking and emotions. Entries can be in words or drawings.

One of the most powerful and simple techniques for practicing mindfulness is meditation: simply sitting quietly and still for a few minutes while focusing one's attention on the present moment. Surprisingly, these techniques do not result in self-preoccupation, but on the contrary make a leader more sensitive to the thoughts, feelings and needs of others. It is no accident that the UN headquarters building in New York has a meditation room. It was designed by Dag Hammarskjöld while he was Secretary-General, and he is quoted on a plaque on the wall outside the room: "We all have within us a center of stillness surrounded by silence. This house, dedicated to work and debate in the service of peace, should have one room dedicated to silence in the outward sense and stillness in the inner."

Creativity and imaginative thinking are critical capacities in governance. There are many ways for leaders to develop and enhance creativity. Howard Gardner (1993) of Harvard University has developed eight ways of knowing or *multiple intelligence*: logical/mathematical, visual/spatial, interpersonal, intrapersonal, bodily/kinesthetic, verbal/linguistic, musical/rhythmic and naturalist. Using these eight capacities, rather than merely the verbal and mathematical, greatly increases creativity and imagination. Lateral thinking that sees patterns and discontinuity was developed by Edward de Bono (1985). Cognitive studies and neuroscience offer many new insights into how the brain functions that can stimulate creative thinking processes. Spending time exercising the imagination in the five senses expands creativity. After such sensory expansion, our minds are more receptive to realizing creative intention. In addition, there are methods of constructing mental models that allow a leader to try out different scenarios and future possibilities.

Engaging in governance processes daily can be exhausting and frustrating, and can lead to burn-out, cynicism, anger or apathy. How can leaders maintain their motivation, energy and hopefulness, especially in the midst of high-stress situations? It is very important to have a positive self story that is rehearsed daily at least in one's mind. It is possible to see a glass half full or half empty. Our stories of self and world create our reality and determine our responses to it. Personal symbols or rituals can also help a leader sustain her motivation. Wearing a special item of clothing

or jewellery can remind her of her commitments. Physical gestures can also be simple reminders. Most important is to remember each day what one is thankful for, what brings joy and about what and whom one cares. Music, art and dance can renew energy and bring new life. Being with one's family or in nature can be grounding. Staying in touch regularly with one's deep sense of purpose is essential. There are also mental and physical exercises that stimulate whole-brain function in the neocortex (thinking), limbic system (emotions), left hemisphere (rationality), right hemisphere (associative thinking) and reptilian brain (stability and security).

### *Methods to facilitate behaviour within groups*

Interactive and participatory approaches to discussion, planning and problem-solving are often more effective than expert advice alone, as they utilize the wisdom of everyone and mobilize follow-up action through a sense of ownership. Working in non-governmental and governmental organizations and communities, leaders can use methods of discussion, conducting workshops and action planning. Rather than a meandering discussion with no focus or definite outcome, it is possible to design and conduct a group discussion that provides meaningful dialogue, broadens perspectives and results in clear ideas and conclusions. By asking a series of questions, the group's thinking can move in a short time from surface to depth based on the way the mind itself functions, moving from sensory stimuli to action.

According to ORID, a ToP method, after selecting the topic of discussion, the facilitator decides what the team needs to understand or decide (rational objective) and what it needs to experience (experiential aim). The first set of questions (objective level) allows the group to get out the facts of what it sees, knows or hears related to the topic. The second group of questions (reflective level) allows the participants to express their emotions, feelings or associations with the topic. The third set of questions (interpretive level) asks participants to identify the values, meaning and significance of the topic. And the fourth and final group of questions (decisional level) asks the group to decide its future resolutions and actions to be taken related to the topic.

Governance at every level of a society requires tools of partnership, coalition formation and team-building. One tool of ToP that is very useful in this regard is the workshop method. This can be used by a leader when an organization, team or potential coalition needs to generate creativity and new energy in a short amount of time, be infused with a sense of responsibility, catalyse integrated thinking and build a working consensus.

The five steps of the technique begin by setting the stage with a context that catalyses a mood for full participation, gives an overview of how the workshop integrates into daily activity and produces confident attitudes towards a new situation. The next step is to generate new ideas through group brainstorming by asking participants to list ideas or issues rapidly. This is a way to involve all participants in contributing insights, and is a process which can result in the group's best initial thinking. The third step is for the group to form new relationships of the data through organizing them into clusters. By clustering similar ideas or issues, this step pushes the intuitions of the team to see where points of agreement are, where new relationships are revealed and where more data are needed. The next step is to discern consensus through group naming of clusters of ideas. This involves in-depth dialogue to discern the consensus of the team, a process that allows the team to take its work seriously and catalyses ownership of the work. The final step is to confirm the group's resolve through group reflection. This helps the group know what it has decided, how participants have operated as a team and what the next steps are.

It is essential for governance actors to listen deeply to citizens and to each other; this is not easy, however, as most people listen to their own interior dialogue rather than to what other people are saying. How can leaders learn to listen actively, be more attentive to the moment and develop empathy for others? Rather than listening deeply to what another person is saying or trying to say, the listener tends to ask questions, give advice, judge, agree or disagree. Active listening involves understanding the meaning of another person's words, gestures, facial expressions, body language, emotional space and life situation. Active listening involves listening without comment, judgement or advice. It involves honouring the other person's life, presence and words. Listening is related to both content and feeling, for what was said and unsaid and for the deeper meaning and intent of the other person. Taken to its deepest level, active listening is a form of compassion that enables understanding of the humanity of the other person as well as reconciliation, peace, depth dialogue and problem-solving.

### *Methods to transform culture*

As effective leaders know, whether within the larger society, an ethnic group, an organization or a local community, culture plays a powerful governance role. It is through shared myths, symbols, rites, language, art, dance and theatre that people rehearse, remember and recreate who they are as a distinct people. Implicit within a culture is a set of values and principles that guides people's behaviour and helps "govern" the society.

It is important for those involved with institutional governance to appreciate the unique genius of their culture, and in fact of each culture. How did the culture begin and evolve? To what deep human challenges and questions was it an answer or solution? What are the most outstanding aspects of the culture? What are physical, psychological, symbolic and spiritual aspects of the culture (social artistry)? How is the culture in transition or transformation? How am I influenced by my culture, by other local cultures and by the emerging global culture? What is at stake in the culture at this juncture? What should definitely be sustained? What should be let go of because it is no longer relevant or even harmful? This type of reflective process can result in important insights into the role of a culture or cultures in governance, so that they can be reinterpreted and even recreated to strengthen pro-development governance mechanisms. Of course, the key to the effectiveness of this process of reflection and discernment is that it is carried out by insiders of the culture and not imposed from outside.

How can ancient or traditional myths or stories be interpreted in light of contemporary development realities, and how could this be an important tool of leaders for promoting human development? A myth often provides clues to the deep archetypal structure of a society's collective psyche. By reinterpreting a cultural myth in a twenty-first-century development context, energy can be released to empower development efforts. For example, the ancient Albanian myth of the "seven brothers" can be and has been reinterpreted as the set of skills necessary to achieve the MDGs (Houston, 2004). Mongolia and Kyrgyzstan, among other countries, have also used the reassessment of major myths and mythic-like historical figures as ways to strengthen their commitment to development.

Storytelling is one of the oldest tools of cultural transmission and has always been utilized by leaders at local and national levels. The story out of which a people live tells them and others who they are, what is important to them and how to conduct their lives – all of which are aspects of governance. It is known that stories told within organizations encourage or discourage commitment, generate more belief and are more remembered than statistical and conceptual data. Some types of organizational development use the identification and retelling of corporate stories as a main methodology (Owen, 1987). Metaphors also are powerful governance tools. For example, the difference between saying that your workplace is a prison or saying it is a local community full of the possibility of friendship and self-expression has huge behavioural implications. Through naming things we establish our relationship to them and then live out of that understanding. Likewise, telling a nation that a single act of terrorism is an act of "war" sets in motion a national response in which an ongoing state of war can be justified as an appropriate response. Whereas

now, one national leader is reminding people that “Yes, we can!” Language may be the most powerful governance tool of all.

### *Methods to design whole systems*

For leaders to analyse and manage their work using a systems view requires the ability to see the big picture in both its wholeness and the relation of its parts. Whatever entry point is being dealt with, for example HIV/AIDS, it should be viewed in relation to all aspects of society – economic, political, social, cultural and environmental. One key tool is the systems map in which both external and internal dimensions are included, such as geography, social dynamics, key interactions, services, stakeholders, mindsets, cultural traits and so on. Examples of systems maps include the impact map (direct and indirect impacts and service provided); the comprehensive societal map (social, economic, cultural, political and environmental dimensions); stakeholder analysis; the internal dimensions map (values, beliefs, ethics, mindsets and attitudes); the four-quadrant map (collective systems, collective culture, individual values and individual behaviour – Wilber, 1996); and the four internal levels map (sensory, psychological, mythic and spiritual – Houston, 2004). These maps can be used for analytical, planning or management purposes with any governance institution or process.

There are many excellent techniques of strategic planning available to leaders including ToP (ICA), appreciative inquiry (AI), open space (Owen, 1987), whole systems design, future search and ZOPP (the objectives-oriented project planning instrument used by GTZ, the German Development Cooperation Agency). For example, according to the ToP strategic planning methodology, the leader as group facilitator asks participants to brainstorm and agree upon their common vision of the future, the challenges (blocks and gaps) and enabling factors that they face in realizing that future, broad strategic directions needed to deal with the challenges and achieve the vision and the tactics or actions needed to accomplish the strategies. These actions are then arranged on a timeline along with who will do what, when and where. This approach gives excellent results in any type of situation, especially if taskforces are formed and there is regular review and follow-up.

In order to mobilize a society (at national or local levels) to pursue development and governance goals, leaders can design campaigns building on traditional values, stories, proverbs, songs and symbols as well as future-oriented vision and plans. The use of mass media is of course a key component in awakening people to new possibilities such as the MDGs. The key to the effectiveness of such a campaign is in linking the global or national vision with the hopes of the local community and each

individual – how concretely will the envisioned developments help me, my family and my community, as well as the nation and the world as a whole? Creation of taskforces to design and lead social mobilization is important and should include multiple perspectives of women, youth, the elderly, minorities, wealthy and poor, rural and urban, non-government and government and so forth. Use of participatory approaches to involve the community in forums for discussion and in festivals to celebrate successes can be very effective. Especially important is the use of the arts in motivating people – visual arts, music, dance and drama. In this way people are awakened not only conceptually but in a fully sensory and experiential manner. The MDG campaign in the Philippines is particularly exemplary.

How have these civil society innovations been applied in international development and local governance? We will next review experience and lessons from 17 countries around the world.

## Two global case studies: Applying innovations pioneered by civil society

### *Local Initiative Facility for Urban Environment (LIFE): Utilizing the technology of participation*

From 1992 to 2006 the UNDP conducted a global programme called LIFE to improve the living conditions of residents of slums and squatter settlements in developing country towns and cities through “local-local” dialogue. The programme utilized the NGO ICA’s ToP methods within an integral development framework in micro projects and in city and national policy dialogue involving collaboration of NGOs, CBOs (community-based organizations), local authorities, national government, international donors and in some cases private firms. The pilot countries of the programme were Senegal, South Africa, Tanzania, Bangladesh, Pakistan, Thailand, Brazil, Columbia, Jamaica, Egypt, Lebanon and Kyrgyzstan. The author helped design the programme based on his previous 20 years’ experience with the ICA, and was the UNDP global coordinator for the programme’s first five years.

LIFE was launched at the Earth Summit in 1992 as a UNDP response to the environmental problems of the urban poor. Its overarching goal was to strengthen participatory local governance by focusing on urban environmental problems in water and sanitation, solid and liquid waste management, air and water pollution, occupation of hazard-prone zones, environmental health and urban planning as an entry point.

LIFE used a unique “upstream-downstream-upstream” methodology centred on small-scale grants to support local solutions, local empowerment and local governance. The methodology was so named because it begins upstream at the policy-making level, to formulate a national framework and strategy for identifying and prioritizing urban environmental objectives, and to create a partnership structure for implementing and managing the national LIFE programme. It then moves downstream to the local community level, to select and provide small grants to local entities for participatory environmental projects in poor urban neighbourhoods. These small projects act as catalysts for bringing various partners together in dialogue and collaborative efforts; for developing the specific skills and capacities of various actors; and for initiating the process of improving living conditions. The projects are also fundamentally intended to be “policy experiments”, as their results are documented and the extracted lessons are then upstreamed to influence policies, support upscaling and support the transfer and generation of new local and community-based initiatives for improving local governance and urban conditions. Through this three-stage approach, LIFE promotes micro-macro linkages for policy advocacy and reform.

Since its inception, LIFE has demonstrated a way of dealing directly at the subnational, local and community levels with stakeholders such as NGOs, CBOs and local authorities, even at a time when this was a departure from the way the UNDP and other development organizations functioned.

The last 15 years have witnessed dramatic increases in democratization, decentralization, urbanization and globalization. The attention to global commitments on human rights and environmentally sustainable human development has also increased, finding concrete impetus in the Millennium Development Goals, which have committed the global community to achieving quantifiable targets in the areas of poverty alleviation, environmental improvement, gender equality and health for all. Together, these developments have increased the focus on local concerns, local action and local voices. They have raised the importance of participatory local governance as a key means not only to address local development but also to achieve human development results more broadly. The global context provides a powerful rationale for programmes such as LIFE that seek to strengthen local governance.

Adaptations of ToP methods were used at every level of the programme. At the local level participatory planning was carried out with multi-stakeholders to design collaborative micro projects. National participatory workshops were held to design the strategies of the programme in each country, and the national steering committees made use of participatory

discussion techniques. At the global level, the advisory committee used participatory methods in all of its evaluations and deliberations.

Although a small programme, LIFE accumulated a record of notable achievements. One global evaluation found that LIFE had benefited over 6 million people directly and indirectly. Through programmes in 12 pilot countries and with partnership projects in many more, LIFE has drawn upon a global learning laboratory of over 40 countries to test partnership approaches, community-based innovations and participatory local governance in a variety of contexts to facilitate the process of scaling up solutions to the tremendous environmental challenges faced by the urban poor. LIFE has undertaken over 300 small-scale projects and operated in over 120 cities. It has catalysed significant resource mobilization. With a budgetary allocation of US\$1.7 million in 2001–2004 alone, for example, eight LIFE countries mobilized over US\$6.7 million of resources in cash and kind from diverse sources, including national and local governments and local communities themselves. LIFE has also contributed to the growing acknowledgement of participatory local governance as a key mechanism for sustainable development.

With a small pool of funds and staff, and along with many partners from all sectors at the local, national, regional and global levels, LIFE has had significant impact at both downstream and upstream levels.

- It has directly benefited the urban poor living in slums and informal settlements by improving living conditions; improving access to and infrastructure for water, sanitation and waste management; reducing air and water pollution; increasing knowledge and awareness about environmental health and practices; increasing access to income-generation opportunities; and increasingly addressing issues of land tenure and re-settlement.
- It has empowered poor communities (including women and youth) by investing in their assets; supporting their innovations and initiatives; and strengthening and catalysing the formation of their networks, community-based organizations and NGOs.
- It has indirectly benefited the urban poor by improving health, incomes and income-earning capacity.
- It has demonstrated the effectiveness of community-based and local initiatives, often influencing and transforming the orientation of NGOs and local authorities towards community participation.
- It has channelled funds as small grants to the poorest, and enabled the mobilization of greater resources from all sectors, including the poor communities themselves, to benefit the urban poor.
- It has accumulated a valuable body of knowledge in all these areas and facilitated learning in many forms and at many levels.

- It has affected some level of policy change in favour of participatory processes, pro-poor resource allocation, improvements for the urban poor and environmentally friendly technologies.
- It has helped build the capacity of thousands of people, from civil society to government, in technical areas related to the urban environment, in project preparation and management and in participatory processes.
- It has helped build partnerships and channels for communication between the various sectors: civil society, public and private.
- It has contributed significantly at the local and global levels to local governance by enhancing local service delivery and service delivery mechanisms, encouraging participatory processes such as ToP, improving accountability, providing information channels and putting in place processes and systems for ongoing sustainable development.
- LIFE's methodology and tools have demonstrated ways in which large-scale results can be influenced and achieved in a cost-effective manner, not just in the areas of urban environment (such as water and sanitation, solid waste management, human settlements and urban greening), but in other areas of human development as well (such as social capital, capacity development, women's empowerment, income generation and public health), primarily through the mechanism of strengthened participatory local governance.

*Decentralizing the MDGs through Innovative Leadership (DMIL):  
Being social artists*

From 2002 to 2006 the UNDP conducted another global programme, DMIL, to localize the Millennium Development Goals through social artistry leadership approaches within an integral development framework. The pilot programme was conducted in Albania, Barbados and the Eastern Caribbean, Kenya and East Africa, Nepal and the Philippines. The author helped design the programme based on his understanding of integral development and social artistry, and was the UNDP global coordinator of the programme.

In each country one to four national training workshops were held. The UNDP country office identified around 100 participants for each workshop from the NGO sector, local and national government, international donors, local communities and private firms. The workshops were between three and five days in duration and included social artistry training as well as discussion on the MDGs, decentralized governance and plans for action. A global partnership to conduct the programme was established with the International Institute of Social Artistry (IISA) and its founder, Dr Jean Houston.

The intent of DMIL was to equip local and national leaders with both societal and human capacities. Societal capacities include institutional and cultural development capacities, and human capacities comprise interpersonal and personal development capacities. Institutional development includes expanding systems thinking, strategic planning, effective action and continuous learning. In cultural development leaders gain an appreciation of the larger personal and cultural story. Interpersonal development involves strengthening participatory approaches, multi-actor partnership-building, gender mainstreaming and human-rights-based approaches. In personal development leaders enhance their own will, courage, imagination, initiative and energy.

Social artistry training included processes at four levels: in the sensory/physical level, participants developed their kinesthetic body, as do great sports figures, and fine-tuned their senses; at the psychological/historical level, leaders learned to view time differently, discover or rediscover their deep life purpose and exercise their brain function; at the mythic/symbolic level, participants encountered the universal hero's journey and learned to tell a new, powerful story about their lives; and at the unitive/spiritual level, leaders experienced a deep sense of calm and unity, passion and compassion in the midst of a world of challenge and chaos.

All of this was directed towards being of service in localizing the MDGs within the participants' individual lives and organizational work. To this end, leaders developed new projects and proposals for funding them, and linked together to form supportive networks. At the end of each workshop, participants articulated their "practice of commitment" of how individually and through their organizations they would localize the MDGs through social artistry leadership approaches.

For example, in Albania the UNDP country office developed a proposal and sought funding. Local leaders immediately began applying the SA approaches in their work in rural areas. The MDGs became the framework for a creative partnership between CSOs and different levels of government in doing development work differently. The UNDP and its project fieldworkers used SA concepts and practices to facilitate dialogue and participation. Through social artistry, personal and social awareness were enhanced, inventiveness was released, ability to cooperate was strengthened and the level of self-esteem was raised of everyone involved as agents of change.

In the Fieri region, through a visioning process, consensus-building dialogues between all the stakeholders (CSO and local government representatives) brought about priority interventions and identification of local MDG targets. In the Kukes region this consensus-based visioning process included green areas around the city, leading to a new forestation project. When the gender equality issue fell out of discussion, an Alba-

nian legend known as the Rozafa myth was invoked. This is a story of a brave woman who sacrificed herself to be partially buried in a wall to hold up the castle walls and prevent them from collapsing, while continuing to nurture her son. Through encountering this story, citizens were able to see new possibilities related to the issue while reclaiming their past and values inherent in the myth. CBOs working with women in Gjirokastra were able to reawaken traditional craft skills, nurturing “creative women with creative hands” as creative change agents, while restoring old values relevant and necessary for forward movement of development. Through songs and painting, essays and poem writing, youth were challenged to develop their creative imagination and raise their knowledge of the MDGs.

In Barbados the immensely popular sport of cricket became a metaphor for a successful strategy of localizing the MDGs. The UNDP office developed a project proposal and sought funding. In Kenya, traditional proverbs became a powerful way to ground the MDGs in the local cultures. Follow-up events have been held in cooperation with the NGO Lead Africa. In the southern Philippines, the longboat that was used in ancient times to traverse the waters between China and the islands became a metaphor for the teamwork required to achieve the MDGs. A strong taskforce was formed with senior NGO and government officials. In Nepal traditional music, dance and meditation practices gave new energy to the MDG campaign. Several follow-up training events have been held and 20 local social artistry projects have been funded and implemented.

In every country leaders reported that they were re-inspired and re-energized by the sensory, psychological, mythic and spiritual processes of social artistry, and were committed to using them in their work to localize the MDGs. The “trim tab” process was always a highlight, as through this leaders were able to link together to help each other achieve tangible improvements towards the MDGs.

## Conclusion

Utilizing an integral governance and development framework is essential in responding to the complex, multi-dimensional issues facing humanity. No longer can problems be solved on a piecemeal or uni-dimensional basis or with mechanistic approaches. A framework that encompasses all aspects of human development must be applied. A four-quadrant framework of systems, culture, behaviour and consciousness may be the most inclusive model available. Likewise, governance and development will not be participatory and effective if we continue the business-as-usual of

technocratic solutions. A wide range of effective methodologies must be employed, such as the technology of participation and social artistry. Without the use of participatory techniques and the development of the creative potentials of leaders, local governance and development will not move forward. Development methodologies and frameworks must respond to the complexity and depth of being uniquely human.

Civil society provides us with many innovative governance tools, as well as the leadership to demonstrate and mainstream them in collaboration with government and the private sector. Perhaps it will be the ideas, methods and commitment of CSOs that will save civilization from the devastation of global warming, economic meltdown and global pandemics and from the curses of inequity and injustice through innovative, hopeful and courageous collaborative leadership.

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## Civil society, donor assistance and electoral and parliamentary processes

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*Massimo Tommasoli*

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Democracy promotion has traditionally stressed the positive role of civil society in democratization; thus democracy assistance policies are aimed at strengthening the capacities of civil society organizations (CSOs) in democratic transitions and consolidation processes. Aid agencies have been supporting CSOs on the assumption that a strong and vibrant civil society plays a dual and mutually reinforcing positive role, with respect to democratic transitions and development processes. Most bilateral and multilateral democracy assistance suppliers and donor agencies – including the United Nations, the World Bank and bilateral donors – identify the strengthening of CSOs as a priority area of action within their aid policies aiming at supporting democracy, and also as a key strategy for participatory development.

The perceptions of civil society and its role in democratic change are influenced by two different traditions that Tom Carothers (2009) identified: one rooted in democracy promotion, and the other related to development practice. While the former is based on a definition of democracy as a value in itself, the latter addresses democracy only inasmuch as it is a variable contributing to development. Thus the political approach focuses on direct and indirect support to democracy activists, and the developmental approach emphasizes strengthening the conditions for democratic development through building state capacity and good governance in the medium and long term in order to improve human conditions.

## Civil society, donor assistance and democratic governance

Aid agencies have long recognized the importance of the quality of governance, but emphasis on democratic governance is a relatively recent trend that emerged in the 1990s. What is the “political gradient” of such emphasis, especially in a multilateral context?

The UN Development Programme (UNDP) has particularly invested in democratic governance. It should be noted, however, that “democratic governance” is a broad definition, combining two terms deriving from the political and development approaches as previously defined. The UNDP envisions democratic governance as a domain covering such fields as policy support for governance; parliamentary development; electoral systems and processes; justice and human rights; e-governance and access to information for citizens’ participation; decentralization, local governance and urban/rural development; public administration reform; and anti-corruption. Democratic governance is the largest UNDP practice area, absorbing almost \$1.22 billion (39 per cent) of the UNDP’s programme expenditure in 2007. When this main category is broken down into sub-categories of “democratic governance”, it transpires that the vast majority is spent on building the capacity of the state, a realm that is not at the core of democracy promotion. In 2004–2006 about 18 per cent of the UNDP governance portfolio addressed a focused definition of democracy promotion (parliamentary development and electoral systems and processes); the percentage fell to 10 per cent of expenditure (about \$120 million) in 2007 (UN Development Programme, 2008: 11–12). This is linked to the difficulties entailed by addressing sensitive political issues in a multilateral setting, like work on political parties or the funding of electoral campaigns.

Given the emphasis on electoral and parliamentary processes that has characterized democratic governance and democracy promotion in the last 20 years, the role of CSOs in electoral processes emerges as one of the key areas of work supported by democracy aid. What functions do civil society actors perform in electoral and parliamentary processes? I will describe below the main areas of focus for CSOs’ engagement, and I will consider challenges and conditions that enable effective engagement in the next and final section.

Aid agencies typically define the role of civil society in development as a complementary one to those played by governments and the private sector. What happens when they shift their focus from a developmental to a more political approach? The United Kingdom provides a good example of how a developmental approach visualizes the role of civil society, and how a shift in focus is increasingly bringing state-building into the democracy agenda and introducing politics to the development

agenda. In 2006 the UK Department for International Development (DFID) released a white paper, *Making Governance Work for the Poor*, which defined good governance as being “not just about government. [Good governance] is also about political parties, parliament, the judiciary, the media, and civil society. It is about how citizens, leaders and public institutions relate to each other in order to make change happen. Elections and democracy are an important part of the equation, but equally important is the way government goes about the business of governing.” In addition, accountability was defined as “the ability of citizens, civil society and the private sector to scrutinize public institutions and governments and hold them to account. This includes, ultimately, the opportunity to change leaders by democratic means” (Department for International Development, 2006: 20).

The recent UK emphasis on democratic politics in the context of the good governance discourse (Department for International Development, 2007) is due to the stream of work generated in reaction to the post-Washington Consensus and the recognition of the ineffectiveness of conditionality attached to donor support when faced with strong opposition from domestic political interests. This awareness triggered more in-depth political and institutional analysis of the political economy of reforms, aimed at assessing the structural obstacles and disincentives for change that have delayed or impeded the implementation of a range of governance reforms designed by aid-dependent countries as a consequence of donor pressure. In 2003 a series of empirical studies and assessments of the factors that contributed to, or hampered, reform efforts prompted DFID to launch its “drivers of change” approach. At the same time the Swedish International Development Cooperation Agency (SIDA) started its analysis of power structures that capture, hijack or favour reform initiatives (Tommasoli, 2005), and the World Bank executed political economy studies that addressed the same issues.

An example of the implications for a conceptualization of the role of civil society grounded on a “drivers of change” approach is provided by research carried out by the Development Research Centre for the Future State at the Institute of Development Studies (Unsworth, 2005). Considering the ways in which poor people organize to make demands on public officials, and how the state itself influences the opportunities for different groups to participate, the study “suggests that the common view of civil society as an autonomous, democratic sphere, standing in opposition to an authoritarian state, needs rethinking, recognising the critical role the state plays in the constitution of civil society itself” (ibid.: 4). The study concludes that the state has a central role “in creating incentives and opportunities for different groups to mobilise”, and suggests a shift from focusing on the contents of reforms to the actual political feasibility

of implementing them. Another conclusion concerns “the need to think differently about civil society – not as an autonomous sphere which should be ‘strengthened’ to put pressure on the state, but as a collection of interest groups that are themselves reliant on having effective state institutions in place, and which form and re-form in response to state action – and inaction”. Since the ability to aggregate interests and channel them through representative institutions is a crucial factor for civil society, contributing to the creation of state capacity to respond, Unsworth (*ibid.*: 46) suggests the need for thinking much more politically about the dynamics between state and society.

In the field of democracy assistance, Larry Diamond formulated an influential definition of civil society: “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 [...] it excludes [...] political efforts to take control of the state” (Diamond, 1994: 5). In this conception, civil society is an intermediary between the private sphere and the state. By acting as a check on the state, it legitimizes and strengthens it. CSOs stimulate political participation, educate citizens for democracy, provide group representation and articulation, help improve the political system, disseminate information and mobilize support for economic reform policies. In this perspective, the overall aim of civil society is to improve the liberal democratic model through monitoring, reporting, documenting, educating and debating, and to make the market-led neoliberal economic model work more effectively, thus laying the basis for sustainable growth.

In this approach, civil society consists of a range of associations and membership organizations that bring citizens together to act in political and policy realms. It cannot be segregated from the private sector, as it sometimes is, because it will inevitably include associations with commercial and business interests. Nor can civil society be discussed as an independent sector, as it can be remarkably partisan in its expression. Rather, it may be considered an amorphous conglomeration of interests and resources that can, at crucial moments in a country’s history, be aligned in favour of certain social goals.

In recent years various critiques of civil society assistance programmes have developed around an analysis of donor approaches. Carothers (1999: 88) describes the relative weight of work on civil society within the so-called “democracy template”, based on an analysis of US-funded democracy promotion programmes. The template is a menu of options for democracy promoters, ranging from support for electoral processes to

building state institutions and strengthening CSOs. Civil society, in particular, is seen as the demand side of democracy-building. Influenced to some extent by the romantic connotations of civil society in some neo-de Tocquevillean literature, this vision of CSOs is criticized by Carothers and others.<sup>1</sup> A tendency towards top-down approaches in the replication of civil society assistance programmes, irrespective of the context of intervention, is coupled with biased assumptions. Some typical donor assumptions wrongly equate Westernized advocacy NGOs with civil society at large, whereas in many cases the ability of such organizations to represent citizens' views (with the notable exception of women's rights organizations) is weak. Often donors assume the "mirage of apolitical engagement", whereas local NGOs (hence also the donor programmes that support them) are often involved in partisan politics and political struggles (Ottaway and Carothers, 2000).

Another body of criticism has developed from within the field of democracy assistance. It stresses the effectiveness of supporting CSOs in new and emerging democracies, constantly grappling with what are intrinsically political issues, as opposed to providing support to other traditional actors from the political society, like political parties (Doherty, 2001). It is not possible in this chapter to consider the current debate on political party assistance and its effectiveness. Apart from the unresolved issue of the extent to which advocacy NGOs are representative of public interests, the hypothesis of a "post-party", civil-society-based democracy would "also fall short regarding the structuring of political choices and the organization of governance" (Carothers, 2006: 10). However, it is interesting to trace the conceptual basis of such criticism back to the distinction between civil society and political society that we encountered in the analysis of the controversial conceptual debate on civil society as a separate sphere. Some authors call for a balanced approach to supporting both CSOs and political parties as actors of democratization (Gershman, 2004; Kumar, 2005), but the terms and modalities of such support meet with similar challenges in terms of aid effectiveness and the conditions for donors' engagement.

## Civil society engagement in the electoral process

CSOs may contribute in many ways to improving the effectiveness and transparency of the *electoral process*.<sup>2</sup> This section will focus on voter education and domestic election observation. It is important to note, however, that CSOs also play an important role in other key areas of democracy-building, as in representing special interests and in the mobilization of candidates, especially women – both through training and

support for the campaign – to run for office and be active in party politics<sup>3</sup> (Cheema, 2005: 43).

Voter education is a crucial factor for the participation of informed citizens in the electoral process. Actors engaged in voter education include election authorities, political parties, the state and CSOs. Many donors support the involvement of CSOs in the processes of designing, implementing and evaluating voter education programmes. Democracy promoters consider an election as an event where civil society, because of its resources, its voluntary nature, its diverse skills and its ability to reach into all sectors of the society, should be mobilized and, to the extent that it is possible, aligned in favour of non-partisan educational activities. In an election period, a variety of groups may be involved in voter education and election monitoring, as well as the more politically charged activities of endorsing one political party or candidate over another and campaigning on their behalf. These groups may not necessarily have political, electoral or even educational activities as their primary focus. As a result, they will have to negotiate any political activities with their membership. These types of groups include trade unions, community groups, business and professional associations and possibly religious bodies.

There may be many other organizations and associations that also support a successful election but will remain independent from the candidates and from the election authority. Some of these groups may have a mandate specific to political and electoral processes, such as NGOs dedicated to voter and civic education, public advocacy, election monitoring, parallel vote counts and human rights. In addition, there will be a range of special-interest groups that will conduct voter education and mobilization directed primarily at their own constituencies. Such constituencies may include young and first-time voters, women, ethnic or linguistic minorities, rural or remote communities, handicapped voters and internally displaced persons or refugees. Some of these constituencies may be at risk of exclusion in terms of their relative lack of information, apathy, sense of alienation from existing institutions and processes or vulnerability to manipulation.

Donors focus also on the role of election management bodies (EMBs), at both national and municipal levels, in interacting with CSOs and promoting their engagement in voter education. This is consistent with a shift, witnessed in recent years, from an event-driven to a process-driven approach to electoral systems and the electoral cycle. In this perspective, treating CSOs as stakeholders in developing the goals, objectives and parameters of a voter education programme is essential, as these organizations have the ability to provide quick and reliable information about the electorate. They may also have staff or volunteers with access to and experience of working with local communities, or may provide a relatively

low-cost option for operating at the grassroots level and personally reinforcing mass-media messages.

Regular consultation with CSOs can help maintain good EMB relationships with a wide range of specific interest groups which have a stake in the EMB's activities. These may be organizations focusing on democratic development and electoral reform, governance, combating corruption, women's empowerment, religious or ethnic tolerance, reforming legal systems, rights for people with disabilities, civic education, public sector reform or human rights. EMBs may also build positive relationships with CSOs by using them as partners to implement electoral activities; for example in training temporary electoral staff, or in implementing voter education programmes. It is helpful to the EMB to involve these interest groups in its policy formulation discussions, through mechanisms such as including representatives of a range of CSOs in working groups reviewing the electoral legal framework, or inviting representatives to address or provide submissions to EMB policy committees.

Another important area of civil society engagement in electoral processes is electoral observation. During elections, CSOs' observation and reporting activities help make the process more transparent. NGOs may increase the transparency of campaign financing by closely monitoring and publicly reporting on contributions and spending. They may undertake voter education programmes and help distribute election information. They may lobby policymakers and electoral administrators for better policies and electoral legislation protecting individual rights and freedoms, or for stricter legislation on campaign financing.

Monitoring of the process by organized national groups acting as independent observers is an essential tool for promoting election integrity. These groups span a wide spectrum of non-governmental organizations and other civil society groups, including national and local citizen groups, citizen networks, human rights groups, student associations, professional bodies and religious groups (Bjornlund, 2004). They collect information from their observer teams, analyse the democratic conduct of the electoral process, assess the quality of the election and publish their findings. The groups can be effective guardians of election integrity, especially in countries undergoing a transition. Their activities foster transparency and accountability on the part of the electoral administration, and in so doing they help to instil public confidence in the integrity of the process. Codes of conduct for observers set ethical and professional standards for observing elections.

An outstanding example of domestic monitoring occurred during the 1997 elections in Kenya, for which CSOs trained more than 28,000 national observers. These were posted at nearly 12,600 polling stations and each vote-counting station. Their pervasive presence encouraged voter

turnout (Barkan and Ng'ethe, 1998). In Indonesia, more than 600,000 national observers covered the 1999 elections and helped ensure the integrity of the election results through their close monitoring of the count. However, in the 2004 presidential elections Indonesia's General Electoral Commission refused to accredit the Independent Monitoring Committee of the Election (KIPP) because that body had published an observation report on the previous legislative elections without approval from the election authorities (Carter Center, 2005b).

Some countries impose severe restrictions on the recognition of organized national observation. In the 2004 Ukrainian presidential election, the law limited national observation to candidates' representatives. Ukraine's Committee of Voters nonetheless deployed thousands of observers accredited as journalists. In that capacity, however, the observers were not entitled to receive copies of electoral documents or to demand that these documents be made public (Organization for Security and Cooperation in Europe, 2005). In Ethiopia's 2005 parliamentary elections, the country's electoral management body limited the access of national observers – an action that was challenged before the Supreme Court. The court ruled against the electoral management body but the decision was not handed down until the day before the election, when it was too late for national observers to carry out their monitoring activities effectively on a large scale (Carter Center, 2005a).

In a few cases the presence of international observers is indispensable – for instance, with elections in countries requiring a peacekeeping force or undergoing a difficult transition, or where non-partisan civil society groups are virtually non-existent or non-functional. In the long term, however, the forming of domestic groups that are able to monitor their own elections without external assistance is an essential part of democratic development. National election observers have important advantages over international observers. They can more easily turn out in large numbers, even in the thousands. They know the political culture, language and territory. Consequently, they are capable of seeing many things that may pass unnoticed by foreign observers (Carothers, 1997: 25).

National monitoring groups are often better equipped than international observers to carry out particular types of specialized monitoring efficiently. Examples include verifying the voter registry, monitoring the complaints process, documenting instances of intimidation and human rights violations, and media monitoring. And, unlike international observers, national civic organizations have an important role to play in implementing civic education programmes and promoting electoral law reform (International Institute for Democracy and Electoral Assistance, 1999).

Observers and monitors can function more effectively if they are officially accredited by the electoral management or policy-making body. Accreditation gives them access to election sites. Integrity problems may arise if accreditation procedures or requirements are used to limit the number of observers, or to deny access to certain groups of observers or monitors. If the procedure is too time-consuming and cannot be completed before election day, or if accreditation is selective, the process will lose credibility and the EMB will be accused of having something to hide.

Most electoral systems establish eligibility requirements for observers and monitors in the election laws or procedures. Straightforward and objective requirements can help minimize problems such as discrimination or favouritism that might inadvertently result from subjective accreditation. Some election management bodies add behaviour conditions to the eligibility requirements. These are generally used to exclude persons considered to be anti-democratic. In South Africa, for example, accreditation is provided only to observers who will uphold conditions conducive to a free and fair election, including impartiality and independence from any political party or candidate contesting the election, competent and professional observation, and adherence to the code of conduct for observers.

In countries undergoing a difficult transition or in post-conflict societies, national observers may be targets for intimidation or threats. This situation may affect the observers' ability to travel, observe freely and report on the information collected without self-censorship or fear of retribution. For example, one report on the 1998 national elections in Cambodia states:

threats, intimidation and violence were daunting challenges to the Cambodian observers during this year's election process. None of the groups suggested that their ability to release public statements was compromised by the political environment. They noted, though, that intimidation affected their ability to gather information on the process and that threats colored the reports [...] received from observers. (National Democratic Institute for International Affairs, 1998: 14)

### Civil society engagement in parliamentary processes

CSOs can engage in *parliamentary processes* through lobbying policy-makers and electoral administrators for better policies, public-interest law reforms and electoral legislation protecting individual rights and freedoms, or for stricter legislation on campaign financing. They play a role in making parliamentarians responsive to the interests of minorities, poor and marginalized groups, and in observing the performance of

parliamentarians, assisting them with drafting proposals and undertaking legislative advocacy dealing with specific legislation (Cheema, 2005: 80). Among the most effective examples of CSO-parliament cooperation, especially in developing countries, have been those involving women and women's groups.

CSOs can participate in and influence decisions that are taken in parliament, mainly through parliamentary committees. However, this engagement can be controversial and has to cope with two parallel sources of tension. On the one hand, parliaments are often considered to be dominated by the executive and marginalized by international institutions and donors that, as we have seen in the previous sections, emphasize the role of civil society actors, sometimes even against legislatures. An example of this imbalance is the international priority in donor rhetoric attributed to CSOs involved in the development of national strategies, like the poverty reduction strategy papers (PRSPs), which was only at a later stage counterbalanced by an analogous emphasis on the role of legislatures.<sup>4</sup>

On the other hand, in semi-authoritarian states like Egypt or Ethiopia, legislatures may approve regulatory frameworks that limit or constrain civil society action, on the grounds that CSOs are pushing reform agendas that are defined by international actors and are essentially donor-driven (Sarrouh, 2002: 65). It is no coincidence that one of the issues listed in a UNDP concept paper on legislatures and good governance was the poor perceptions by, and relations with, civil society:

Individuals and groups in civil society may not understand the workings of the legislature, and are often unskilled in articulating their needs to the legislature. In many systems legislators and constituents rarely interact, and institutional weaknesses make it difficult for legislators to respond to citizen needs even when they understand them. A legislature unresponsive to the needs of the electorate will tend to lack public support. Finally, legislatures often poorly represent women and other marginalized groups in society. (Johnson and Nakamura, 1999)

According to Beetham (2006: 81–82), issues of concern associated with the engagement of CSOs in the legislative process are representation, independence and the relative weight of different organizations. Representation refers to how representative CSOs are of a particular constituency or social interest; independence has to do with how independent and self-organizing they are, rather than government-inspired and financed. The third concern refers to the risk of undue influence that some powerful and well-financed organizations may come to exert over the legislative process.

A growing awareness among democracy promoters is the need to develop skills and expertise similar to those of the executive and legislative branches of government, in order for civil society to be effective. This includes understanding legislative agendas, how the system of government works and how to work with it. Civil society should also know what legislation and regulations are being developed and promulgated, and how to read national budgets.

Another area for strengthened partnership between CSOs and legislatures is the budget process, through the establishment of budget groups at any combination of national, state and local/municipal levels in various developing countries, including situations marked by repressive regimes (Malawi), political turmoil (Indonesia) or extensive corruption (Nigeria). In many cases, "increased civil society budget activities are often complemented by greater independent budget oversight within legislatures and by the increased critical coverage of budget issues in the media" (Krafchik, c. 2002: 3). CSOs' work may contribute to improving the budget process with respect to simplifying the budget and deepening debate; collating, synthesizing and disseminating budget information; independent critical analysis; bringing new information to budget decision-making; training; and building accountability and potentially contributing to the drafting, legislative, implementation and auditing stages (*ibid.*: 6–7).

## Conclusions

What trends emerge from the evaluation of external support to CSOs engaged in democratization in the areas of electoral and parliamentary processes? Despite the investment of substantial amounts of aid in democracy-building over the last few years, the body of evaluations of civil society assistance has not yet reached a volume sufficient to draw solid conclusions. I will mention two studies that indicate some factors that contribute to the effectiveness of external assistance in areas related to the two subfields I have examined.

In the field of electoral processes, Sharon Lean (2007) analysed the results of CSOs' engagement in domestic election monitoring and observation. She argued that the effectiveness of international democracy assistance in this area is mixed and depends on both historical conditions and the degree of internal political polarization. Based on the analysis of six domestic election monitoring organizations in Mexico, Peru, Nicaragua and Haiti, her study defined three criteria for assessing the success of CSO election monitoring action: teaching civic skills and affording opportunities for participation; complying with democratic principles and practices; and playing a recognized intermediary role between society, the

state and the international community. Lean concludes that both the international and the domestic contexts matter. A history of external pressure based on soft power, and a low level of internal political polarization, may create favourable conditions for international democracy assistance. Multilateral action and pluralistic structures and behaviours on the part of the aid recipients may mitigate the unfavourable conditions determined by an experience of hard power intervention (including the use of force or sanctions) and high levels of internal polarization.

In the field of parliamentary processes, Robinson and Friedman (2007) assessed the influence of CSOs on government policy and legislation, and their impact on citizen participation in public affairs, based on a comparative analysis of 12 leading CSOs in South Africa and Uganda. The study found that while most CSOs acknowledge the importance of engaging in public policy, “few demonstrate a consistent level of direct involvement in the policy process and fewer still have a significant impact on policy outcomes” (ibid.: 648). In terms of the extent to which foreign aid has affected the capacity of CSOs to engage in the policy process, the study showed that the source of funding does not seem to bring about a differential policy impact in South Africa,<sup>5</sup> a more significant factor being the stability and predictability of resources. In fact, “few CSOs have achieved significant policy impact and [...] two of the three which have achieved impact are not dependent on donor funding” (ibid.: 662). Positive impact seems to be associated with the ability of external funding to strengthen existing democratization trends. The three critical factors for successful CSO policy engagement are “strong organizational capacity, a high degree of perceived legitimacy by the government, and adequate financial resources” (ibid.: 663). The study provides four recommendations for more effective donor support:

- replacing short-term project support with long-term programme grants and technical assistance
- providing specialized assistance to strengthen capacity for policy analysis and advocacy
- mitigating problems of financial dependence, reduced legitimacy and erosion of autonomy – linked to heavy reliance on foreign aid – by adopting strategies institutionalizing local sources of funding
- promoting a more supportive policy environment for CSOs by encouraging governments to remove restrictions and simplify registration procedures (ibid.: 665).

As we have observed at the beginning of this analysis, CSOs are not neutral, in either an electoral process or a parliamentary process, because they are embedded in structures of power that link them to the supposedly separate spheres of the state, the political society and the market. As for the electoral process, CSOs’ engagement in the parliamentary process

cannot escape the fundamentally political nature of the agency of civil society. The concept of civil society is about power, namely the power to influence decision-making. The discussion of the relationship between weak and strong publics (Fraser, 1992) is crucial to reveal the hidden tensions that characterize such engagement. In another sense, ultimately “the tensions that we observe in the relations between the state/parliament and civil society stem from the ‘western’ conceptualization of civil society as a buffer zone between the state and citizens” (Sarrouh, 2002: 64). Effective democracy assistance should be aware of such tensions and of its own role in exacerbating or even creating them, and act on the basis of sound comparative, non-prescriptive knowledge in both the field of democracy assistance and the realm of democratic governance.

## Notes

1. See for example Ottaway and Carothers (2000) and Gaventa (2006).
2. For a review of experiences made by democracy-building institutions in the field of electoral support, see the ACE Project Electoral Knowledge Network online resources at [www.aceproject.org](http://www.aceproject.org).
3. A key factor for increasing women’s political representation in elected bodies that extends beyond the remit of this chapter is the interplay between electoral system design and the implementation of affirmative measures, such as gender quotas. On training and profiling of candidates see [www.iknowpolitics.org](http://www.iknowpolitics.org); on gender quotas see [www.quotaproject.org](http://www.quotaproject.org).
4. “In the January 2002 Comprehensive Review of the PRSP Process, a number of donors and democracy organizations indicated concern with the relatively weak involvement of existing democratic and representative institutions in PRSP formulation, implementation, and evaluation. Previously, legislative involvement had occurred mostly informally through participation of individual legislators acting in their individual capacities as political leaders: thus, knowledge of the PRSP process by legislators and legislative staff remained generally weak” (Hubli and Mandaville, 2004: 1).
5. On this issue, Julie Hearn draws a different conclusion in her study on donors and civil society in South Africa, based on the analysis of some of the same CSOs studied by Robinson and Friedman (2007) in South Africa. In her view, political aid to civil society had two major consequences. First of all, “it has changed the debate on democracy” by eroding the residual belief in social democracy and replacing it “by the norms and practice of procedural democracy”. By funding the liberal proponents of procedural democracy in civil society, the North had successfully “influenced the rules of the game”. Secondly, “it had facilitated a newly legitimatised South African state to preside over the same intensely exploitative economic system, but this time unchallenged” (Hearn, 2000: 828).

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Part III

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Experiences in Asia

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## 9

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# Civil society, policy dialogue and democratic change in Bangladesh

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*Rehman Sobhan*

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## Introduction

Civil society remains a multifaceted concept which is built up by a broad range of constituencies driven by a variety of objectives. This chapter seeks to delimit its scope by focusing on the role of civil society organizations (CSOs) in influencing the policy discourse in Bangladesh. Traditionally, civil society initiatives originated in the activism of specific interest groups committed to promoting more parochial agendas. This chapter, however, draws upon the contemporary move towards engaging civil society in the design and oversight of public policy as part of a process of promoting more accountable and transparent governance. The chapter largely draws upon the experience of the Centre for Policy Dialogue (CPD), Dhaka, which is a well-known think-tank in Bangladesh and across South Asia.

This chapter reports on the contribution made by the CPD in promoting national policy dialogues to influence the domestic policy discourse in Bangladesh; the formulation of a set of policy briefs to feed into the pre-2001 election debate in Bangladesh;<sup>1</sup> and the role of civil society in influencing democratic reforms and better governance in Bangladesh in the period leading up to the 29 December 2008 national election in Bangladesh.

This chapter attempts to explore the specific experience of the CPD, which is largely committed to policy advocacy, as a case study of the tensions and dilemmas which cover the interface of civil and political society.

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The discussion in this chapter, on the role of the CPD and its linkage with other constituencies of civil society in influencing the quality of public policy and the democratic process, remains an exploration of the art of the possible and must be seen as a work in progress. The concluding section will attempt to draw some lessons from the experience of the CPD and other CSOs in the given historical context of Bangladesh, which may be of some relevance to the future role of CSOs not just in Bangladesh, but in the broader South Asian region.

## Civil society in Bangladesh

CSOs in Bangladesh come in a variety of shapes and sizes. The traditional CSOs are mostly professional bodies. The business community has spawned a variety of associations at the sectoral level. These business associations are federated in a variety of bodies at the area or national levels. Presiding over all these bodies is an apex organization, the Bangladesh Federation of Chambers of Commerce and Industry (FBCCI). These bodies are, by their own definition, interest group associations committed to lobbying the government for various fiscal and financial favours, and for highlighting a variety of grievances or policy changes favouring their sector. As a result, these bodies rarely seek to challenge the agendas of the state or to address issues of national concern, since their *raison d'être* is to seek favours from the government of the day.

Notwithstanding the largely business-oriented nature of these bodies, elections in most associations tend to be intensely contested, and in some associations even take on a politically partisan character. This possibly owes to the practice of using elective office in the association for securing access to the government. Interestingly enough, the major political parties are also keen to influence the outcome of some elections, such as to the apex body, the FBCCI. The government usually attempts to ensure that a candidate from, or favoured by, the ruling party is elected president of the FBCCI.

Despite attempts by these business associations to use their collective strength to project their interests, they are rarely influential as a body, largely because they remain divided within themselves. In such circumstances individual entrepreneurs prefer to negotiate favours for their own enterprises, and maintain private political connections to serve such a purpose. The use of their personal wealth to secure business favours for themselves remains the *modus operandi* of these segments of the business community rather than using collective action to serve a corporate agenda.

An even older component of civil society, the professional associations, such as doctors, engineers, teachers, lawyers and economists, have been a voice in public life for many years. However, here their policy leverage as a community has been weak because these bodies tend to use their collective bargaining power to solicit favours from the prevailing government. This capability has, in recent years, been weakened by the politicization of some associations, such as those for lawyers, doctors and university teachers. In each of these associations elections are fiercely contested on politically partisan lines. The winning faction then seeks preferential legislation or another mode of benefit for its members if its political patrons happen to command state power at that time.

Outside of the membership-based civil society bodies there are smaller coalitions of voluntary advocacy groups which usually come together around specific issues such as environmental protection, or to challenge official efforts to contract out energy exploration rights to foreign companies. These issue-based CSOs tend to be sustained by the contributions of their members and the voluntary services invested by committed activists. However, such activism remains constrained by the limited finances of such CSOs and depends heavily on the dedication of a few activists.

In contrast, the largest and best-funded groups in civil society remain the NGOs. There are 78,022 registered NGOs in Bangladesh, and 2,340 NGOs are registered with the NGO Affairs Bureau for receiving external funds (NGO Affairs Bureau, 2008). Many of the NGOs not registered with the bureau have instead registered with other government agencies, such as the Department of Social Services or the Department of Women's Affairs, and also receive some foreign funds.

Most of these NGOs are designed to provide social services to the poor, but some are also committed to giving public voice to the concerns of the deprived (Sobhan, 1997). As aid donors have become more and more disillusioned by the incapacity for honest and effective delivery of aid by the state to target groups of the poor, they have increasingly turned to the NGOs as an alternative delivery agent for social services. As a result, external funding for NGOs in Bangladesh has escalated from around US\$120 million in 1991 to US\$534 million in 2008 (NGO Affairs Bureau, 2008). In 2008 398 donor agencies, some official but mostly non-governmental, drawn from a variety of countries, disbursed aid to 2,129 local NGOs and 211 foreign NGOs registered with the NGO Affairs Bureau (*ibid.*). Bangladesh is home to some of the largest NGOs in the world, such as BRAC, which may serve both as a cause and an effect of NGOs dominating aid flows to the country.

The increasing flow of funds and engagement of NGOs as aid contractors has tended to lower the profile of these NGOs in the area of advocacy (Sobhan, 1997). This transformation owes, in some measure, to the

attendant risks of contestation by the NGOs with both the state and locally influential groups, which may feel challenged by such advocacy initiatives. NGOs also recognize that under the laws regulating them, they have to obtain formal clearance from the NGO Affairs Bureau to receive and spend foreign donations (NGO Affairs Bureau, 2008). This awareness has served to constrain NGOs from associating with any advocacy activity which may incur the disfavour of the government. Some NGOs such as BRAC, which are now largely engaged in service delivery but have retained a commitment to advocacy for the poor, have limited their advocacy to proffering constructive policy advice to the government.

A number of NGOs still remain strongly geared towards advocacy. Prominent among these are organizations such as Nijera Kori (let us do it ourselves), Ain-O-Salish Kendra (law and conciliation centre), Mohila Parishad (Women's Assembly), Manush-e-Jonno (for the people), Sujon, Transparency International Bangladesh (TIB), Bangladesh Enterprise Institute and the Centre for Policy Dialogue. These and many other such CSOs range over a wide terrain in their advocacy efforts, covering such areas as gender, minority and human rights, corruption, good governance, fair elections and policy reforms. These advocacy-oriented CSOs now have access to a much larger volume of external funding, as donor agencies have begun to give priority to governance-related issues. While these CSOs remain inspired by the compulsion to promote change within society, their approaches, motivations and effectiveness vary considerably. The fact that such externally funded agencies are now regularly promoting and participating in policy debates which are often critical of public policies is not always appreciated by the incumbent government. The political opposition also maintains an ambiguous relation with such CSOs, which are perceived as allies in some cases, as well as competitors in influencing public opinion.

Some NGOs such as Proshika, once the third-largest NGO in Bangladesh, attempted to graduate from policy advocacy into participating in the political process by associating themselves with a particular political alliance. Proshika played a more overt role during the 1996–2001 period in supporting the political agenda of the Awami League. But when the Awami League was heavily defeated by the Four Party Alliance in the 2001 elections, Proshika was exposed to severe persecution during the regime of the alliance between 2001 and 2006. The external funding of Proshika was cut off, not by its aid donors but by the government. Furthermore, its accounts were rigorously scrutinized and its CEO was arrested on questionable grounds and exposed to continuous harassment by the government. The Proshika experience served as a strong incentive to CSOs/NGOs to keep away from more explicit engagement in the political arena.

Ironically, the politically most engaged NGOs were the fundamentalist groups. A variety of such organizations, engaged in ideological advocacy, political mobilization and a few even in acts of terrorism, operated as registered NGO/CSOs, with access to substantial external funding (Bangladesh Enterprise Institute, 2008). Some of these organizations were also patronized by local, religiously denominated financial institutions operating commercially in the marketplace. The funds of these religion-oriented financial institutions were invested in the social programmes of various religion-oriented CSO/NGOs which, in some cases, served as a cover for their more politically oriented activities. Such religiously affiliated CSO/NGOs attract little public attention until potentially exposed to public scrutiny when a particular terrorist activity falls within the purview of the law enforcement agencies.

### The role of the CPD

The Centre for Policy Dialogue was established in 1993 as a civil society think-tank drawing on the support of a number of well-regarded civil society institutions and eminent citizens. Its primary mission was to engage civil society in the design and oversight of public policy in order to promote a development and governance process which is more demand driven, participatory and downwardly accountable. The CPD's mandate has extended into promoting dialogue in strengthening the electoral process and sustainability of democratic institutions. The CPD's civil society activism in policy-related areas is operationalized through various concrete initiatives.

- *Knowledge generation* through research and analysis, leading to the creation and management of a data and information base.
- *Raising policy awareness* through dialogues, networking, information dissemination and mobilizing support of civil society behind concrete policy agendas.
- *Influencing policy* at the national, regional and international levels by involving policymakers, political leaders and parliamentarians in the dialogue process, and by contributing to the preparation of global policy documents and national policy briefs.
- *Capacity-building* by way of organizing policy appreciation workshops for policymakers and other important stakeholder groups.
- *Promoting civic activism* by organizing consultations with citizens' groups to engage them in making political parties and democratic institutions more accountable.

The CPD has sought to fulfil its mandate by convening around 415 dialogues at the national, bilateral and regional levels between 1993 and

2008.<sup>2</sup> It is arguable, though this needs verification, that the CPD initiative is unique in South Asia in institutionalizing an ongoing process of policy dialogue involving a variety of stakeholders which has sustained itself for over 15 years. This dialogue process at the CPD is underwritten by an active research programme.

As part of this process the CPD has, since 1995, been publishing an annual *Independent Review of Bangladesh's Development (IRBD)*, which is prepared by leading Bangladeshi experts. The *IRBD* has now established itself as a measure of civil society's effort at making successive governments accountable for their stewardship of the development process. The *IRBD* today serves as a standard reference on the state of the Bangladesh economy and is used as a reference point in parliamentary debates, public dialogues, the media and academic research.

A significant feature of the CPD dialogue process has been its capacity to bring together a broad range of stakeholders in the policy process, including cabinet ministers, senior bureaucrats, parliamentarians, business leaders, NGOs, professionals, academics, human rights activists, trade union and peasant leaders and professionals from the international development organizations. Given the confrontational nature of democratic politics in Bangladesh, which involves frequent boycotts of the national parliament by the opposition, CPD dialogues have emerged as one of the few public forums where government and opposition members can debate public policies within a non-confrontational environment. CPD dialogues are a public event and enjoy wide media exposure, which serves to project the policy discourse in Bangladesh before a national audience.

The CPD also organizes dialogues involving civil society representatives from India and Bangladesh, with a view to exploring solutions to various long-standing problems constraining bilateral relations. At the regional/subregional level, the CPD has been involved in promoting greater cooperation within South Asia through its association with the South Asia Centre for Policy Studies in the involvement of civil society in the design of policy initiatives to promote greater South Asian cooperation, and framing a Citizen's Social Charter for South Asia through a civil society consultation process from the grassroots to the national and regional levels. These initiatives by the CPD in promoting civic activism at the bilateral and regional levels, and their impact on interstate relations, are excluded from discussion in this chapter for reasons of brevity.

### The contribution of the CPD in the formulation of pre-election policy briefs

Drawing upon its experience in organizing policy dialogues and publishing the *IRBD* every year, the CPD sought to contribute to enhancing the

quality of the policy discourse during the course of the 2001 campaign for elections to the national parliament. The CPD's objective was to prepare a series of pre-election policy briefs, with an emphasis on alerting the political parties to significant public concerns culled from community outreach and other participatory input. It was intended to encourage the political parties to move away from confrontational rhetoric and focus their minds on projecting policy alternatives designed to respond to public concerns, which could then be reflected in their election manifestos and during the debate at the hustings. It was further hoped that these policy briefs would influence subsequent executive action to be undertaken by the future elected government, and would also service parliamentary debate in the new legislature.

A distinctive feature of the policy briefs lay in their preparation through an interactive process of dialogue with the participation of major stakeholders, including policymakers, parliamentarians, the business community, leaders of major political parties, media, development partners, students, trade union leaders, NGOs, other civil society representatives and grassroots activists. These briefs were thus able to be more responsive to public needs, and in the process established a degree of ownership of the stakeholders in the design of public policy. The policy briefs further served to establish the wealth of professional talent available to Bangladesh in designing a more indigenous process of policy thinking, with a view to restoring greater domestic ownership over the policy-making process.

The CPD was equipped to provide the lead role in preparing the policy briefs through conceiving, managing and implementing the exercise. It identified and prioritized the strategic issues through various dialogues organized within and outside Dhaka. To address the selected issues and prepare the policy briefs, the CPD set up 16 taskforces, which included eminent experts, academics, business leaders and representatives from other important civil society groups.

It should be kept in mind that such a major initiative, originating from civil society in an area which is normally the exclusive preserve of national governments and some international development organizations, was only possible because of the CPD's unique institutional experience. The CPD was able to draw upon its social capital, accumulated over the years through both organizing dialogues involving a variety of stakeholders and mobilizing leading professionals every year to work on the *IRBD*.

A four-stage approach was followed by the CPD for preparation of the policy briefs:

- identification and prioritization of strategic issues/areas as a focus
- development of policy briefs by expert taskforces to address the issues identified
- validation of the policy briefs
- dissemination and outreach of the messages from the briefs.

In order to identify and prioritize the policy issues, 125 participants took part in six meetings held within and outside Dhaka, as indicated below. Through this process, 16 strategic issues were identified.

To prepare the policy briefs the 16 taskforces were mobilized, involving a total of 132 members. In most cases these taskforce members had been sufficiently motivated to volunteer their valuable time, both as a public service and as an act of solidarity with the CPD. The taskforces were provided with the following guidelines in preparing their briefs:

- assessment of the current scenario
- identification of problems/issues
- description of an agenda with time-bound goals.

With a view to involving non-resident Bangladeshi stakeholders in the formulation of the briefs, the CPD set up an internet group titled CPD-PBC (Centre for Policy Dialogue-Policy Brief Comments) and collaborated closely with the Association for Economic and Development Studies on Bangladesh (AEDSB) based in Washington, DC. This link has in recent times proved to be very rewarding, as valuable contributions were received from this source.

The policy briefs prepared by the taskforces were then subjected to a validation process through a series of subnational and national thematic dialogues. National newspapers were identified as the most important medium to reflect popular opinion on policy formulation. The CPD closely collaborated with the *Daily Star* and *Prothom Alo*, the leading English language and vernacular dailies respectively in Bangladesh, to give maximum exposure to the contents of the briefs. Seven regional dialogues were held in Sylhet, Chittagong, Rajshahi, Khulna, Comilla, Mymensingh and Dhaka. A total of 746 people, representing 14 categories of occupation, participated in the seven dialogues until a national forum was eventually convened in Dhaka.

The president of the People's Republic of Bangladesh, Justice Shahbuddin Ahmed, inaugurated the national policy forum in Dhaka on 20 August 2001, and the reports of the 16 taskforces were publicly presented to civil society and the leaders of the two major political parties, who also spoke at the inaugural session. The public presentation of the policy briefs was followed by a two-and-a-half-day National Policy Forum: Election 2001, organized by the CPD in partnership with the *Daily Star* and *Prothom Alo*. The forum sought to provide a non-partisan platform to bring together representatives from the major political parties, along with the best professionals and representatives from civil society, to discuss the policy alternatives available to confront issues which demanded urgent attention.

The CPD also collaborated with partner organizations from civil society which were involved in areas relevant to the work of the task-

forces. More than 2,000 participants took part in the 16 sessions during the national forum, which was held simultaneously in three venues in Dhaka.

Following the public scrutiny of the taskforce reports by the forum, the CPD moved to ensure early publication of the final report both in English and Bangla (Centre for Policy Dialogue, 2004). To ensure that the issues raised in the forum remained under public scrutiny, the CPD decided to hold a series of dialogues over the next five years involving major stakeholders, including the government and the opposition parties, to ensure that the issues raised in the briefs remained part of the policy discourse.

In pursuance of this decision, in April 2003 the CPD reconvened the taskforces of 2001 to revisit the pre-election recommendations made in the policy briefs, taking into account the changes that had taken place since the new government assumed office in October 2001. Revisiting the policy briefs became necessary to assess the implementation status of the recommendations made in 2001, through close scrutiny of:

- election manifestos of the ruling parties
- the 100-days programme of the government after it assumed office
- the national budgets of 2002 and 2003
- sectoral policies and programmes already taken up by the government.

The strategic issues addressed in the 2001 policy briefs were reviewed, and it was agreed that 17 thematic issues should be covered by a national policy review forum, which was organized in June 2003. Seventeen taskforces drawn from civil society started working in place of the 16 taskforces originally set up in 2001 to prepare the first briefs. Some new members were inducted into the taskforce groups, wherever it was necessary, to strengthen the original teams further with the induction of a younger generation of civil society representatives.

The national policy review forum, organized by the CPD in association with the two national dailies, *Prothom Alo* and the *Daily Star*, held eight subnational and one national-level consultation between 26 April and 5 June 2003, in seven district capitals as well as the national capital of Dhaka. Table 9.1 shows the themes addressed in these consultations by the various taskforces convened by the CPD.

Review reports were published in a reader-friendly format in both English and Bangla and disseminated through television, the internet and print media (Centre for Policy Dialogue, 2005).

Top leaders of major political parties were invited to all the thematic sessions of the national policy review forum, together with the cabinet ministers as well as former ministers in charge of different thematic areas. More than 2,000 participants attended the national forum in Dhaka in June 2003.

Table 9.1 The themes covered by the taskforces

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<ul style="list-style-type: none"> <li>• Trade policy</li> <li>• Financial sector</li> <li>• Transport</li> <li>• Budgetary discipline and fiscal programmes</li> <li>• Education sector policy</li> <li>• Information and communication technology</li> <li>• Gender equality and women's empowerment</li> <li>• Development and governance of the energy sector</li> <li>• Administrative reform</li> </ul>	<ul style="list-style-type: none"> <li>• Rural economy: agriculture and non-farming</li> <li>• Poverty eradication and employment generation</li> <li>• Health and population policy</li> <li>• Environmental policy</li> <li>• Corruption</li> <li>• Democratic processes (parliamentary, judiciary)</li> <li>• Industrial policy, privatization, SMEs</li> <li>• Urban governance</li> </ul>
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## The role of civil society in promoting democracy and good governance

### *The role of civil society in the 2007 election campaign*

The CPD's experience in 2001 in preparing policy briefs to influence the election agendas of the political parties and its subsequent review in 2003 of the impact of the briefs guided its contribution to the elections of January 2007. During the period between 2001 and 2007, policy dialogues had begun to give increasing attention to the dysfunctional nature of Bangladesh's democratic process and its impact on the deteriorating quality of governance.

While some of the developmental outcomes such as improvement in growth, investment and human development continued to remain promising, the degeneration in governance had attracted attention at the national and global levels (Sobhan, 2004). For four consecutive years (2001–2005) Bangladesh languished at the bottom of the corruption scale in the global corruption indices prepared by Transparency International.<sup>3</sup> There was a growing apprehension across the country that confrontational party politics and a dysfunctional parliament had spawned a governance process where transparency was low and accountability was weak (ibid.). Such a system, compounded by the dominance of money and muscle, had influenced the composition of the legislature and the functioning of the democratic process.

With the approach of the national elections some civil society groups became more active in their attempts to address the issue of making parliament a more effective and accountable institution. CSOs sought to influence public opinion to encourage the political parties to make par-

liament more effective by nominating more credible candidates to contest the elections. One of these CSOs, Sujan, worked on mechanisms to encourage the National Election Commission to compel the electoral candidates to disclose critical information on their finances, education and exposure to the legal process. It also launched a nationwide campaign to promote the idea of persuading the political parties to choose “clean” candidates to contest elections.

### *The emergence of the Nagorik (Citizens’) Committee*

The Centre for Policy Dialogue (CPD), which as noted had played an active role in attempting to influence the election debates in 2001, took a wider view on the 2007 elections. It again decided to bring together citizens to try to influence the discussions in the forthcoming campaign for the January elections. This time around, however, the CPD decided to focus on persuading the political parties to articulate a longer-term vision for the nation which would contextualize the preparation of their respective election manifestos.

In order to prepare such a vision document, the CPD brought together 27 eminent citizens to constitute a Citizens’ (Nagorik) Committee (NC), with the author of this chapter as convener. The NC drew on citizens of exceptional distinction from the academic, business, professional and NGO communities. They included Nobel Laureate Muhammad Yunus as well as Fazle Hasan Abed, the head of BRAC, one of the world’s largest NGOs, four former presidents of the Metropolitan Chamber of Commerce and Industries and some of the countries leading professionals and academics. Eleven members of the NC had held ministerial positions in previous elected or caretaker governments.

At the inauguration of the NC in Dhaka on 20 March 2006, which was attended by a broad cross-section of civil society as well as important political figures from the major parties, one of the keynote addresses was presented by Muhammad Yunus, who was to be awarded the Nobel Peace prize in November 2006 (Centre for Policy Dialogue, 2006). In his address Yunus emphasized the importance of ensuring the nomination of “clean” candidates in the forthcoming elections. He went so far as to suggest that if political parties failed to nominate such candidates, civil society groups in each constituency should nominate a “clean” candidate from among themselves. Yunus even suggested that the CPD serve as the secretariat for this electoral initiative by civil society.

This attempt by Yunus to persuade civil society to play a proactive role in the election campaign was at variance with the lower profile favoured by the NC. The primary goal of the NC had been to prepare a vision document, through a process of consultation with citizens across the

country, which could influence the policy manifestos of the major political parties. However, the statement by Professor Yunus, who even prior to the award of the Nobel prize was a globally recognized figure and well known across Bangladesh, received enormous media publicity. His message promoted the fallacious belief in some sections of the public that civil society was preparing itself, through the NC, to pressurize the political parties to nominate a better quality of candidate or face a direct challenge at the polls from civil society. This perspective on the Yunus message was far from correct. The NC remained inhibited about taking a proactive role in the election campaign which might put them into contestation with the political parties. Even though the NC publicly clarified its more limited mission of preparing a vision document, the public perception continued to invest the NC with a larger-than-life image of mobilizing citizens to challenge the electoral choices of the political parties.

As part of its national consultation process for preparing the vision document, between April and September 2006 the CPD convened 15 town-hall style meetings across the district capitals of Bangladesh. These meetings were again organized in collaboration with two of Bangladesh's leading newspapers, the *Daily Star* (English) and *Prothom Alo* (Bangla), and Channel I, a TV channel. The partnership with the media organizations ensured that these district dialogues were extensively reported in both print and electronic media. The town hall meetings sought to bring local citizens together to articulate their views on the possible content of a vision document. The 15 dialogues were attended by around 8,000 participants, drawn from a broad cross-section of locally influential citizens, including many district or local-level leaders and workers of the political parties.

These citizens' dialogues, which often continued for 10–12 hours, enabled around 1,500 citizens to express directly their deeply held concerns about the state of governance and the realities of democratic politics. While some creative thoughts were presented at the dialogues on the content of a possible national vision for 2021, the primary concern of the citizens related to the forthcoming elections and the prevailing state of misgovernance. Many citizens cited their apprehension that money and muscle would influence not just the nomination process but also electoral outcomes. They registered their concerns over the undemocratic character of the political parties, the pervasive corruption of the polity and administration, the low levels of accountability, the dysfunctional nature of parliament and their aspiration that their parties should indeed select a better quality of electoral candidates to contest the forthcoming elections.

*“Bangladesh Vision 2021”*

The final vision document, “Bangladesh Vision 2021” (Centre for Policy Dialogue, 2007), prepared at the CPD under the direction of the NC, also drew on more professional inputs provided by a series of expert group consultations organized by the CPD. The document focused on the following eight goals which were expected to shape a vision for Bangladesh in 2021:

- to become a participatory democracy
- to establish an efficient, accountable, transparent and decentralized system of governance
- to develop a poverty-free, middle-income country
- to ensure a nation of healthy citizens
- to build a skilled and creative human resource base
- to transform Bangladesh into a globally integrated regional economic and commercial hub
- to make provisions for environmental sustainability
- to create a more inclusive and equitable society.

“Vision 2021”, which emerged out of this process of citizens’ consultations and expert group meetings, sought to give substance to these inter-related goals. The document outlined the key targets that needed to be achieved in order to materialize the goals laid out in the vision document. Some of these targets were designed to be achieved in the short and medium term, while others were expected to be realized by 2021. It was projected that this vision would be internalized in the political goals of the political parties and would set the tone for their development strategies if elected to power.

The final “Vision 2021” document, along with a set of “Priorities for the Caretaker Government” plus an “Immediate Action Plan for the Next Elected Government”, was presented to a national dialogue organized by the CPD on 27 September 2006 (Centre for Policy Dialogue, 2007). They were supplemented by yet another document prepared at the CPD, titled “Proposed Draft for the Representation of the People (Amendment) Order, 2006”.<sup>4</sup> This document, drawing on the consultation process indicated above, put forward a number of important recommendations designed to make the parliamentary election more free, fair and inclusive of honest and competent candidates.

The documents were presented to the president and chief adviser of the caretaker government which assumed office after the dissolution of parliament in October 2006. They were also presented to the secretary-general/general secretary of the two major political parties, the BNP (Bangladesh National Party) and the Awami League, at a national

dialogue convened by the CPD on 19 November 2006. The prevailing incendiary political environment in which this dialogue was convened did not encourage expectations that the political parties would, at that time, give serious attention to developing a long-term vision for Bangladesh.

*The impact of political events on the work of civil society*

The work of the NC and the dialogue process was, indeed, overtaken by political developments on the ground. The very concept of a clean, free and fair election, promoted by civil society, was being subverted by the unfolding confrontation between Bangladesh's two major political alliances, the outgoing Four Party Alliance, led by the BNP, and the 14 Party Alliance led by the Awami League. The 14 Party Alliance challenged the impartiality of the prospective head of the caretaker government, the recently retired chief justice of Bangladesh, who was deemed to be allied with the BNP. The integrity of the Election Commission was also challenged by the 14 Party Alliance. The failure to reach a compromise on the oversight and conduct of the elections culminated in the usurpation of the system of a caretaker government by the assumption of absolute power by the president, who was also a loyalist of the BNP. These arbitrary and undemocratic actions, inspired by the Four Party Alliance, further vitiated the political environment, which was moving towards a full-scale confrontation between the two major political alliances (Jahan, 2008).

The prospect of a potentially violent confrontation was pre-empted by the intervention of the armed forces (AF), which compelled the president to dismiss his "chosen" council of advisers and appoint a new caretaker government (CTG), headed by a chief adviser presiding over a council of 10 advisers who were deemed to be more non-partisan and hence acceptable to the two political alliances. The full narrative of the entry of the AF has been provided in a recently published memoir of Bangladesh's chief of army staff, General Moeen U. Ahmed (2009). The new CTG assumed emergency powers, permitted under the Bangladesh constitution, and committed itself to hold free and fair elections within two years. During this time the CTG sought to establish a universally acceptable electoral roll backed by a system of national identity cards, and to create conditions where "clean" candidates, uninfected by money or muscle, could freely contest elections.

What is of note in this narrative of political confrontation culminating in an intervention by the AF is the complete absence of civil society in attempting to influence, let alone mediate, this unfolding crisis. Since the crisis was endangering the dominant mission of civil society with respect to governance, to ensure a peaceful, free and fair election, this helpless-

ness has considerable relevance to its role and its relations to political society. The remainder of this chapter seeks to spell out this dialectic between political and civil society because it provides important insights into the role and limitations of civil society in Bangladesh, and its capacity to influence the direction of democratic politics.

## Civil society and the caretaker government

### *The idea of a political third force*

The new CTG, set up on 11 January 2007, may have derived its legitimacy from the constitution, but it depended for its survival on the backing of Bangladesh's AF. As a result, the leadership and composition of the CTG, its tenure and agenda, appear to have been substantively set by the AF. The CTG was initially welcomed by the political parties and most of the country in averting civil violence. The 14 Party Alliance hoped the CTG would ensure prompt, free and fair elections. However, the Four Party Alliance was more jaundiced in its view of the CTG because it had frustrated its move towards a stage-managed election which would have ensured its return to power.

The AF initially turned to Professor Muhammad Yunus to head the CTG – clearly the best-known Bangladeshi in international and national forums. Yunus declined to head the CTG because he was contemplating a direct entry into politics, through launching his own political party. He felt that assuming office under the guise of influence from the AF would compromise his democratic credentials. The AF then turned to Dr Fakhruddin Ahmed, a well-regarded economist with no discernible political ties, who had served for many years in the World Bank and after his retirement had returned to Bangladesh as the governor of the Central Bank (Ahmed, 2009).

Shortly after the establishment of the CTG Yunus did, in fact, launch a political party. He presumed that his enormous prestige within Bangladesh, not just because of being a Nobel Laureate but because of his work with micro-credit,<sup>5</sup> would give him a head start in politics. Yunus, however, failed to mobilize any significant support for his political enterprise from within civil society. Many well-known figures in civil society believed that a third political force would serve to challenge the duopoly exercised by the two major political parties which had dominated Bangladesh politics for over a quarter of a century. However, no important civil society personalities were prepared, at that stage, to expose themselves to the uncertainties and even hazards of a direct entry into politics. The lack of an immediate response from anyone of any stature

in political or civil society persuaded Yunus to declare a closure on his political life as suddenly as he had launched it. Yunus returned to his role as Bangladesh's most widely acclaimed social entrepreneur, and with his exit all but ended all notion of a third force in Bangladesh politics.

The Yunus essay into politics was seen by many, particularly within political society, as the political face of civil society. The suggestion by Yunus at the launch of the NC in March 2006 was seen as a bell-wether for a more widespread initiative, drawing in segments of civil society, to initiate a third force in Bangladeshi politics to challenge the hegemony of the two principal parties. More significant for the fortunes of civil society, the Yunus initiative was perceived to have been sponsored by the AF. While the AF high command may have been happy to see the emergence of a strong political alternative to the two dominant parties, there is no hard evidence to suggest they played a proactive role in sponsoring such a force. Certainly they had no role to play in the Yunus initiative, which was entirely his brainchild.

In reality there was no such thing as a shared view within civil society on whether and how to challenge the existing political order. While many in civil society were happy to endorse the call by Yunus for putting pressure on political parties to select clean candidates, few, if any, bold citizens were willing to stick out their necks and participate in any institutionalized initiative to field clean candidates from civil society (Sobhan, 2009). This same inhibition within civil society to associate with a "clean" candidate movement constrained anyone from coming forward to join Yunus in his political enterprise.

### *The role of civil society under a caretaker government*

This tentative approach to politics points to one of the central weaknesses of civil society in Bangladesh. Its members are willing to speak out in seminars, even attend public rallies, and may occasionally write on the poor state of governance and the malfunction in the democratic process. However, no one from civil society was willing to expose themselves to the risks of confronting established political parties in the political arena or even in the broader public domain. Many members of civil society who were already affiliated with some of the major political parties remained hostile to any autonomous civil society political initiative, and were thus particularly critical of the Yunus enterprise. However, most other members of civil society, who may not have had any clear political alignment, tended to be risk averse and thus remained reluctant to cross the line from low-key advocacy to direct political engagement.

Notwithstanding the conspicuous inhibitions of civil society in playing an overt political role, a number of its advocacy initiatives were actively

taken up by some segments of civil society. Over the last decade it has been argued by sections of civil society that corruption has infected the working of the democratic process (*ibid.*). Governance has also been undermined by corruption and rendered dysfunctional due to its political divisiveness of successive parties. Civil society had propagated the need for a strong, autonomous, Election Commission which would challenge the influence of money in election campaigns, as well as exclude corrupt people (or at least those who had defaulted on their debts and fiscal obligations) from contesting elections. Transparency International Bangladesh had, for many years, led the campaign against corruption.<sup>6</sup> The CPD and Sujana had led the campaign for electoral reform and the sponsoring of clean candidates by the political parties. Ain-O-Salish Kendra (ASK) had fought for the independence of the judiciary and gender rights.<sup>7</sup>

All such reformist elements in civil society were pleasantly surprised to see their various reform initiatives now being embraced by the CTG. Within a few months of assuming office in January 2007, the CTG had decided to extend its mandate beyond the holding of free and fair elections to initiate a broad agenda of governance reforms.<sup>8</sup> This agenda prioritized punitive action against corruption in high places. During its two-year tenure, drawing on emergency powers, the CTG detained a large number of politically and commercially prominent people. The list of detainees included former ministers, members of parliament, business leaders, senior bureaucrats and even some NGO leaders. Cases were started by a newly empowered Anti-Corruption Commission (ACC) against many of these detainees, many of whom were charged. Some were found guilty by special tribunals set up by the CTG for these trials. Virtually all of those detained under emergency powers, including those sentenced by the special tribunals, were eventually released on bail by the upper courts in the months prior to the December 2008 elections. However, the actions of the CTG had sent out a message that corruption by the powerful was no longer beyond the law. This message was also heard by the political players, many of whom felt compelled to project their “clean” credentials in the subsequent election campaigns (Jahan, 2009).

The CTG extended its reform interventions to include strengthening and investing the ACC and the Election Commission with full autonomy. The Election Commission indeed framed a new set of rules for governing the conduct of elections, which drew heavily on suggestions coming out of particular CSOs. Other civil society agendas, such as the need for greater transparency in governance, were taken up by the CTG, which moved to enact a Right to Information bill. It also moved to honour a long-standing civil society demand for separation of the judiciary from the executive.

*Civil society and its interface with political society*

It remains to be seen whether civil society will be as active in promoting the continuity of the reform proposals legislated by the CTG now that a newly elected political regime has assumed office. After all, civil society in Bangladesh was not the only advocate for governance reforms; many of these civil society initiatives were also taken up by the political parties. The Awami-League-led 14 Party Alliance had put forward a 23-point reform agenda on the eve of the January 2008 elections, which included many of the proposals that had been propagated by civil society in the years before.<sup>9</sup> This agenda was, if anything, even more far-reaching than those emanating from various CSOs. Because political parties have a much broader reach than CSOs, their reform proposals potentially had a stronger impact on public opinion. Since political parties in Bangladesh are not generally associated with fidelity to their electoral promises, not much attention was paid by civil society to the 23-point programme. Thus when the CTG embarked on its own reform agenda after January 2007 it took its cue from civil society rather than political parties. This view of the CTG reform programme, being a projection of the agenda of civil society, was thereby given added currency. Political parties, which had themselves campaigned for governance reforms, naturally resented the argument that such reforms were the exclusive agenda of civil society.

While civil society may have legitimately taken some pride in influencing the reform agenda of the CTG, its exposure to criticism from political society, of being the intellectual inspiration if not the collaborators of the CTG, inhibited it from associating itself more publicly with the reform initiatives. Some organizations such as Sujan continued to play an active role in encouraging electoral reform. Transparency International collaborated, on occasion, with the ACC in educating the public on the importance of tackling corruption. Some CSOs/NGOs came together to sponsor the Right to Information legislation by the CTG. However, most CSOs preferred to remain quiet, so the CTG enjoyed very little public support from civil society for its reform programme, and felt abandoned by those very organizations whose earlier cries were now being translated into reality through the reforms it initiated. Nor did the CSOs play anything like an active role in projecting their reform agenda to the political parties prior to their election campaign at the end of 2008, in the way that they had done in both 2001 and 2006.

As a consequence of its ambiguous role in relating to the CTG, civil society had little to contribute to the ambitious reform agenda included by the Awami League in its manifesto for the December 2008 election campaign. Individuals from civil society were consulted by those who were entrusted by the Awami League to prepare its election manifesto.

The “Vision 2021” document prepared by the NC was also consulted and a variety of its ideas were incorporated into the election manifesto of the Awami League. The ultimate compliment was paid to civil society, the NC and the CPD when the Awami League chose as the caption for its election manifesto the title of the NC vision document, “Vision 2021, an Agenda for Bangladesh”.<sup>10</sup>

## Lessons learnt

### *Lessons on civil-political society relations*

This discussion of the most current manifestation of civil society in Bangladesh suggests some important lessons for the role of civil-political society relations, not just in Bangladesh but across South Asia. Notwithstanding the many problems and tensions faced by civil society in recent years, its contribution to promoting democratic change has not been insignificant. As noted, the reform agendas of the CTG drew much of their inspiration from the agendas of various CSOs. However, it is no less significant that even political parties, whatever they say about the motivations of civil society, have also felt compelled to take up issues which had once been the purview of civil society. The original 23-point agenda of the 14 Party Alliance and the subsequent election manifesto of the Awami League for the 2008 election campaign remain indebted to ideas propagated by civil society.

The recently concluded election campaign, which culminated in the overwhelming rejection of the outgoing Four Party Alliance and the massive victory of the Grand Alliance, owed its success in no small measure to the rallying of the electorate by civil society campaigns against corruption and misgovernance. The Four Party Alliance was identified with corruption, terrorism and “bad” governance, while the Grand Alliance demonstrated a greater willingness to pick “clean” candidates and emphasize better governance in its election campaigns. The electoral outcome demonstrated that the role of civil society in highlighting such issues, which once tended to be ignored by the parties, had now become politically marketable.

There is no indication that the victorious Grand Alliance is willing to acknowledge any debt to civil society in sowing the seeds for its massive electoral victory. If anything, both the victorious and the defeated alliances are still inclined to link civil society with the two-year rule of the CTG.

Notwithstanding this lack of appreciation of its role, civil society should take some inspiration from the political experience of the last few years.

However, it needs to heed a number of important lessons for redefining its role in the polity in the days ahead. These are summarized below.

- Over the last 15 years of democratic rule CSOs such as the CPD have regularly engaged with political society by inviting it to participate in a variety of policy dialogues. The goal of the CPD was to engage both government and opposition parties in discussing various national problems and policy options. While political players, in their individual capacity, regularly attended CPD and other CSO dialogues, the parties rarely reciprocated by inviting any CSOs to institutionally engage with them in designing their policy agendas. The party leadership remained uncomfortable with criticisms by segments of civil society on the malfunctioning of the democratic process and the practice of governance by the elected governments. However, some individuals from civil society were occasionally invited by particular parties to help them in shaping their policy agendas.
- CSOs now need to make a much more concerted effort in reaching out to the political parties, not just through the dialogue process but in directly engaging with them in consultations to discuss their felt needs and political compulsions.
- Much of civil society, mostly in the form of NGOs, remained inhibited about directly engaging in discussions related to democracy and governance. Some of these NGOs, particularly the larger ones, should come off the sidelines and more actively engage in policy advocacy. The NGO community needs to engage in a regular dialogue with political society in designing a workable rather than an adversarial relationship. In this period of democratic renewal, NGO-political society partnerships need to be forged to take forward the unfinished reforms carried over from the tenure of the CTG and those which still remain in the conception stage.
- Civil society in Bangladesh remains politically fractured. Some advocacy-oriented organizations and think-tanks are linked to particular political parties or propagate their agendas. Thus to talk of civil society in Bangladesh as some form of homogeneous civic body, speaking with one voice, is far removed from reality. This very divisiveness within civil society weakens its voice and influence over both political society and policy agendas.
- CSOs seeking to influence the governance process should, as far as possible, avoid partisan engagement with any party. If a CSO wishes to identify itself politically it should do so up front and indicate that it is an affiliate or partner organization to a political party. In accessing funds it should make this clear to its prospective financiers. It may be inappropriate for such CSOs to seek external funding from aid donors,

because this would open the door to external donors financing particular political parties through their CSO partners.

- There are a range of issues which have no political identity, such as challenging corruption or ensuring the integrity of the electoral process. Such common issues should be addressed by civil society from a shared platform. CSOs which feel strongly on such issues should not only continue to speak out but should forge issue-based alliances, drawing in all segments of civil society.
- Civil society in Bangladesh has made substantial advances over the last two decades. The presence of a functioning democracy for most of this period was an important factor in the growth and influence of civil society. A free media provided a voice to civil society and offered exceptionally generous publicity to the policy dialogues and advocacy initiated by the CSOs. Some media organizations collaborated with CSOs like the CPD in sponsoring civic activism, and dailies even sponsored their own policy dialogues. Partnership between civil society and the media must be strengthened if the voice and reach of civil society are to be amplified.
- Political society, working through the democratic process, will first have to develop a tolerance for civic activism, which should be permitted to flourish free of fear or risk and without the compulsion to take political sides. In a more mature society, political society should look to civil society as a partner rather than an adversary in building a sustainable democratic order committed to social change. Such an order has yet to emerge in Bangladesh.
- In the absence of a more tolerant political order, civil society's right to policy advocacy should be protected by law. This requires that the NGO Act should be revisited by legal experts to eliminate those aspects of the law which can be used by a government to frustrate policy advocacy or deny it access to external funding. A clear distinction should be made between policy advocacy and politically partisan activism by CSOs. The NGO Act may indeed aim to discourage such partisanship, but it should not be misused or even abused by governments to frustrate advocacy against policies or acts of misgovernance. The law courts should be available to protect the fundamental rights of CSOs against the exercise of arbitrary action by the state.

### *Lessons for policy advocacy*

The role of civil society extends well beyond influencing the democratic and governance processes. Organizations such as the CPD which have, from their inception, emphasized the role of civil society in promoting

policy advocacy in the area of development can also bequeath some lessons from their experience. These lessons are spelt out below.

- There is a substantial amount of tacit knowledge within civil society which can make important contributions, particularly in the area of development, to policy design, policy implementation and policy monitoring in the country. Without active involvement of interest groups, it is almost impossible to prioritize problems and find pragmatic remedies.
- The initiatives of civil society are likely to exercise only a limited influence on the policy-making process without the active involvement of policymakers drawn from both the executive and the legislature.
- The role of civil society in formulating development policies again cannot be sustained without systematic institutional back-up to support quality professional work. The essence of policy advocacy is that one must have something worthwhile to say which deserves the attention of policymakers.
- It is well established now that the stakeholders are keen to play a proactive role in the governance of the country. The efficacy of particular policies can be substantially enhanced if stakeholders can be involved in the identification, design and oversight of public policy. There is wide recognition and appreciation among the general public that civil society can play a positive role in bringing the relevant stakeholders together to articulate developmental demands.
- It is not enough to draw up a set of doable actions by the government through the participatory process. There is a need to put in place a mechanism for civil society to monitor and audit such actions so that the elected governments remain accountable. If civil society is effectively motivated, there is a tremendous scope for stimulating the spirit of civic activism in sustaining the democratic process and making the process of governance more accountable and transparent to citizens.
- CSOs are becoming increasingly dependent on aid donors. As a result, donor agendas are coming to play an increasing role in influencing CSO priorities. This dependence on and perceived subordination to donor concerns are compromising the credibility and authenticity of CSOs. It is essential for CSOs to establish their authority based on the credentials of their spokespersons and organizations, which must be driven by a spontaneous commitment to the concerns of the citizens of their countries. To sustain their autonomy from both donor influence and state interference poses important challenges for the future. This autonomy remains contingent on the sources of financing of civic activism, the governance and accountability of the CSOs and the degrees of autonomy they can establish in their relations with the governments of their respective countries.

- If civil society is to sustain itself as an autonomous initiative it will need to have access to institutional sources of funding which can make it independent of external donors and the capacity of governments to hold up access to such funding. Such financial autonomy will, perhaps, need financial commitment of a one-off nature from both foundations and the business sector, which can generate a permanent recurring income to underwrite the core institution of the CSO. Whether such endowment investments can be forthcoming from either donors or the private sector on a sufficiently large scale, without strings being attached, remains a moot point.
- Governments are currently designing and implementing most of their policies through the official machinery. Such a process remains exclusionary as well as inappropriate to the norms of a functioning democratic society, and lends itself to misgovernance due to weak accountability and lack of transparency. In the specific case of Bangladesh, the professional skills located within the government tend to be modest and need to be substantially augmented to enable it to design its own policies. As a result, external donors and foreign consultants have played an important role in both influencing and designing policies in various sectors. Public policies could have been better designed and made more effective if civil society, with its larger professional resource base, could from the outset have been involved in their design and implementation. This process of involvement could create a sense of participation for civil society, but it would have also greatly enhanced national ownership over policy by the country itself. The importance of ownership is, today, universally recognized as essential to effective governance.
- Presentation of research findings of intellectuals and experts to a wider cross-section of civil society representatives should extend beyond the more educated élites and reach out to ordinary citizens. Such a process could contribute to greatly enhancing the credibility and reach of CSOs. This could not only render the civil society initiative much more acceptable to the people in general, but would also carry more weight with the policymakers.
- If CSOs are genuinely interested in influencing public policy they need to have both a strong motivation to do so and the skills and perseverance to engage in effective advocacy. Too many of such CSO initiatives to design policy options end up as academic exercises devoid of the passion and commitment to carry them to an efficacious conclusion. Policy advocacy demands political skills at building coalitions across civil society, mobilizing grassroots support and reaching out to political activists to build constituencies which can give voice to public concerns

within the legislature and political parties. Such a process of engaged civic activism demands more single-minded advocacy behind particular concerns, a willingness to invest the time and effort to take an advocacy process to its conclusion and the courage to face up to the hostility of vested interests.

- In promoting civil society activism at the regional level it should be kept in mind that CSOs in different countries operate at their own pace and dynamism, which could vary widely depending on the circumstances of the country. This, however, still leaves considerable scope for experience sharing among CSOs as to their modality of operations as well as varying experiences. Through this process of experience sharing, there is a possibility that less active and weaker organizations may gain considerably and become more effective as CSOs. At the same time ongoing programmes of civic activism at the national level can gain considerable leverage with their respective governments by citing the beneficial outcomes of similar activism in neighbouring countries.
- While inter-state relations are often seen as the exclusive concern of diplomats and experts, public positions are often assumed in international forums on the grounds that they reflect citizens' concerns. Since citizens are rarely consulted in defining a country's external relations, it is appropriate that civil society should involve itself in indicating its own views on external relations through a process of civic engagement at the national level. This more engaged national civil society should come together across state boundaries to share concerns and work to resolve inter-state problems, which are often manipulated by regimes to perpetuate their hegemony over civil society.

## Notes

1. These briefs were created in consultation with civil society, with the product being a policy agenda which could serve the recently elected government as well as the parliament.
2. This number has been estimated from the CPD's records.
3. See the Transparency International website at [www.ti-bangladesh.org/](http://www.ti-bangladesh.org/).
4. This is an unpublished document prepared by the CPD which was presented to the caretaker government of Bangladesh on 19 November 2006.
5. Where Grameen Bank had been extending credit to over 7 million clients.
6. See the Transparency International website at [www.ti-bangladesh.org/](http://www.ti-bangladesh.org/).
7. See the Ask website at [www.askbd.org/web/](http://www.askbd.org/web/).
8. See the Institute of Governance Studies website at [www.igs-bracu.ac.bd/](http://www.igs-bracu.ac.bd/).
9. The Common Minimum National Programme was prepared by the 14 Party Alliance, led by the Awami League, in late 2005 as its agenda for economic and governance reforms if it was elected to power.
10. The Awami League's election manifesto is available at [www.albd.org/autoalbd/index.php](http://www.albd.org/autoalbd/index.php).

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## China's dilemma over civil society organizations

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*Denny Roy*

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There are few questions in Asian politics more consequential than the prospects for democratization in a China that has embraced economic liberalization but maintains an authoritarian political system of one-party rule and very limited public participation in the selection of officials and government policies. An important and useful means of monitoring China's potential for democratic transformation is to evaluate the role that civil society plays in China – how strong Chinese civil society is relative to the state, what kind of activities civil society organizations (CSOs) are involved in and how CSOs and the government interact. Indeed, CSOs present the Chinese leadership with a dilemma. On one hand, these organizations can under certain circumstances enhance governance and thereby take some of the pressure off officials who are struggling to identify and meet the needs of tens of millions of displaced (and potentially disgruntled) Chinese citizens who are not coping well with the dramatic socio-economic changes of the reform era. On the other hand, private organizations outside direct state or party control represent a possible challenge to Chinese Communist Party (CCP) authority and legitimacy because some of them invariably pursue agendas that conflict with China's current political system and CCP philosophy. Official reaction to CSOs has therefore been mixed and somewhat contradictory. Given this inconsistency, and the fact that dealing with a more assertive civil society is a relatively new issue for the Chinese government, this is likely to be a transitory phase that could lead to the ruling regime's assent to greater legal and political space for civic activism.

CSOs draw the attention of the state because they can potentially impact on governance in three important ways. First, CSOs can distribute services to the public, often in places the state cannot effectively reach. Second, CSOs can help the state govern more effectively by relaying information from the grassroots to government administrators. Third, CSOs can attempt to influence government policies. The authorities generally tolerate, if not welcome, activities in the first two areas. Lobbying for policy changes, however, is more problematic, and it is in this area that CSOs are prone to running afoul of the state. Some organizations have won the trust of the authorities as valued advisers on technical issues, but officials have perceived the activities of other CSOs as challenges to the ruling regime.

### Civil society with Chinese characteristics

There are many contending definitions of CSOs, but most analysts who use the term agree that it refers to groups of people who voluntarily organize outside of the structure of the state, the family or commercial enterprises. CSOs are a broad category that includes non-government organizations (NGOs), which in common usage usually focus on social and economic developmental issues. Typical types of groups found under the rubric of CSOs include charities, trade unions, religious institutions, social welfare associations, human rights advocacy groups, academic and cultural associations, environmental protection groups, charitable foundations, occupational cooperatives and policy think-tanks.

Civil society groups are proliferating rapidly in China. Some are organized and funded by the government. Others are private but legally registered. Many more are unregistered grassroots groups. The Chinese government estimated that in 2007 there were 3 million CSOs in China. Only about 1 per cent of these, however, are registered with the government (*China Daily*, 2007). Moreover, the vast majority of Chinese CSOs are local rather than national. Common areas of CSO activity include environmental protection, AIDS prevention and treatment, alleviating poverty, training in traditional arts, legal assistance and education for disadvantaged youth. As elsewhere, Chinese CSOs include several more specific types of organizations. *Minban feiqiye danwei* (non-profit organizations – NPOs; literally “people-run non-commercial enterprises”) provide services such as health, education, athletic and cultural programmes and legal assistance. *Shanghui* are business associations. The new business conditions in China created by economic reforms give businesspeople an incentive to organize to defend their interests. Although entrepreneurs have not been known as a cohesive group, membership in

such organizations can create a sense of common identity. Funding comes from membership dues, granting a large degree of autonomy. *Jijinhui* are foundations, non-profit organizations operated on donated funds.

The usual term in China for NGO is *feizhengfu zuzhi*, literally “not government organization”. This term carries a somewhat negative connotation, as many Chinese believe it implies funding by foreigners who intend to use the organization to subvert CCP rule. Chinese observers believed NGOs played an important role in the overthrow of authoritarian regimes in the former Soviet regions of Georgia, Ukraine and Kyrgyzstan, and are sensitive to NGOs exerting a similar influence in China. For this reason many Chinese organizations prefer to style themselves as NPOs rather than NGOs.

Some scholars argue that the European model of civil society generally employed by Western political analysts does not fit China. One plausible interpretation of Chinese history would hold that there is little or no tradition of a struggle between the state and society over the nature of the political system and the direction of national policy-making. Rather, the Chinese government has typically harnessed what are now known as CSOs as auxiliaries for mobilizing the mass public in the service of state goals. Emphasis on the state’s moral authority to govern and on the relative unimportance of private citizens *vis-à-vis* the state are strong themes of China’s long history. Crucial to the Western civil society model is a sphere of space for private association independent from the control of the state. Within this independent space social groups can organize and empower themselves to demand that the government protect their interests. There is much empirical support for the argument that such a space does not exist in China. Civic organizations are generally penetrated by officialdom and restricted from activities not approved by the state. Even in the reform era, with deepening liberalization of the economic system, the authorities have largely coopted the intellectuals who might otherwise lead a movement demanding empowerment of society through liberalization of the political system (Solinger, 1992; Gu, 1994; Yu, 2002). From this standpoint, one could assert that speaking of “civil society” in China is misleading, erroneously implying that China is on a path to democratization similar to that trod by the liberal West. Jean-Philippe Beja (2006: 54), for example, emphasizes that in contrast to civil society in late-Cold War Eastern Europe, CSOs in China are not “combative” and are not trail-blazers of democratization.

Yet to dismiss the notion of civil society in China is problematic for at least two reasons. First, China is still in the midst of rapid and deep economic, social and political change, and the range of possible outcomes remains broad. The emergence of a strong, independent and politically influential civil society in China cannot be ruled out in the medium term.

Second, a few cases already exist in which voluntarily organized private groups have challenged the government with demands for greater empowerment of society or of certain social groups, even if not always by directly “combative” means. As Teresa Wright (2004: 124–125) notes, some CSOs have used Beijing’s concern with China’s international prestige to their advantage, trying to gain visibility outside China as a way of deterring unfavourable treatment by the Chinese government, which could spark criticism by foreigners. Autonomous Chinese CSOs “can, and do, successfully exploit the openings created by decentralized rule and conflicting official imperatives and interests”, demonstrating “the ability of oppositional groups to utilize the language and proclamations of the ruling regime to challenge its claims to legitimacy”.

Not surprisingly, the truth appears to be somewhere in the middle. Scholars of Chinese CSOs are moving towards a consensus that neither the Habermas model of an autonomous and adversarial civil society nor the state corporatist model of complete state control of civil society accurately matches the situation in China (Howell, 2004a: 156). Rather, China exhibits an “interacting and overlapping state-society relationship . . . one that is shifting, contested and periodically accommodating or oppositional depending on the issue” (Teets, 2008: 15). Many groups are properly classed as semi-autonomous or semi-official, as they have official linkages and work in concert with the authorities. Truly independent Chinese CSOs are very few in number. Most of these do not challenge the state or its agenda, but rather limit their activities to providing goods and services to vulnerable social groups whose needs the state is unable to meet. Nonetheless, a few Chinese CSOs are autonomous and often play an adversarial role *vis-à-vis* the Chinese government, pushing for increased liberalization – reminiscent of the Habermas (1989) model based on the European experience.

CSOs by nature promote liberalization (and enhanced governance) by facilitating public input into policy-making. In both traditional Confucian philosophy and Chinese Communist Party ideology, government officials recognize they have responsibility for the development and welfare of the people over whom they preside. Neither the Confucian nor the CCP system, however, establishes direct accountability of the rulers to their subjects. Officials must answer to their superiors, but not to the common people. The Maoist concept of the “mass line” emphasizes the importance of party leaders learning about the needs and circumstances of the people in order to formulate policies that meet these needs. With the rapid and profound changes of the reform era, however, the party’s ability to identify and address emergent social issues became increasingly questionable due to the lack of institutionalized channels for the public to register concerns with the government (Howell, 2004b: 226–240). The

implementation of elections at the village level was one of the government's efforts to bring about greater official responsiveness to public concerns. Some CSOs are well placed to make an additional contribution to this objective. As they are frequently in closer contact than the local government with some social groups, the CSOs serve as an intermediary between public opinion and local officials. For the sake of their own career prospects, these officials have an interest in cultivating a favourable relationship with the public – not because the officials are directly accountable to the public, but because a positive reputation within the community will impress an official's superiors.

### The emergence of Chinese CSOs

Two conditions in post-Mao China spurred the emergence of CSOs. The first was the need for a new social safety net. The PRC that Mao Zedong presided over featured a centrally planned economy that brought all economic enterprise under the auspices of the state. Individuals, in turn, connected to the state through their *dan wei* (work unit), which allocated basic necessities such as housing, medical care and even food supplies. The economic reform era inaugurated by a government led by Deng Xiaoping beginning in 1978 has brought sustained and rapid economic development in China. Such dramatic changes, however, inevitably brought dislocation and turmoil for much of Chinese society. Inequalities in income levels grew, some sectors and regions became more prosperous than others, official corruption worsened and unemployment and inflation became serious problems. At the same time, the Chinese government has moved to reduce its involvement in some of the activities in which the Chinese people were accustomed to seeing the hand of the state during the Mao era. The Chinese state shed some of its oversight functions to concentrate on a limited number of tasks, such as providing infrastructure and public goods. The liquidation of many state-owned enterprises, which made up a large percentage of the Chinese economy, left millions of Chinese unemployed and without healthcare and the other benefits formerly provided by their *dan wei*. Tens of millions of low-earning and/or underemployed agricultural workers seeking better jobs migrated to the cities, where they often lived in makeshift housing and without proper basic services. The national drive for economic growth motivated practices that continued to degrade China's natural environment, resulting in loss of arable land and pollution of air and water on a scale that affected much of China's population. As the state's role in providing social welfare shrunk as part of the marketization of the economic system, the accelerated lifestyle changes that accompany modernization weakened

traditional social support networks such as family and local community. Zhou Shaoqing (2006: 9–10) describes the profundity of this shift in national economic policy, which had far-reaching political and social consequences. The system that made the *dan wei* the anchor of society and promised cradle-to-grave sustenance reflected a decision to organize and govern the population through administrative control over most aspects of the people's lives rather than through the rule of law. The reform era, however, casts aside the old system with a new expectation that people will frequently change jobs as they respond to opportunities offered by the marketplace. Consequently PRC citizens have become "members of the market".

The second condition that facilitated the proliferation of CSOs in post-Mao China was the loosening of restrictions on political discussion. Revulsion towards the Cultural Revolution and some other aspects of Mao's rule, combined with Deng's need for the support of intellectuals in consolidating and carrying out the reform agenda, provided the first opening for a political role for civil society in the PRC. The initial wave consisted of intellectual journals, discussion groups, research institutions and professional associations. The administrative process for establishing CSOs during most of the 1980s was relatively lenient, leading to a steep increase in the number of organizations. The opening for a more assertive civil society grew wider with Deng's tour of southern China in early 1992, which broke the back of conservative opposition to his plans for political liberalization. Soon thereafter the CCP began speaking of "human rights" and of the desirability of the rule of law. Beijing committed to signing the two UN covenants on respect for human rights, and in 1997 amended the Chinese criminal code to replace the category of "counter-revolutionary" crime with the less overtly political designation of crimes that endanger national security. Chinese dissidents and human rights activists organized NGOs, some of which sought registration with the government. Movement towards the development of a civil society that would take an adversarial posture in its relationship with the state halted with the conservative backlash in response to the Tiananmen crisis of 1989, which saw the purge of the reform-minded CCP General Secretary Zhao Ziyang. Thereafter the party closed the space previously allowed to intellectuals for political criticism of the authorities. Since then, both the autonomy and the political activism of Chinese civil society have remained greatly constrained. The new bargain is that the intelligentsia accepts that it must "collaborate with the party" in return for recognition by the government and increased opportunities for upward social mobility. The intelligentsia has largely abandoned its 1980s' drive to develop an autonomous civil society to spur to the government towards political reform. It now "tends to accept the technocratic discourse [i.e. the fiction that governance in

China has no “politics”, but only public administration] of the party state”. Specifically, instead of trying to empower socially disadvantaged groups, intellectuals run charitable CSOs, a far safer enterprise (Beja, 2006: 57–69; Wright, 2004: 125).

The vacuum left by the state’s withdrawal from the national economy has been exacerbated by a reduction in governmental capacity to provide social services. The state has downsized staff and resources for local government and some central government agencies to make administration more efficient, while at the same time decentralization has in some cases pushed even greater responsibility for the provision of services down to lower levels of government. As Jessica Teets (2008: 7–8) observes, “This confluence of institutional reforms creates a space for CSOs to take over many aspects of service delivery formerly controlled by the local state.” While local governments saw decreases, the accessibility of international funding to Chinese CSOs was increasing, allowing them to increase and expand their activities.

### The state’s ambivalent response to CSOs

On balance, the orientation of the state towards CSOs is conflicting. The Chinese government both needs and fears them. Even if it has moved away from its previous totalitarian ambitions, the CCP does not appear ready to give up its accustomed monopoly over the articulation of the interests of Chinese society. The idea of CSOs that provide important services or contribute to better governance is somewhat alien to the PRC political model. One of the premises of the People’s Republic is that the state satisfies whatever function CSOs might perform in other countries. The party’s familiar approach to dealing with civil society is the establishment of mass organizations. These are designed to penetrate society and channel the people’s attitudes and behaviour towards support for CCP policies. Ostensibly independent, they are in fact semi-government organizations with administrations closely tied to the state and which suffer swift chastening if they overstep their prescribed bounds. Examples include the All-China Women’s Federation and the All-China Federation of Trade Unions. One response of the government to the governance shortfall has been to try to expand its old programme with improvements, constructing a compliant collection of CSOs as an alternative to those that appear independently. A major objective of a “community development” project that dates from the late 1980s and began in earnest in 1999 is to address better social discontent resulting from economic liberalization (Zhou, 2006: 14). An example is the much-touted Lugu Community in Beijing set up in 2004, which features an experimental

administrative structure that includes elected representatives. The community's aim is to make governance more efficient and more responsive to public opinion.

Although it proved both impractical and undesirable, until recently the instinctive reaction of many officials to CSOs was that they should not be allowed because private citizens were not authorized or qualified to operate them. In the case of autonomous private organizations that may have a political agenda, the default behaviour of the Chinese government is either to suppress them or place them under tight control to avoid the possibility that they might in any way undermine the agenda or legitimacy of the party/state. While cautiously tolerating most CSOs, Chinese authorities hesitate to dismantle the legal and political restrictions on these organizations because they remain potential sources of trouble.

Beijing's experience with Falun Gong, a quasi-religious philosophy of physical exercise and moral refinement, illustrated why the state is inveterately uncomfortable with CSOs even while it officially extols them. Highly popular in the 1990s, Falun Gong boasted many CCP and government officials among its practitioners, although the state as a whole harboured suspicions. In April 1999 an estimated 10,000 Falun Gong supporters lined the streets outside Zhongnanhai, the CCP headquarters in Beijing, in a peaceful and silent protest against recent events in Tianjin, which included the publication of a criticism of Falun Gong and an alleged police break-up of a pro-Falun Gong demonstration. The ability of the group to organize such a large gathering in the very heart of state power without the prior knowledge of the authorities evidently alarmed the government and resulted in a ban on Falun Gong. Many Chinese officials continue to view CSOs from this perspective, seeing the potential liabilities of these organizations outweighing their potential benefits to national development. The many Chinese CSOs that do *not* aim to pose a political challenge to the ruling regime suffer from the authorities' fear of the unfamiliar. As one member of the National Committee of the Chinese People's Political Consultative Conference recently noted of Chinese CSOs, "neither the public nor the government fully understands them", but "The more contact you have with NGOs, the more you will know about them and support them" (*China Daily*, 2007). Conversely, start-up CSOs entering new geographic or issue areas face maximum suspicion and inertia from officialdom.

Lack of support for CSOs, however, is becoming a luxury the party cannot afford. The CCP's desire to preserve its legitimacy amid the changes that economic reform is bringing to Chinese society has forced the government to begin to recognize the value of CSOs even in terms of the party's agenda. Scholars of Chinese politics have widely accepted that the post-Mao era of economic reform also exhibits a decentralization of

policy-making power, with authority devolving in significant measure from a very few to a larger number of individuals and agencies, and from the central government to regional officials in a new arrangement described as “fragmented authoritarianism” (Lieberthal and Oksenberg, 1998: 4). CCP leaders have themselves publicly touted the objective of moving towards a “small state, big society” (*xiao zhengfu, da shehui*), implying a recognition that, in theory, civil society should play a larger role in national life. More particularly, CCP leaders have given NGOs/CSOs status as contributors to China’s development, calling them “the third sector” (*disange bumen*). In 2007 Chinese Premier Wen Jiabao acknowledged an “administrative gap between the party, government organizations, and the law, which serves to worsen the crisis in governance” (Luo, 2007). Wen has characterized CSOs as part of the solution to this problem. In his work report to the National People’s Congress in March 2008, Wen said, “We will bring into play the positive role of civic organizations in expanding public participation in government affairs and voicing the concerns of the people to improve the ability of society to govern itself” (Xinhua News Service, 2008).

While it remains highly concerned about the threat that massive social discontent could pose to both China’s economic development and the party’s legitimacy, the state is unable to ensure the welfare of many Chinese citizens who are floundering in the turmoil of rapid economic change. China’s working poor, a large percentage of the national population, have experienced a decline in their status and welfare over the last decade despite modest ameliorative efforts by the government, leaving them with little choice but to seek to organize themselves to strengthen their demands for redress (Da-hua, 2004: 25). Two specific areas in which there has been a clear governance shortfall are healthcare and environmental protection.

China is among the world’s leaders in the dubious categories of occupational and traffic accidents. The Chinese government estimated that these two types of hazards killed over 100,000 Chinese in 2007. Industrial safety may be slowly improving, but road casualties are rising as more Chinese acquire cars. The World Health Organization estimated in 2004 that 600 Chinese were killed daily and 45,000 injured in traffic accidents (*People’s Daily*, 2004, 2008). About 1 million Chinese are HIV positive, according to government estimates – the actual figure is probably higher, and according to some projections could reach 10 million by the time of this book’s publication, although official figures have not been released and what exists is outdated. At the same time, with economic development and increased wealth, Chinese are suffering the diseases of the developed world – including cancer and diabetes – in greater numbers. China’s unique demographic history, including a huge population increase followed by the restrictive one-child policy, has placed the country

on a path to face a healthcare crisis beginning around the year 2030 as the number of retired elderly citizens (the segment of the population that consumes the greatest amount of healthcare resources) rises to between a quarter and one-third of China's population, placing a crushing burden on the working population. The great majority of Chinese lack health insurance, and the costs of healthcare in China have risen sharply, easily outstripping gains in average incomes over the same period. The average cost of a hospital stay in China was 12,000 yuan (about US\$1,500) in 2007, roughly equal to the entire annual income of the average Chinese. Most of these uninsured Chinese, especially in the rural areas, simply avoid going to hospitals because they cannot afford to pay the fees. Cancer has recently replaced respiratory disease as the leading cause of death among rural Chinese. Cancer costs far more to treat than respiratory illness because the treatment requires much longer stays in hospital. Typically the afflicted try to treat their sicknesses by buying drugs at their local pharmacy. Beginning in the early 1980s the Chinese government started reducing subsidies to hospitals (Gill, Morrison and Lu, 2007; Lim, 2006).

According to the World Bank (2009), 20 of the world's 30 most polluted cities are in China. Several recent cases demonstrate that many Chinese find their country's environmental degradation intolerable and are dissatisfied with the response of the authorities. In May 2007, despite threats of punishment, students and faculty at Xiamen University sent a million text messages urging public opposition to the planned construction of a petrochemical plant nearby, then joined a protest march of several thousand through the city. They succeeded in halting the plant project. In May 2008 several hundred residents of Chengdu protested against a similar project. To circumvent obstruction by the police, the protestors quietly went on a mass "stroll" through the city's downtown while wearing white gauze masks over their faces to symbolize their cause. In January 2008 hundreds of people in Shanghai, concerned about noise and the health effects of electromagnetic radiation, demonstrated against the planned expansion of the magnetic levitation rail system within the city. The protests elicited a promise from the government to suspend the project if it could not establish that the plan posed no health risks to the city's residents.

If the Falun Gong experience highlighted the danger of voluntary private groups from the regime's point of view, the SARS experience at around the same time showed the positive potential of CSOs. The 2002–2003 epidemic allowed CSOs to demonstrate that they could in some ways respond to a crisis more quickly than the authorities. In contrast to the government's guarded reaction, relevant civic groups were quick to disseminate information and simple medical supplies that helped mitigate the suffering.

With increasing frequency, government and CSOs are forming symbiotic partnerships based on their respective strengths: governments provide an organized network through which CSOs can operate. By working with the government, CSOs may also gain opportunities indirectly to influence relevant policy decisions. For officials, partnering with CSOs is attractive because civic organizations are more effective at meeting needs at the local level, since governments have limited resources and often lack expertise in specific social problems. Some CSOs can draw on international funds to pay for projects and construction in China, benefiting local people without financial outlays by the Chinese government. More narrowly, CSOs can help local officials get promoted by improving the delivery of services in their jurisdiction and passing favourable reports to higher-level officials about the competence and responsiveness of the local officials with whom CSOs work.

## Restraints on Chinese CSOs

The government maintains several layers of restraint on CSOs that make the legal and political environment in China un conducive to the flourishing of independent CSOs. Private organizations either endure onerous official vetting and oversight or they struggle to swim against the current, vulnerable to funding shortfalls and the risk that officials will target them for harassment or shutdown. If the founder or leader of the organization is known and respected by the authorities, this can provide an informal but powerful means of breaking through bureaucratic obstacles and a measure of political cover. Most organizations, however, are not so fortunate.

The first layer of control over CSOs is the registration requirement, specified in the national regulations for social organizations and non-government non-commercial enterprises promulgated in 1998 (2004 for foundations). An unregistered organization has no legal standing or protection. One registration category is *shehui tuanti* (social organizations), which are defined as voluntary non-profits with a membership established to pursue specific goals; this conception corresponds closely to the usual Western understanding of an NGO. Other categories are the aforementioned *minban feiqiye danwei* and *jijinhui* (foundations). Like *shehui tuanti*, *minban feiqiye danwei* are non-profits providing social services, but without a membership – schools and museums, for example. Registration with the government involves three requirements: acceptance of the application by the authorities, finding a sponsor and payment of the prescribed fee. The Ministry of Civil Affairs processes applications for registration of a CSO. The ministry might hold up processing or deny the application for various reasons, many of them non-transparent, but an

important legal hurdle is that no new CSO is allowed in a part of the country that already has a CSO with a similar mission (foundations are not bound by this restriction). In some cases this means an extant organization that is ostensibly “voluntary” but is effectively government-controlled will preclude the registration of an independent counterpart CSO.

The sponsor, colloquially referred to as the “mother-in-law”, must be a government agency or unit, which may withdraw its sponsorship at any time. There is little structural incentive for a government office to take on this responsibility. Sponsorship of a CSO exposes the involved officials to blame for illegal actions the CSO might undertake. To qualify for registration, an organization must have a minimum of 50 members (including a full-time staff) and substantial funds (30,000 yuan for a local organization, 100,000 for a national organization), which eliminates small organizations from consideration. The establishment of a foundation requires permission from the People’s Bank of China as well as a sponsor and official registration. An organization applying for recognition as a foundation must also have 2 million yuan in funds, which effectively rules out almost any grassroots organization from qualifying. Registration must be renewed annually. Chinese activist Chen Guangcheng reported that while he was attempting to establish an organization that would promote handicapped people’s rights, government officials demanded that his group pay 10,000 yuan annually to reapply (Liang, 2003: 11–12).

Most of the legally registered organizations are in fact GONGOs (government-organized NGOs) that are deeply penetrated by the government – receiving substantial funding from the government and led by current or former government or party officials. Only a tiny percentage of China’s truly autonomous, grassroots CSOs are registered as social organizations. A larger number are registered as commercial enterprises. CSOs that register as for-profit businesses may lack the expertise to conform to the relevant financial and tax regulations, which could land them in legal trouble. The tax regulations also offer a potential weapon for governmental enemies of a CSO to employ to shut it down.

The more common way of avoiding the obstacles involved in registration is simply to operate unregistered. Of the estimated 3 million CSOs in China, only about 300,000 are registered (Zhao and Dong, 2005). Because the central government has spoken favourably of CSOs and because regional civil affairs offices lack the resources to chase down all the unregistered organizations, the authorities generally tolerate them. The rule of thumb is that unregistered CSOs will become a target if they are discovered to be involved in a significant financial scandal or if they appear to present a challenge to the regime (Ru, 2005). Local-level CSOs are inherently less threatening than national-level organizations, and therefore more likely to be tolerated.

For the truly independent grassroots organizations, funding is a chronic problem. Some have access to foreign money, which carries its own risks. Organizations in China's less-developed interior are less likely to get overseas funding. There is little if any tax incentive in China for private donors to CSOs. Although the country has a Public Welfare Donation Law on its books, tax officials are unlikely to recognize even a documented donation by an individual.

Official influence over the agenda of the Chinese media can limit opportunities for autonomous organizations to raise additional funds through publicity. In practice, according to Sharon Liang (2003: 15), "the most common means of raising funds is through the very limited circles of friends and other personal connections". Most funding for Chinese social and welfare organizations comes from outside China.

There are of course stronger measures than the registration and sponsorship requirements to which the authorities may resort. Independent CSOs involved in issues the government considers sensitive are subject to having police monitor their e-mail and telephone conversations, search their offices and computers, and periodically question their staff. Those that receive foreign funding are doubly vulnerable. Others may invite harassment for challenging or offending officialdom. There were major crackdowns on CSOs in 1990 and 1997. After the Tiananmen incident of 1989, the Ministry of Civil Affairs decreed the abolition of organizations that had advocated "bourgeois liberalism" (Western political philosophy, particularly multi-party democracy). The 1997 purge persisted until 2000. On both occasions, a substantial percentage of Chinese CSOs closed down. The year 2005, as well, saw a general campaign by the central government to rein in CSOs. Journalists and government-affiliated research analysts argued that Western countries were trying to use NGOs to subvert the Chinese political system. They called on CSOs to ensure that they supported the CCP's ideology and policies. The government ordered some social research organizations registered as businesses to re-register with the Ministry of Civil Affairs as social organizations.

## CSO life in China: Three case studies

The three examples below further illustrate some aspects of the political atmosphere in which Chinese CSOs operate.

### *Case 1: An environmental CSO*

The number of environmental CSOs in China exploded from zero in 1994 to over 2,000 in 2005. CSOs in technical and ostensibly non-political

areas such as environmental protection can hope for relatively favourable treatment by the authorities. The central government favours movement towards certain environmentally friendly policies, such as energy and water conservation. Since such policies can be unpopular, Beijing welcomes CSO help in educating the public about the need for conservation. Of course, this does not exempt environmental CSOs from government opposition. Local officials, typically motivated by financial gain, sometimes disobey central government guidelines on environmental protection. Environmentalist CSOs often threaten the interests of these officials, who are focused on short-term profits. Environmental CSOs are heavily dependent on foreign funding, and many of their leaders are foreign-trained. This makes the organizations easy targets for the charge that they are tools of China's adversaries.

In 2002 the Chinese government forced China's oldest environmental CSO, Friends of Nature, to dump founding board member Wang Lixiong as a condition of renewal of the organization's registration because of Wang's support for two condemned Tibetan monks. In 2005 Beijing established the All-China Environmental Federation (ACEF), an attempt to bring all environmental CSOs under closer government control. Joining the ACEF tangibly affected environmental CSOs by requiring them to pay membership dues and limiting some of their planned advocacy activities.

Despite these ominous developments, there are encouraging cases such as that of an environmental CSO in the Lijiang region in northern Yunnan province, a conduit for rivers that originate in neighbouring Tibet and continue into southern China and Southeast Asia. This CSO has reportedly developed a highly cooperative relationship with local officials. The organization's director is a retired CCP cadre with many pre-existing connections in the local government. In this case the fact that funding comes from overseas works to the CSO's advantage: Lijiang enjoys the benefit of the CSO's projects, while local officials get the credit. Consequently the organization has gained policy influence, as local officials in charge of environmental protection ask for the CSO's advice on major decisions and on the drafting of environmental protection laws. One of the CSO's staff members sees "trust between the group and the local government—trust earned through cooperation" (Teets, 2008: 24–25).

### *Case 2: A healthcare CSO*

Wan Yanhai, a former government health official fired for his advocacy of AIDS awareness and gay rights, founded the Aizhixing Institute of Health Education (also known as the Aizhi Action project) in 1994. The organization got its funding from overseas and official sponsorship through the Department of Health of a college in Beijing. It continued to

publicize Wan's causes of AIDS education and tolerance towards gays through press conferences and a website. Atypically for a Chinese CSO, Aizhixing sought to remain independent and took a largely adversarial stance towards the government. The organization made enemies in the government by criticizing officials and their policies.

Wan and Aizhixing drew greater national and international attention as a result of the AIDS crisis in Henan province. In the first half of the 1990s a group of Chinese businesspeople and government employees established a blood donation network in Henan to collect blood plasma to be sold to hospitals and biomedical firms. This became a lucrative business after China banned the importation of blood. The unhygienic practices of these blood donation stations, including the reuse of needles on different people, failure to screen donated blood for diseases and the re-injection of pooled red blood cells (sans plasma) into the bodies of individual donors contributed to a rapid spread of blood-transmitted diseases such as HIV/AIDS and hepatitis through the region. Tens of thousands of Chinese peasants, most unaware of the risks to which they were subjected, acquired HIV. In 1995 government officials closed down the blood donation operation in response to the crisis, but they attempted to cover up the real cause of the jump in AIDS cases.

In 2002 Wan's public commentary about the AIDS crisis in Henan and in China as a whole gave the authorities the pretext to arrest him for the crime of revealing state secrets. The government also shut down his institute. By this time Wan was famous outside China. His supporters demonstrated outside Chinese embassies and consulates abroad. The prestige-conscious Chinese government released Wan after only a month of detention and allowed him to re-establish his institute by registering it as a business venture.

Chinese policy noticeably shifted towards promoting awareness and prevention of AIDS. The government had apparently decided, probably through a sharp debate ultimately settled by the top leadership, to accept Aizhixing's advocacy as constructive rather than subversive. In this case an autonomous CSO picked a fight with the state over a sensitive issue and prevailed. Strong publicity abroad for Wan and his campaign was crucially important to the outcome.

### *Case 3: An opposition political party*

If Aizhixing dealt with a sensitive issue, the case of the China Democracy Party involved the *most* sensitive issue: political liberalization. In 1998 Chinese dissident Wang Youcai and some of his associates established the China Democracy Party, proclaiming as its goal the peaceful transformation of Chinese governance to a "constitutional democratic political sys-

tem” with a “separation of powers” in government and “direct democratic elections”. Although the Chinese constitution allows the formation of new political parties, there was no legal procedure for doing so. Wang’s group tested the authorities’ tolerance by instructing preparatory committees of the nascent party to attempt to register with their local civil affairs offices in several cities and provinces. Wang himself sought registration in Zhejiang. After a delay of a few days, police detained and questioned Wang and ordered him to stop his political activities. The Zhejiang government rejected his application to register the CDP. Wang continued to meet with his supporters, leading to his arrest on the charge of sedition. After an outcry from both Chinese and foreign activists, the authorities released Wang but kept him under surveillance. Initially unsure of how to deal with CDP registration applications, the authorities in other cities settled by the end of the year on outright suppression, especially after some CDP members filed paperwork suggesting that the party had a national organization and had moved beyond the “preparatory” stage. Police reportedly told some CDP organizers bluntly that forming a new political party was illegal. By the end of 1999 the government had jailed most of the CDP leaders and forced the group to halt its activities. Pressure from the United States and other countries led the Chinese government to exile Wang to America in 2004. A few CDP loyalists in overseas exile remained active, but inside China the party became an underground organization. As in Wang’s case, international fame helped the group’s leader, but the state reacted with inevitable hostility to the direct political challenge posed by this civic organization (Wright, 2004).

### Harbinger of liberalization?

Current Chinese government policy towards CSOs is ambivalent, perhaps unsustainably so. There is much about CSOs that Chinese officials view as supportive of their own narrow agenda as well as larger CCP goals. The apparent trend is towards greater acceptance of CSOs, the party having begun from a very low base of both familiarity with and tolerance for independent civic organizations. The trend is self-reinforcing as an increasing number of officials at different levels of government come to view the contribution made by CSOs as not only positive but essential and irreplaceable. Although generally tolerating unregistered CSOs and welcoming the work of those that help meet society’s welfare needs without calling on government officials or demanding policy changes that run counter to CCP philosophy and practice, the government tries to maintain the means to harness and if necessary close down problematic organizations.

The organizations that best represent “civil society” as usually understood in the West – those that originated from grassroots activism and are most autonomous from the state – are also the most likely to suffer from a lack of funding and varying degrees of resistance from the authorities. Nevertheless, some CSOs have successfully pushed the government to widen the area of permissible space for Chinese society. Other organizations will continue to try, even in sensitive areas. Like the unleashing of market forces in the Chinese economy, the tide of increased assertiveness of civil society would seem difficult for the Chinese government to turn back. A wholesale squelching of civil society is not at issue. Chinese authorities will want to squelch certain civic organizations, but monitoring and managing this plethora of CSOs with a view towards straining out the offending groups will be an increasingly difficult challenge.

Whether Chinese officialdom has the will and the capacity to carry on with the current level of administrative oversight of an expanding collection of CSOs into the foreseeable future is questionable. As with many other aspects of governance in China, the official policy towards CSOs is in transition. Ministry of Civil Affairs officials have openly proposed discontinuing the legal requirement of government sponsorship for CSOs, but the PRC State Council has repeatedly rejected this proposal (Guo, 2004; Congressional-Executive Commission on China, 2005). In 2004 Zhejiang province adopted new regulations for farmers’ cooperatives that allow these organizations to register with the government without an official sponsor, a less stringent policy than that contained in the central government’s regulations. In early 2008 the Chinese government approved the application of the Taiwan-based Buddhist charity organization Tzu Chi Foundation to establish a branch in China. This was the first time the Chinese allowed in a foundation whose legal representative was not a PRC resident.

A conservative retrenchment cannot be ruled out, but current trends suggest that a further loosening of the restraints on CSOs is likely. Although China’s civil society remains largely coopted by the ruling regime, the growing number and strength of CSOs combined with the tendency of some of them to pressure the government for expanded space bolster the expectation of further, if gradual, political liberalization in China, at least in the sense of empowerment of society relative to the state.

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## Civil society engagement in democratic transition in Pakistan

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*Ahmed Bilal Mehboob*

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Democracy in Pakistan has not been a linear process. The socio-political history of the nation has been punctuated by military rule and the ebb and flow of civil society agitation, largely in response to such martial leadership. Therefore, it is useful to discuss very briefly the political history of Pakistan, as each regime provides context for the forms of civil society that arose. Subsequent to this examination, student activism, lawyers' movement and media as dominant forms of civil society engagement with the state and advocacy for democracy will be discussed in particular. Student activism is the locus of Pakistan's historical narrative of independence and emblematic of the struggles of civil society writ large.

Pakistan came into being through a democratic process when Muslims gave a clear mandate to the pro-Pakistan party, All India Muslim League, in the legislative assemblies' election in 1946. Pakistan started off as a parliamentary form of democracy, but took the rather long time of nine years to frame its constitution. Four military coups, starting with one in 1958 and followed by others in 1969, 1977 and 1999, disrupted the democratic political order repeatedly, resulting in long spells of military rule. There was resistance against military rule from various segments of civil society, culminating in powerful agitation that at times has led to the downfall of the military rulers. The struggles against the rule of Field Marshal Ayub Khan (1958–1969) and General Yahya Khan (1969–1972) are two such examples. People's struggles against the rule of General Zia-ul-Haq (1977–1987) and General Pervez Musharraf (1999–2008)

were no less valiant, but these could not translate into street agitation powerful enough to sweep the military rulers from their positions.

## Historical evolution of civil society among Muslims of the Indo-Pakistan subcontinent

The institutional forms of civil society are distinct from those of the state, family and market; though in practice the boundaries between state, civil society, family and market are often complex, blurred and negotiated.<sup>1</sup> Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power.

Civil society in the undivided India and among Muslims of this part of the world has traditionally been active and vibrant. Its focus might have changed with time, but many of the functions associated with civil society today have existed among the people of this area for a long time. Activism of civil society in the geographic area that now forms Pakistan and in the Indo-Pakistan subcontinent is therefore not a new phenomenon. The following paragraphs present some of the most prominent examples and features of civil society during its historical evolution.

The Aligarh Movement (named after a city in the northern Indian state of Uttar Pradesh) is one of the most prominent landmarks in the evolution of civil society among Indian Muslims, and played a decisive role in the movement for the creation of Pakistan. The movement was founded by Sir Syed Ahmed Khan, and its focus was on education of Muslims and reform of Muslim society in India. Sir Syed built the Gulshan School in Muradabad in 1859, set up the Victoria School in Ghazipur in 1863, set up the Scientific Society in Aligarh in 1864, founded the Committee Striving for the Educational Progress of Muslims in 1870 and established the historical Muhammadan Anglo-Oriental School, Aligarh, in 1875 on the pattern of English public schools. Sir Syed also founded the Muhammadan Educational Conference in 1886, which later became the political mouthpiece of Indian Muslims and was the forerunner of the largest political party of Indian Muslims – the All India Muslim League, which spearheaded the Pakistan Movement (Upadhyay, 2003).

The Anjuman Himayet-e-Islam (Society for the Support of Islam) was founded in 1884, had headquarters in Lahore and worked mainly for the education and welfare of Muslims and reform of Muslim society. It established a number of educational institutions which played a significant role in the emancipation of backward and marginalized Muslim communities. Many of these institutions still exist, and some have been nationalized by the state. The Islamia College Lahore and Himayet-e-Islam Law College

are two examples of such institutions. In addition to numerous other charitable services, the Anjuman is running an orphanage (established in 1884), shelters for destitute men and women, religious educational institutions for both sexes, a co-educational public school, the Himayat-e-Islam Tibya (Eastern Medicine) College, the Himayat-e-Islam Clinic and a library.

*Waqf*, or trust, is a long-held tradition in Muslim society which provides a sustainable base to a wide section of civil society among Muslims. In Muslim law a *waqf* is a voluntary, permanent, irrevocable dedication of a portion of one's wealth – in cash or kind – to Allah. Once dedicated as a *waqf*, the funds/property are never gifted, inherited or sold. They belong to Allah, and the corpus of the *waqf* always remains intact. The fruits of the *waqf* may be utilized for any *shari'ah* ("sacred law")-compliant purpose. The *waqf* is a system that stems from the idea of institutionalizing voluntary giving in order to guarantee sustainability. The *waqf* in Islamic law, which developed in the medieval Islamic world from the seventh to the ninth centuries, bears a notable resemblance to the English trust law. The evolution and growth of civil society among Muslims, including in what is presently known as Pakistan, owe a lot to the tradition of *waqf*, at least in the past before other forms of financial support became fashionable.<sup>2</sup>

### Political activism of civil society during the Pakistan Movement

Civil society, as it existed in India in the late nineteenth and early twentieth centuries, played a significant and in many ways decisive role in shaping the political thought of the Muslims of the Indian subcontinent. The most notable manifestation of this contribution can be found in the creation of Pakistan itself. The Aligarh Movement, initially a non-political educational and reform movement, not only germinated what later came to be known as the Pakistan Movement, but also mobilized its most dedicated and untiring workers. The Aligarh Movement no doubt was at the vanguard of struggle for Pakistan, and inspired a number of other individuals to establish similar institutions in other parts of India. It also provided inspiration for the formation of the Muslim Students Federation (MSF) and Pakistan Muslim League, which ultimately led to the creation of Pakistan. The MSF, inspired and manned by the Aligarh Muslim University to a great extent, provided the most dynamic, dedicated and knowledgeable workers for the Pakistan Movement. The All India Muslim League, which claimed to be the representative party of Indian Muslims, had faced a somewhat humiliating defeat in the election of 1937 when it won just 104 seats out of a total 489 reserved for Muslims

(Mehmood, 2002: 20). The party, however, emerged as a significant force over the next nine years, and in 1946 it won all the seats reserved for Muslims in the Central Assembly and 439 out of 494 Muslim seats in the provincial assemblies (*ibid.*: 27). This could be attributed at least partly to the struggle of the students organized under the banner of the MSF. These students suspended their studies for months and spread all over India to campaign for the All India Muslim League. This was one of the most notable contributions of civil society to the political struggle of Muslims in the subcontinent. Women were another dedicated segment of civil society who played an important role in this political struggle. They were active and passionate participants in all processions, rallies and agitations organized to support the creation of Pakistan.

### Evolution of students' activism for democracy in Pakistan

One of the most vibrant sections of Pakistani civil society has been the students' organizations and the elected student unions. These groups played a very active and significant role in setting the stage for civil society activism in Pakistan. Students groups waged a valiant struggle against military dictatorships and civilian leadership that did not meet the aspirations of the citizens. While the MSF existed before the creation of Pakistan, a number of other students' organizations came into existence soon after its creation. The students' organizations and unions have existed on college and university campuses since the independence of Pakistan in 1947. The Democratic Students' Federation (DSF) and the Islami Jamiat-e-Talaba (IJT) were formed soon after the creation of Pakistan: the IJT was established on 23 December 1947 at Lahore; the DSF was founded at Gordon College Rawalpindi in 1948 and was later extended to Karachi in 1950. Initially students' problems were the main focus of the DSF, but it was generally perceived as an organization of progressive/leftist students. The DSF later merged into a broader platform called the All Pakistan Students Organization. The Girls Students Congress also appeared on the horizon of Karachi around the same time. Interestingly, most of the students' organizations had and still have close links with whichever political party is closest to their "ideology". For example, the MSF is still associated with the Pakistan Muslim League (PML) and has almost as many factions as the PML itself. The IJT is associated with the Jama'at-e-Islami. The People's Students' Federation is traditionally aligned with the Pakistan People's Party (PPP). The National Students' Federation was generally regarded as an organization of the left; the Anjuman Talaba-e-Islam was affiliated with the Jamiat Ulama-e-Pakistan; the Imamia Students Organisation is an organization of Shi'ite students. There are a

number of ethnic students' organizations, active mainly where these ethnic groups are either concentrated or where ethnic rivalry is relatively more pronounced, such as in Karachi. The Pakhtun Students' Federation, the Baloch Students' Organisation (BSO), the Punjabi Students' Federation, the Jiye Sindh Students Federation and the All Pakistan Muttahida Student Organization (APMSO) are some examples of such organizations. In many cases political parties preceded the creation of their affiliated students' organizations, but in the case of the APMSO it led to the creation of one of the most disciplined, dynamic and electorally successful political parties – initially called the Mohajir Quami Movement (which roughly translates as the National Movement of Migrants). The party later changed its name and is now known as the Muttahida Quami Movement (MQM), which can be translated as United National Movement.

Students' organizations have traditionally participated in student union elections with a lot of enthusiasm, although some candidates for offices of the students' unions have been independent, with no association with a students' organization.

Until they were banned in 1984, students' unions were, in general, bodies that were formally recognized by the administration of educational institutions. In most cases fees at these institutions included explicit or implicit charges for the students' union; these funds were provided to the elected office-bearers of the students' union, and the unions spent the money under a set of guidelines. Usually a staff adviser or a director of students' affairs, or both, was appointed by the college/university administration to work closely with students' unions and act as the union's primary contact with the administration. In most colleges/universities the administration provided office space, furniture and facilities to students' unions to carry out their functions. In almost all cases a constitution and by-laws governed the functioning of the students' unions.

Students' unions and organizations played a very active role in various national political movements, whether related to students or not. The students' movement against the draconian West Pakistan University Ordinance of 1962 forced the otherwise very strong and authoritarian government of Field Marshal Ayub Khan, president of Pakistan, and of Malik Amir Muhammad Khan, governor of West Pakistan (today's Pakistan), to revise the ordinance. Students played a significant role in the political movement against the Tashkent Declaration signed by President Ayub Khan with India in 1966, which gradually built up to a strong national campaign to oust Ayub Khan in 1969. Another strong students' movement, mostly of the rightist students' organizations that dominated the students' unions at that time, was against the recognition of Bangladesh by Zulfikar Ali Bhutto's government in 1972. The political movement of

the Pakistan National Alliance for the ousting of Bhutto's government in 1977 also involved a large body of students.

Bhutto's era probably saw the greatest activism of students in national affairs. He was idealized by a large number of young people, especially students, at least during the days of his struggle against Field Marshal Ayub Khan and the early days of his government. He made students' unions a part of the universities' governance structure. For example, presidents of the students' union were made members of the university syndicate, the highest decision-making body of a university, the university Senate, academic council and disciplinary committee through new legislation. He invited the elected office-bearers of students' unions from all over Pakistan for consultation before he travelled to India as the president of Pakistan to negotiate over prisoners of war and related subjects after the defeat of the country in the 1971 war. This political activism continued for quite some time, even after martial law was imposed by General Zia-ul-Haq in 1977, until it started threatening the Zia regime.

Political parties took considerable interest in student politics, especially the elections. In many cases this interest became active involvement, leading to partisan polarization and even violence on the campuses. A major part of students' union activities consisted of debates, declamation contests, poetry sessions, music concerts, etc., and these promoted a competitive spirit among students to excel in various fields other than studies. Elections provided an excellent opportunity to learn how a democratic process worked. This promoted democratic culture, tolerance to opposing views, accepting the verdict of the majority and working with others, including opponents. It also helped students acquire organizational skills, interpersonal abilities and enhanced communication skills.

Unfortunately, as the importance and influence of students' unions increased over the years, political parties' interference increased and became more direct in many cases. Elections, especially in large universities, became more expensive and money started flowing from sources outside the campuses in a bid to influence the elections. The initial trend of academically bright students leading the students' union elections was replaced by the domination of students' unions by the favourites of one or other political party. Ruling political parties also started playing a greater role, and even tried to influence university administrations to take sides in student politics in some cases. In isolated cases, student leaders used strong-arm tactics against not only rival students but also teachers and university administrations. Some student leaders developed commercial interests and received compensation from contractors or suppliers of goods and services to the university in return for allowing them to work smoothly or using their influence on behalf of the contractors with the

university administration. As society became more politically polarized, so did the campuses. In response to the unjust interference by some of the ruling parties in patronizing their favourite individuals or organizations, other students and organizations started resisting such trends, which soon transformed into armed clashes on the campuses. Although these sad developments cannot be generalized, nor were they unique to Pakistan, a feeling started growing among a section of teachers, parents, students and administrators that student politics was adversely affecting the primary function of the educational institutions – imparting education. Instead of making serious efforts to reform the system, the government in 1984 opted for an easy but short-sighted solution by banning the students' unions – a proverbial throwing the baby out with the bathwater.

These students' unions have played a role in student mobilization and involvement in national-level movements, and provided a platform for positions on international issues as well. They have demonstrated their concern for matters which may not necessarily have been in line with the stance taken by the establishment. Hence, organized student bodies have been able to create an identity and importance of their own. Students' unions have been able to rally for better facilities, improvement in academics and the like. They have also been able to mobilize the student body to show their support for or opposition to certain policies or actions of the government of the day.

The colleges and universities have served as a nursery for nurturing political thought not necessarily in line with that of the establishment. They served as a platform to allow the entry of leaders from middle and lower classes on the same footing with those from well-endowed families with political backgrounds. Many such student leaders went on to become recognized political leaders. Javed Hashmi, president of Punjab University Students' Union in 1972, became a member of the National Assembly (MNA), a federal minister and acting president of the Pakistan Muslim League–Nawaz; Liaqat Baloch, another person of modest family background and president of Punjab University Students' Union during 1975, went on to be elected as MNA and a vice president of the Jama'at-e-Islami; Jahangir Badar, president of the Hailey College of Commerce, Lahore, in 1971 was later elected as MNA and a senator, became a federal minister and is the secretary-general of the largest political party of Pakistan, the PPP; Ahsan Iqbal, who served as federal minister and deputy chairman of the Planning Commission after his election to the National Assembly in 1997 and 2008, was president of the Engineering University Students Union, Lahore in 1981; Ghulam Abbas, another student leader of Punjab University in the early 1980s, is currently the secretary-general of the Punjab PPP; Altaf Hussain, the *quaid* (leader) of

the MQM, founded the APMSO and started his leadership career from student politics in Karachi University in the early 1980s; and most of the Baloch leadership in Balochistan, including Dr Abdul Hayee Baloch, former president of the National Party, were very active in the BSO during their student life in Karachi and elsewhere. These are just a few examples, but the fact is that the students' unions and their activities, including elections, served as a great democratic experience for students and prepared them for a leadership role in post-college life.

The military government of General Zia-ul-Haq, that ruled the country after 1977 when it staged a coup against the civilian government of Prime Minister Zulfikar Ali Bhutto, banned the students' unions and some students' organizations in 1984 through a series of martial law orders. As discussed previously, a growing number of cases of violence on campuses, and the subsequent concern shown by society, were cited as reasons for the ban. However, it is also believed that the decision was based on reports that anti-government student alliances had gained considerable influence and strength and could potentially pose a threat to General Zia-ul-Haq's government. The government, it appears, feared a student movement of the sort that helped topple President Ayub Khan's government in 1969, and decided to forestall such a possibility by banning students' unions and similar organizations. The ban was put into effect with the issuing of martial law orders by martial law administrators of various zones, which roughly corresponded to the provinces. Martial Law Order No. 1371 was issued on 9 February 1984 by the martial law administrator of Zone A (Punjab) to ban students' unions. Similarly, Martial Law Order No. 227 was issued on 11 February 1984 by the administrator of Zone C (Sindh) to ban students' unions and federations in Sindh province (PILDAT, 2008).

The ban dealt one of the most fatal blows to the activism of students, who constituted the most vibrant and dedicated segment of civil society in Pakistan at the time. Over a period of time the students became totally depoliticized and disinterested in national affairs, and their hitherto active participation in national movements supporting democracy and opposing dictatorship declined to the level of almost non-existence. This period of almost total disinterest on the part of students continued for a good 23 years, until their active participation in protests and rallies against the dictatorial and anti-democratic policies of the president/chief of army staff, General Pervez Musharraf, especially against his act of declaring a state of "emergency" on 3 November 2007 in gross violation of the constitution. The protesting students, many of whom belonged to so-called élitist institutions such as the Lahore University of Management Sciences, played a significant role in building the momentum against the general which forced him first to relinquish his army position and eventu-

ally to resign as the president of Pakistan. This sudden awakening from a deep slumber appeared to be greatly inspired and motivated by the lawyers' movement, which had started its historic and heroic struggle against the removal of the chief justice of Pakistan at the hands of General Musharraf on 9 March 2007.

## Evolution of the media and impact on the struggle for democracy

Besides students and lawyers, mass communication media have waged a noble struggle for democracy in Pakistan. As a result of this long and persistent effort, media in Pakistan have come a long way since the creation of the country, not only in terms of quantity but also in terms of quality, the freedom they enjoy compared to the past and the public trust in the media. Today, Pakistan has 168 major newspapers and 58 television channels, of which seven are owned by the government.<sup>3</sup> Despite restrictions and legal obstacles, the media have always been able to stand by the forces struggling for democracy in the country. Both working journalists and independent media owners have paid a heavy price for their independent views. Media have not only stood up to military dictators but have also criticized the undemocratic actions of the civilian and elected leadership. The introduction of non-government electronic media is like a breath of fresh air in the media scene of Pakistan. They have widened the choices of people, increased public consciousness and knowledge, and increased monitoring and public accountability of government actions. Live coverage of violence on the eve of the deposed chief justice's visit to Karachi on 12 May 2007 was one of the high points of the Pakistani electronic media, when they managed to show the excesses of government-backed hooligans in the face of the threat to the lives of journalists and technicians.

The mobilization of public opinion against the unconstitutional removal of the chief justice would also not have been possible without the bold and effective coverage by the electronic media. The lawyers' movement for the restoration of deposed judges found a strong and committed ally in the media, especially the electronic media. Live coverage of public protests, huge rallies and the deposed chief justice's receptions and speeches relating to the lawyers' movement led to a mass mobilization of people from segments of society which have traditionally remained aloof, such as housewives, the rural population and students from élite institutions. Media have played a critical role in the transition to democracy. They have a much greater role to play in the consolidation of the democratic order in Pakistan.

## Crises of democracy and the civil society response

### *The first martial law and reign of Field Marshal Ayub Khan, 1958–1969*

Pakistan has faced a number of crises in its 62 years of existence. In each crisis, Pakistan's civil society responded in support of democracy, putting up resistance to dictatorship, although the response in each case was different both qualitatively and quantitatively.

The first major crisis that hit the nascent democracy in Pakistan was the martial law imposed in 1958 by the then president, Iskandar Mirza. General Ayub Khan, who was the commander-in-chief of the army at that time, was appointed the chief martial law administrator. Within days, Ayub Khan removed Iskandar Mirza and eventually assumed the presidency, as well starting a long spell of autocratic rule that lasted until 1969. Besides a number of political parties, the segments of civil society that played an active role in resisting the anti-democratic policies of Ayub Khan included students, lawyers and journalists.

Students protested during the Ayub era in various movements. The first forceful action was against the infamous University Ordinance in 1962. A set of draconian measures, including confiscation of degrees rightfully earned by students, were included in the law in order to suppress student activism and free spirit. Students organized a nationwide protest movement, which was a miracle in itself given the strict restrictions on movement, speech and association. Strikes and walk-outs were staged at almost all major universities and colleges in Pakistan. Thousands of students were arrested, tortured, expelled from colleges and universities, and exiled from their cities of residence. Their parents and close relatives were often harassed, but even these measures could not break the strong will of the students. The movement culminated in the eventual withdrawal of the Ayub University Ordinance.

Another protest movement gained momentum after Ayub Khan signed the Tashkent Declaration in 1966, which many in Pakistan considered to be a betrayal and capitulation. Again the students went on strike, and protest rallies were staged. The government once again tried to suppress the protest with brute force, leading to arrests, torture, rustication of students and harassment of relatives. The movement underwent various phases but somehow continued sporadically until 1968, when Ayub Khan's government started celebrating the decade-long rule of the general as "the decade of development". The protests gained momentum and the state resorted to increased suppression. Eventually Ayub Khan had to resign under the pressure of these protests.

Lawyers were the other civil society group who were at the forefront of protest against the autocratic government of Ayub Khan. Lawyers are

one of the few organized civil society groups in the country; their network of bar associations extends from the federal capital to each small town where courts exist. A tradition of regular yearly democratic elections at each level of the Bar Association gives great vitality and strength to the lawyers' organizations. Lawyers were among the first civil society groups to resist and protest against the autocratic and undemocratic regime of Field Marshal Ayub Khan. They regularly boycotted the courts, went on protest processions and suspended the membership of many ministers and ruling party officials who also happened to be lawyers. Since lawyers are among the most knowledgeable people about the constitution and law, their opinion about the legitimacy, constitutionality and legality of the acts of the Ayub regime carried a lot of weight for the general public and even the media. Bar associations provided a much-needed platform to the politicians of opposition parties, who were generally under severe restrictions relating to their speech and movement. When the Ayub government resorted to the imposition of draconian restrictions on the right of assembly of more than five persons in a public place, the lawyers innovated processions in which small groups of five persons each would walk at a distance from other similar groups, thus conforming to the letter of the law and still being able to achieve the objective of public protest against the policies of an undemocratic government. Lawyers also volunteered to defend victims of the Ayub regime's suppression in various courts of law without any fee.

The Ayub era also witnessed some of the worst restrictions on the freedom of media. Electronic media were at that time limited to the state-owned Pakistan Television, which was used as a propaganda tool of the government and the ruling party. It did not broadcast or cover opposition parties' activities, in effect creating a media blackout. This was consistent with explicit and implicit policies of non-coverage for any activity or utterance critical of the government. With the advent of the 1958 martial law regime, the media in Pakistan suffered their greatest and most agonizing setback. The regime introduced the Press and Publications (Amendment) Ordinance 1963. It started its invasion of the media by taking over the independent weekly *Lail-o-Nahar*.<sup>4</sup> Not content with this, the regime went further and brought into existence what came to be known as the National Press Trust (NPT) by taking over at least 14 established national dailies and weeklies and their chain editions, including *The Pakistan Times* (Lahore and Rawalpindi), *Imroze* (Lahore, Karachi and Multan), the *Morning News* (Karachi and Dacca), *Dianik Pakistan* (Dacca) and *Mashriq* (Lahore and Karachi). The government tightly controlled the policy of the NPT newspapers and the APP.<sup>5</sup> The laws governing the grant of permission (declaration) to publish a newspaper or periodical made it extremely difficult for an independent individual or organization to secure such permission. Printing presses which dared to

publish material critical of the government were sealed. The Ayub regime was the first to use government advertisements as a tool to patronize pro-government media by paying for a high volume of advertisements. This was conversely used to punish those newspapers and periodicals which were critical of the government. Many independent newspapers and periodicals were banned and their declarations cancelled during the Ayub regime. Working journalists protested through their representative bodies, but were often victimized by arrests, torture and pressure on employers to fire the independent-minded journalists. Despite these draconian laws and practices, many newspapers resisted the pressure and continued to project the opposition's point of view. The Urdu daily *Nawa-e-Waqt* paid a heavy price for its independence, but stuck to as independent a policy as was possible under the circumstances.

Working journalists in Pakistan are also organized through a network of press clubs in large and small cities and through their trade union, the Pakistan Federal Union of Journalists (PFUJ). The PFUJ has waged a relentless crusade for the noble cause of freedom of the press and of expression. Newspaper owners and publishers had also formed their organization in 1950. Originally it was called the Pakistan Newspapers Society, but later its name was changed to All Pakistan Newspapers Society (APNS) in 1953.<sup>6</sup> The professional editors also formed their own body, the Council of Pakistan Newspaper Editors (CPNE), which has continued since its foundation in 1957.<sup>7</sup>

All these bodies made an effort to resist the government pressure, but major resistance was primarily offered by working journalists through the PFUJ. The long struggle waged by the journalists for the freedom of media did eventually yield results, and today Pakistani media are reasonably free and quite comparable with most countries with free media. This freedom, many say, was not presented to Pakistani media on a platter; this well-deserved right was hard earned.

The PFUJ opposed and criticized all dictatorial measures. It called for a joint action against the Press Ordinance, formed a joint committee with the APNS and CPNE and observed a countrywide protest strike on 9 September 1963.

### *General Zia-ul-Haq's martial law (1977–1988) and curbs on civil society*

The chief of army staff, General Zia-ul-Haq, took over the government in a military coup on 5 July 1977 and remained president-cum-chief of army staff until his death in a plane crash on 17 August 1988. Many observers conclude that this period was the worst in terms of suppressing both political and civic activity. It was the first time that journalists were

sentenced to physical abuse via lashes; newspapers were subjected to censorship; courts were manipulated and subjected to extreme pressures to secure judgments of the government's liking; and religion was used to the maximum to suppress civil society. The latter was particularly true of human rights and women's organizations. Laws were promulgated during this time which were highly discriminatory against women. Students' unions were banned through martial law orders in 1984. Trade unions were also disallowed. Despite these extreme measures, civil society and political forces resisted the dictatorial onslaught.

Since General Zia-ul-Haq claimed to implement the "Islamic system", a number of political and civil society groups and individuals sided with him despite the outright repressive and unjust nature of his regime. Students' organizations and office-bearers of outlawed students' unions took to the streets and agitated against the ban on students' unions, leading to arrests, police torture, expulsion from educational institutions and harassment by the administration. Despite the widespread suppression, certain segments of civil society were not only able to maintain their activism, but also managed to grow and become organized entities within their areas of work. Women's organizations especially became very active during this period. The Women's Action Forum was founded in 1981.<sup>8</sup> The Aurat (meaning "woman" in Urdu) Publication and Information Service Foundation came into being in 1986.<sup>9</sup> The Shirkat Gah Women's Resource Centre, which was formed in 1975,<sup>10</sup> became more active during Zia-ul-Haq's time. Another factor which boosted the activism of women's rights organizations at this time was the beginning of serious funding by foreign donors for such organizations.

The Human Rights Commission of Pakistan, which is one of the most organized and serious civil society organizations (CSOs) of Pakistan, was founded in 1986<sup>11</sup> and received considerable foreign donor support. While Zia-ul-Haq's era will be remembered for its harsh treatment of civil society, it also led to greater activism by civil society, which better organized and mobilized itself in the face of suppression.

### *Rise of sectarianism, transnational movements and militancy*

Pakistan's neighbouring Afghanistan had been under varying degrees of influence from its mighty northern neighbour, the then Soviet Union, but in December 1979 the Soviets directly intervened by sending some 100,000 of their regular armed forces and heavy military equipment to fight the insurgency that was gaining strength against the pro-Soviet communist regime of Afghanistan. This development deeply affected not only Afghanistan but the entire region, especially Pakistan. General Zia-ul-Haq's regime responded, with full and active support of the United States

and other Western countries, not only by mobilizing Pakistani volunteers to wage *jihād* (holy war) against the “godless” Soviets but also actively encouraging and supporting international Islamist groups and individuals to mobilize volunteers from the entire Muslim world to fight against the Soviet troops in Afghanistan. Armed resistance training camps and indoctrination centres were established within Pakistan and later in the “liberated” territory of Afghanistan as a part of the mobilization against the Soviets. Huge sums of money, arms and ammunition were supplied, financed mostly by the American CIA but also by the oil-rich governments and private citizens of Arabian Gulf countries such as Saudi Arabia, the United Arab Emirates, Kuwait, Qatar, Bahrain and many others. This *jihadi* activity coupled with General Zia-ul-Haq’s own Islamization policy in Pakistan and the Iranian Islamic revolution in 1979 all combined to contribute to the rise and empowerment of several sectarian, transnational and militant organizations. The origins of many radical sectarian Sunni and anti-Shia organizations can be traced to these three developments, such as Sipah-e-Sahaba Pakistan (Army of the Companions of the Prophet Muhammad, formed in 1985), as can radical Shia and anti-Sunni organizations like Sipah-e-Muhammad Pakistan (Army of Prophet Muhammad, formed 1994) and Lashkar-e-Jhangvi (Jhangvi’s Army, named after an extreme anti-Shia slain cleric called Maulana Haq Nawaz Jhangvi hailing from the Pakistani city of Jhang, and formed in 1996). Tehreek Nifaz-e-Shariat-e-Muhammadi (Movement for the Enforcement of Prophet Muhammad’s Legal System), which openly repudiated democracy and the constitution of Pakistan, was formed in 1992 and its leader Sufi Muhammad led a group of volunteers to Afghanistan in 2002 to fight American and other Western troops. Transnational organizations such as Lashkar-e-Taiba (Army of the Pious), which later changed its name to Jamat-ut-Dawa (Party for Propagation), both led by Professor Hafiz Muhammad Saeed, and Jaish-e-Muhammad (Muhammad’s Army) led by Maulana Masood Azhar have focused on fighting against Indian control of Kashmir and have carried out terrorist activities on Indian territory. Challenged by the Pakistan government, these organizations are believed to have attacked targets within Pakistan as well. Tehreek-e-Taliban Pakistan (TTP – Movement of Religious Students Pakistan, formed in 2007) is primarily undertaking attacks against US and NATO forces in Afghanistan, but lately Pakistani armed forces, security forces and civilians have been targeted by TTP after Pakistan disallowed its activities. The latest insurgency in the Swat and Malakand regions of Pakistan was carried out by a group affiliated with TTP but dedicated to the enforcement of its brand of Islamic laws in the area. All such groups share some common traits: their ideologies are deeply rooted in their in-

terpretation of Islam, they repudiate democracy and constitutionalism and they believe in violent means. North-West Frontier Province (adjoining Afghanistan) and South Punjab are the areas where these groups are generally based and active. To say the least, the rise of these militant groups has further complicated the political atmosphere in Pakistan while the country was trying to evolve a genuinely democratic order.

### *Baloch nationalist movements and rise of militancy*

Balochistan is the largest in terms of area, smallest in terms of population and the least developed of the four provinces of Pakistan. The province is rich in petroleum gas and minerals, but feels aggrieved by what many Balochs consider to be the exploitation of their resources by the federal government, especially the largest province, Punjab. Baloch protests took the form of violent nationalist guerrilla warfare several times in the past; this was quelled either by strong military action by the Pakistan government or through political negotiations, but the underlying sense of deprivation could never be completely addressed. Several groups have lately emerged in Balochistan which repudiate democracy and constitutionalism and have taken up arms in guerrilla activities for what they claim to be the protection of Baloch rights and interests. The Baloch Liberation Army is one such group and has claimed responsibility of several killings and subversive activities. Unlike the outfits in North-West Frontier Province and South Punjab, Baloch nationalist militants are not inspired by religious ideology and are apparently motivated by Baloch nationalism. The enhancement of violence in Balochistan has negatively impacted on the democratization of Pakistani society, as the role of the security apparatus naturally increased as a result of the intensifying insurgency.

### *General Pervez Musharraf's military rule (1999–2007)*

The fourth direct military takeover of the government happened on 12 October 1999, led by the chief of the army staff, General Pervez Musharraf. In its initial phase, when General Musharraf was seeking to consolidate his hold on power, the military government sought the cooperation of civil society to undertake what it termed its reform agenda. Some prominent CSOs and their leaders joined hands with General Musharraf's government, at least partly in the hope of making some tangible contribution to a reformed society. Omar Asghar Khan, head of the Sun-gi (meaning "companion" in local dialect) Development Foundation was one such person who joined the government of General Pervez Musharraf as hand-picked minister for the environment. Shaheen Atiq ur

Rehman, head of the Buniyad (meaning “foundation” in Urdu), which had been active in promoting literacy among the downtrodden, also joined the military-led government as a provincial minister. General Musharraf’s orientation towards civil society, despite heading a military government, was generally respectful to the freedom of the media and women’s rights. The regime did initiate a number of reforms, such as the introduction of a local government system, reserving a quota of 33 per cent for women in local government institutions, reserving a nearly 17 per cent quota for women in the national and provincial assemblies, lowering the voting age to 18 years, reserving a quota for non-Muslim minorities in the legislatures, and doing away with separate electorates for Muslims and non-Muslims, etc.

The real test of the Musharraf government’s commitment to democracy came when it held a national referendum on the continuation of General Musharraf as the president of Pakistan. The referendum was a thoroughly rigged affair, and so was the general election of 2002.

General Pervez Musharraf committed his greatest folly when he tried to fire the chief justice of Pakistan in March 2007, which provoked strong civil society reaction. The Supreme Court restored the deposed chief justice, but General Musharraf suspended the constitution on 3 November 2007 without any lawful authority, purely on the strength of his command of the army. He not only fired the chief justice again, but sacked around 60 other judges who refused to support his unconstitutional action. A historic civil society movement to safeguard the independence of the judiciary and restoration of democracy was born as a reaction to the outrageous and repeated violation of the constitution by General Pervez Musharraf.

### *The historic lawyers’ movement*

As has been alluded to, lawyers are one of the best-organized and active segments of civil society in Pakistan. Their bar associations are organized at the national (Supreme Court Bar Association), provincial (High Court Bar Associations), district and city levels throughout the country. Their organizations, unlike many other CSOs in Pakistan, go through the democratic exercise of elections every year. These elections are keenly contested and their results accepted by all of the constituent members, in the true spirit of democracy. Lawyers have always been at the forefront of the struggle for the rule of law and democracy in Pakistan, but the movement for the independence of the judiciary and restoration of the judges deposed by the former military chief and president of Pakistan was historic on many counts.

President-cum-chief of army staff General Pervez Musharraf was finding it increasingly hard to cope with the ever-increasing independence and judicial activism of the chief justice of Pakistan, Iftikhar Chaudhry. His patience finally ran out when he summoned the chief justice to his office on 9 March 2007 and demanded his resignation in the presence of a number of other senior uniformed officials. To the utter surprise of the general, Justice Chaudhry refused to oblige. It is not common in Pakistan that a government official, judge or politician stands up to an all-powerful general. Justice Chaudhry was suspended from his post and a hurriedly prepared reference was filed in the Supreme Court for his permanent removal. Not only that, but police were asked to intercept his car and stop him from going to the Supreme Court building on his way back from the general's office. Two days later, when Justice Chaudhry tried to walk to the Supreme Court to appear in the case examining the reference against him, police manhandled him and his wife, and the judge was forcibly made to sit in a police car which took him to the Supreme Court. The act of standing up to a military dictator earned Justice Chaudhry the lasting love and respect of the people of Pakistan, and the general's efforts to insult and manhandle the chief justice earned him the people's wrath.

A movement led by the lawyers was almost immediately born which condemned the action of General Musharraf and demanded the reinstatement of Justice Chaudhry. A full bench of the Supreme Court finally reinstated Justice Chaudhry on 20 July 2007.

However, on 3 November 2007 General Musharraf struck back by partly suspending the constitution, unconstitutionally declaring a state of "emergency" which was *de facto* a martial law and sacking Justice Chaudhry. Musharraf's action also resulted in the removal of around 60 other judges of the Supreme Court and High Courts who declined to take oath under a provisional constitutional order. While the nation was enraged, it was the lawyers who gave expression to the popular sentiment through a movement which was unprecedented in the history of not only Pakistan, but of the world. It is indeed one of the most impressive non-violent movements of the present time.

Since 9 March 2007 about 80,000 Pakistani lawyers have been on the streets. Initially they completely boycotted the courts, but later this was converted to one-day-a-week boycott. The movement has exacted a heavy financial toll on the lawyers, and has involved significant sacrifices. Thousands of them have become bankrupt, unable sometimes to even pay for their children's school fees. Many lawyers have had to sell their cars or family jewellery to make ends meet, as continuous protests and boycotts deprived them of their only means of livelihood. Lawyers have

also been subjected to brutal police assaults in Lahore, Karachi, Islamabad and a number of other cities. Hundreds of them were arrested and packed off to far-flung prisons to exacerbate their agony. Thirty-four persons lost their lives and 130 were seriously injured when lawyers tried to hold a reception for the deposed chief justice in Karachi on 12 May 2007 (SATP, 2007a). On 17 July 2007 a suicide bomb attack in Islamabad at the location where the deposed chief justice was to address the lawyers a couple of hours later left 16 people dead and at least 63 injured, many of them lawyers (SATP, 2007b).

Lawyers led a number of historic inter-city rallies with tens of thousands of participants. Lawyers also led a long march from the southernmost city to the national capital in the north, enthusiastically followed by tens of thousands of lawyers, political workers and ordinary people.

The lawyers' movement forced General Pervez Musharraf to relinquish his military position – the real source of his strength. The movement also led to the reversal of General Musharraf's earlier position that he would not allow two popular political leaders – Benazir Bhutto and Nawaz Sharif – to return from exile before the election. It was mainly the pressure exerted by the lawyers' movement which ultimately opened up political space for those political parties and their leaders who were considered a challenge for General Musharraf's rule, and were often victimized on one pretext or another. Again, it was the lawyers' movement which forced the government to reappoint most of the deposed judges. Above all, the movement has motivated a large number of disinterested citizens to be active in national affairs. Students who had become totally aloof from national affairs after the students' unions were banned in 1984 suddenly became active and passionately took part in the movement for the restoration of the deposed judges. Voter turnout, which had been steadily declining for the last few elections in Pakistan, registered a significant increase in the 2008 election. This was despite the precarious security environment following the assassination of Benazir Bhutto, former prime minister of Pakistan and head of the largest political party in Pakistan – the Pakistan People's Party. The revival of democracy in Pakistan following the generally free and fair election in February 2008 owes a great deal to the lawyers' movement and the sacrifices made by the lawyers.

The symbol of the independent judiciary in Pakistan, deposed Chief Justice Iftikhar Chaudhry and many of his colleagues, were finally reinstated on 16 March 2009 by an executive order issued by the president of Pakistan, Asif Ali Zardari. The lawyers' movement renewed people's faith in democracy and their own country.

## Civil society and the struggle for a stable democracy in Pakistan

Although the lawyers' movement remains by far the most profound expression of pro-democracy sentiment of civil society in Pakistan, there are a number of other ways in which civil society is making a significant contribution towards deepening and strengthening democracy.

Election observation is one of the roles which some CSOs have been playing on a limited scale in Pakistan. The general election of 2008 saw this role significantly enhanced, thanks to the new-found confidence by civil society in itself and also thanks to the foreign donors who supported the election and election process observation by civil society.

CSOs are also undertaking many unconventional roles for strengthening democracy in Pakistan. A CSO pioneered orientation and briefing sessions for members of parliament and sustained these for over six years in the absence of such capacity within the parliament. Some CSOs have started monitoring the performance of the parliament and the provincial assemblies. Other organizations are engaged in spreading awareness about democracy among young students in schools. The Youth Parliament project has been initiated by a CSO to groom young people for more political roles, promote political consciousness among the youth and provide a platform for youth to articulate their views in a democratic but structured manner.

Many CSOs have initiated legislative watch programmes to monitor legislative activity in the national parliament and provincial assemblies in the areas of their interest. Other CSOs produce parallel reports about the state of implementation of various international treaties and conventions adopted for the welfare of labour, women, children, etc. These roles performed by civil society are an indicator of the maturation and more direct and significant role of civil society in nurturing a sustainable democracy in the country.

Following the general election on 18 February 2008, the form of democracy was restored; however, the substance may take longer to take root. Serious efforts need to be made by different segments of the society, including civil society, to usher in an era of stable democracy in a country which has seen four full-fledged military interventions and many more behind-the-scene efforts to control the civilian governments and their decision-making. The quality of democracy needs to be continuously monitored by civil society in order to provide the necessary checks and balances which are central to the spirit of democracy in a society. A vigilant and informed populace is probably the single most important factor in ensuring sustainable democracy in the country. Media, which are more

free and vibrant today than ever before in the history of the country, have played a major role in building and sustaining the effectiveness and appeal of the lawyers' movement. With over 150 daily newspapers and more than 50 non-government television channels, the media are destined to play a very important role in shaping events in the country. Many TV programmes consist of news and current affairs: Pakistan is one of the rare countries where current affairs programmes attract almost equal if not more viewers than entertainment-based programmes. Hosts and anchors of current affairs programmes have a huge fan following, and some are considered heroes for masterfully articulating public sentiments. Media need to strengthen their research base and improve the content of their current affairs coverage so that these may encourage informed discourse in society.

Lawyers have assumed a popularly accepted leadership role in civil society, and this will continue to determine the quality of civil society contributions towards the strengthening of democracy. Lawyers have made great sacrifices, but they need to desist from extremist tendencies exhibited by some of their leaders in order to save the movement from sudden collapse due to a confrontation for which they have not prepared themselves well enough. In short, the quality of democracy in Pakistan in the coming years will depend a great deal on the quality of the contribution made by its civil society.

## Notes

1. See the definition of civil society adopted by the Centre for Civil Society at the London School of Economics and Political Science, available at [www.lse.ac.uk/collections/CCS/what\\_is\\_civil\\_society.htm](http://www.lse.ac.uk/collections/CCS/what_is_civil_society.htm).
2. See <http://www.scribd.com/doc/26377889/fatawa-awqaf-and-trusts>.
3. See the website of Intermedia Pakistan, [www.intermedia.org.pk/](http://www.intermedia.org.pk/), and the website of the Press Information Department, [www.pid.gov.pk/newagency-papers.htm](http://www.pid.gov.pk/newagency-papers.htm).
4. See <http://pfuj.pk/>.
5. See the history of the Pakistan Federal Union of Journalists at <http://pfuj.pk/>.
6. See the introduction to the All Pakistan Newspapers Society at [www.apns.com.pk](http://www.apns.com.pk).
7. See <http://www.apns.com.pk/>.
8. See <http://www.oxfordislamicstudies.com/article/opr/t125/e2511>.
9. See [www.af.org.pk/mainpage.htm](http://www.af.org.pk/mainpage.htm).
10. See [www.shirkatgah.org/](http://www.shirkatgah.org/).
11. See [www.hrcp-web.org/aboutus.html](http://www.hrcp-web.org/aboutus.html).

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## 12

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# Civil society engagement in Malaysia

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*Denison Jayasooria*

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## Introduction

Civil society organizations (CSOs) in Malaysia have played and continue to play a dynamic role in enlarging the democratic space for citizen participation in society. While these organizations are seen to be led by the middle class and mostly located in urban centres, they have nonetheless made a lasting impression on all Malaysians.

Civil society activism can be seen in policy advocacy on public concerns and issues, and in addressing human suffering and human needs. In addition, civil society has been holding public officials accountable by fostering a more inclusive society, especially for minorities, marginalized communities and gender equality. Others have been addressing poverty issues and income disparities among and within the various communities. Concern for sustainable development through effective environmental management is an integral dimension of civil society activism. However, mass mobilization of people's groups has been in the area of addressing abuse of power, especially in the curtailment of fundamental liberties (such as no detention without trial), police brutality and ensuring there is a fair, transparent and accountable system for election of public representatives.

These advancements in enlarging the democratic landscape were only possible through struggles by civil society activists against the authorities in power, whether they represented politicians or bureaucrats at the federal, state, district or local government level. The journey has not been

easy, but with dedication and determination many of these civil society leaders have pioneered a sacrificial path for democracy.

Since the twelfth general elections in March 2008, many civil society activists have become elected representatives in parliament or state assemblies. Others have been appointed to local government. A number have even taken up government positions, thereby changing their role from activist to public official. This brings a new dynamic to civil society involvement. There is a change to roles in community transformation and nation-building. In the past this was only possible when a civil society activist joined the ruling coalition, but since the 2008 general elections this has become possible for activists through the opposition's alternative coalition, which now controls five state governments (Kelantan, Kedah, Penang, Perak and Selangor).

The Malaysian journey is an interesting story of engagement between civil society and state. While at times confrontational, there are also other dimensions of engagement, ranging from complementary work in policy formulation or service delivery to networking, incorporation and even assimilation within political parties in power. What is truly unique is that in spite of the heavy hand of the state suppressing and restricting the democratic space, civil society has always found a way out to influence and mobilize public opinion and thereby capture the public space for political discourse. This was largely possible through use of alternative media, namely the internet and the role played by bloggers in creative use of the web, in influencing public opinion.

However, what remains as a continuing legacy are the conflicts and struggles, on the one hand to control the public space by those in power and authority, and on the other to enlarge the public dominion by civil society activists. Both parties are battling to win the heart and minds of the majority of Malaysians through their political discourses and actions. People empowerment is the ultimate goal through which to create a better Malaysia for all – one which is more democratic and equitable for humankind in a sustainable form.

## History and patterns of growth

Civil society history can be divided into four distinctive periods. During each period we can note how the historical context influences the role and outcomes of civil society action.

### *Phase one*

The first phase was the early historical period, the colonial period, which is also the pre-independence phase (pre-1957). The struggle for

independence from the British saw people's activism in Malaya through political parties. Parties were structured along ethnic and religious lines, but because they provided representation on fundamental rights to citizenship and participation in the formation of an independent Malaya, they became the main vehicle for political participation.

The early years prior to independence and post-independence saw the struggle with illegal secret societies on the one hand, and on the other an arms struggle with the communists who sought to capture power from the British and establish a communist state. The colonialists introduced repressive laws such as the Societies Ordinance, and preventive laws to check the spread of illegal secret societies and curtail the activities of the communists. Society was mobilized through "good-will movements" to foster greater cooperation among communities, especially in building a society free from communist threat and fear. The state was the principal actor, through political parties which undertook people's organization.

This period also saw the emergence of charity- and welfare-based voluntary action in addressing social needs, especially among the poor and destitute. The state encouraged voluntary socio-welfare action to complement its efforts.

### *Phase two*

Independent Malaya from August 1957 to 1980 can be determined as the second period, the foundational years for the newly independent Malay states. This period saw a continuing struggle with the communist movement during the insurgency, the formation of Malaysia, the racial riots of 1969 and the introduction of the "new economic policy" (1970–1990).

Independent Malaya continued the colonial legacy of preventive arrest and curtailment of fundamental liberties. The initial rationale was to suppress the communist insurgency, but the restrictive policies were continued to suppress racial tension and prevent the reoccurrence of racial violence.

While the federal constitution provided for the protection of fundamental liberties, it also made provision for the restriction of these civil and political rights. In spite of the restrictions on freedoms there was a vibrant labour movement, especially among plantation workers.

### *Phase three*

The third period was the Mahathir years (1981–2003), which saw the systematic consolidation of curtailment of fundamental liberties. The notion of a strong state and the differing understanding of democracy from the Western notion provided the ideological rationale for suppression of

freedoms. The basic argument utilized by the Mahathir administration is that the Asian approach to democracy has a stronger community orientation, as opposed to individual freedoms which the West propagates. Furthermore, the curtailment of democratic freedoms was traded off for socio-economic development, especially the high economic growth experienced by Malaysia and the new economic tigers of the East.

There were major crackdowns on civil society activism, especially during the 1987 Operation Lalang preventive detentions under the Internal Security Act. This period saw the tightening of all laws restricting fundamental liberties, such as the Police Act, Societies Act, Printing Presses and Publications Act, Official Secrets Acts and University and University Colleges Act. Most fundamental was restricting the judicial review of executive action through the “ouster clause”.

These were the dark years when fear dominated civil society actors. However, in spite of the climate of fear and repression, civil society movements emerged to champion the cause of those under preventive detention. There arose numerous organizations and activists who advocated social change on matters affecting domestic violence and rape laws; others made major moves in the field of human rights, consumer rights and environmental issues, including the rights of indigenous people, especially forest-based communities.

#### *Phase four*

The stepping down of Dr Mahathir Mohammad as prime minister and the passing of the mantle to Abdullah Ahmad Badawi as the fifth prime minister ushered in a new era of democratic space in Malaysia. This is the fourth period – the contemporary phase (2003–2008). Abdullah promised greater democratic space, and themes such as transparency, good governance and accountability became his slogans. In addition he introduced certain reforms to make greater use of select committees in parliament and establish a number of royal commissions of inquiry.

Although the period did not see any legislative amendments to laws that curtailed fundamental liberties, nonetheless there was greater public confidence to speak up on critical aspects of governance. Internet websites and bloggers played a major role in providing alternative information to mainstream media. The Mahathir administration had built the digital infrastructure and invested greatly into informational technology. These new tools were well-utilized by CSOs and activists in influencing public opinion. The rise of the middle class and the resources available through personal ownership of computers or access through internet kiosks greatly enhanced the flow of alternative information.

Information about suppression or abuse of power was easily relayed around the world by digital cameras and the YouTube website, and thus the local campaigns become global arenas with which the Abdullah administration had to come to terms. These new tools of engagement greatly empowered small organizations and activists to challenge the strong arm of the state.

The emergence of networks and solidity among civil society actors transcending ethnicity, religion and areas of advocacy greatly enhanced the local campaigns.

## Legal framework

### *The Societies Act 1966*

In Malaysia, while there are informal networks and groups operating in the socio-political realm, it is imperative to operate in a formal sense. This is a requirement under the Societies Act 1966. Informal groups have other hurdles, such as access to financial services, banking facilities and the ability to collect public funds, as banks will not open an account in the name of an informal group. They are deemed to be illegal.

Civil society leaders have four ways to fulfil this legal requirement. First is registration under the Societies Act 1966. A majority of CSOs, such as Aliran (National Consciousness Movement), Hakam (National Human Rights Society) and AWAM (All Women's Action Society), are registered in this form. Many advocacy organizations, including Hakam and Amnesty International (Malaysian chapter), found that the registration process was a long-drawn one. However, this is the most suitable form of registration, as the operating cost is very affordable compared to a foundation registration under the Companies Act. Unfortunately the Act provides wide powers to the registrar and minister, including the powers to refuse or cancel registration and to ban an organization on the basis of security, public order or morality. Furthermore, there is no judicial review of the minister's decision.

### *The Companies Act*

The second form of registration is as a non-profit company limited by guarantee under the Companies Act 1965 (revised 1973). A majority of foundations are registered in this form. Many welfare charities and even research and policy institutions are registered as non-profit companies.

Hardly any advocacy-based CSOs are registered in this form, as it is expensive not only to incorporate but also to maintain – it necessitates employing the services of a company secretary and external auditors.

### *Business registration*

The third form of registration is again through the Companies Act 1965 (revised 1973), but as a private company similar to a company with paid-up share capital. Others are registered under the Registration of Businesses Act 1956 (revised 1978). It is easy to register, and civil society groups note their objectives as undertaking research, organizing seminars and workshops or undertaking training. Organizations such as SUARAM (a human rights group) and Tenaganita (women's activism) are registered in this form. The rationale of NGO leaders is that registration through the Societies Act is so difficult and time consuming that if to operate legally requires some legal entity which can hold a bank account, then this registration is sufficient for operations.

### *Trust deed*

The fourth way is through a trust deed, and a number of charitable and development organizations are registered in this form. The national micro-credit organization Amanah Ikhtair Malaysia, which is a Grameen Bank replication, is registered in this form.

### *An analysis of legal requirements*

It is important to note that while the federal constitution provides for freedom of speech, assembly and association, it also empowers parliament to legislate against such freedoms. The presence of legislation such as the Societies Act provides the state with the legislative powers not only to curtail such associations but also to monitor, regulate and compel societies to operate within certain parameters. Failure to comply deems such movements to be illegal. The experience of some groups in the registration process further illustrates the restrictive hand of the state.

However, what is unique within the Malaysian context is the creative manoeuvring ability of civil society to continue to operate within such restrictive environments to promote the values and ideas of democracy. What is evident is that the legislative framework in Malaysia is not an enabling one, nor is it conducive for advocacy-based CSOs.

Despite the above, it is said that welfare- and charitable-based organizations seldom face any problems regarding registration with the

Registrar of Societies. A majority of these organizations have successfully received tax-exemption status for donors, as well as the ability to tap on grants from relevant government agencies. However, advocacy-based CSOs are often perceived negatively by both policy-makers and civil service administrators, due to the issues they address and the methods employed. Therefore civil society activists and their organizations are vulnerable to state action to curtail their movements.

Nonetheless, as Shad Saleem Faruqi (2008: 326) rightly observes, “the effectiveness of many NGOs like the Bar Council of Malaysia and Sisters of Islam rebuts the allegation that Malaysian society lives by government or politicians alone”. He also notes the underlying reason for this, namely that “Malaysia has a large self-confident middle class that is enjoying the fruits of peace, prosperity and a relatively open society. The demand for more political rights is much an indication of restraints that are now regarded as unacceptable as the success of socio-economic policies that have whet the appetite for more freedom” (ibid.: 203).

## Role in democratic change

During the first period of Malaya’s independence struggle political parties and politicians played a formative role in ensuring the rights of citizens in a post-colonial society. However, in the post-colonial and modern societies, civil society actors have played and are playing an essential role in challenging the status quo and enlarging the democratic space.

The nature of Malaysian democracy needs some mention, as it differs in practice from more mature democracies such as India, the United States and the United Kingdom. The theoretical foundations of democracy might sound similar, but there are differences in practice. Khoo Bhoo Teik and Francis Loh Kok Wah (2002: 3) refer to the arguments made by Asian political leaders, including those in the ruling coalition in Malaysia, on why the Western liberal democratic traditions are not compatible with Asian values, highlighting that “Asians accepted a strong, even harsh, government so long as its policies and actions delivered economic prosperity”. Furthermore, the multi-ethnic nature of Malaysian society required a “politics of accommodation”. Cheah Boon Kheng (2002: 39) describes this as a “historic bargain” based on “compromise, consensus and reciprocity”. This argument, especially among the Chinese, for political stability and economic growth is termed by Francis Loh Kok Wah (2009: 261–262) as “politics of developmentalism”, where political parties ventured into business activities, initiated various self-help community projects and delivered services.

However, by the twelfth general elections in March 2008 we see a tremendous change in voter behaviour, as they voted for change. Francis Loh Kok Wah (ibid.: xvi–xvii) attributes this shift to “the rapid transformation of Malaysia’s economy and society”, especially among the urban middle class, which has created “a new discourse and practice of participatory politics”. He goes on to affirm that that “a new discourse of politics associated with justice, accountability, popular participation, greater freedom and autonomy has emerged”.

It is in this context of political debates for economic enhancement with restrictive democratic space that we can note five key aspects with specific reference to the role of CSOs and activists. They have contributed towards enlarging the parameters of service in enhancing consumer rights and the position of women in society. Civil society has matured to incorporate activists from all the various communities, and thereby moved action from race-centric to multicultural dimensions. Furthermore, it has built very strong networks both locally and internationally. The mass movement of people and public opinion is further indicative of civil society’s mass appeal and links with the grassroots. Creative use of the alternative media is another major contribution in greeting new avenues for public-state engagement and holding the state accountable. The new confidence the public has placed in civil society activists is indicative of the new trust the general public have for these grassroots leaders.

### *Enlarging the parameters of influence*

CSOs have made a lasting impact in the areas of enhancing women’s rights and advocacy for consumer rights. In both these areas, unlike in the struggle for human rights, CSOs and the state have worked closely not only in policy formulation and drafting of the relevant legislation but also in the extension of relevant services, including public awareness and empowerment of women and consumers. There has been much collaboration in these two areas, as documented by Denison Jayasooria (2004). They serve as valuable lessons on advocacy strategies and effective networking, but at the same time critically utilize a variety of personalities, organizations and strategies to achieve the desired end result.

The women’s initiative has had the input of the national umbrella organization, the National Council for Women’s Organisations (NCWO), working closely with Women’s Aid and AWAM. These have networked with activists and academics in lobbying for policy changes and advocating for legislative changes, including greater representation of women in public sector employment. Their efforts have borne fruit in the formulation of the National Women’s Policy and amendment to the Domestic

Violence Act and rape laws. The NCWO is one of the early multi-ethnic initiatives in Malaysia, where women working on gender issues transcended ethnicity and religion (WDC, 2007: 128–129).

The consumer rights movement under the leadership of the Federation of Consumer Associations has likewise made much progress in protecting and enhancing the rights of consumers in Malaysia. The state has been open in working with consumer-based organizations on these matters. One possible reason is that the consumer movement's target of attack is not really the state but the private sector and business community. Consumer movements have been frequently consulted and many of their leaders have been working through the policy framework. These leaders have walked a tight line of being independent yet cooperative: receiving funding and grants, but unafraid to be critical or to present alternative views.

It is also significant to note that CSOs have enlarged their scheme of influence. This is reflected through functions such as the Human Rights Awards annually given by Suaram to outstanding civil society action for the year. For 2008, on the occasion of International Human Rights Day, Suaram through a nomination process by civil society groups selected two organizations as joint winners for 2008: the Hindu Rights Action Force (HINDRAF) and the Penans of Ulu Baram, Sarawak. Suaram's description of both these organizations further illustrates the impact of civil society action by grassroots people taking control (Suaram, 2008b).

In the case of HINDRAF, Suaram indicates that "within a short period of time, HINDRAF has successfully captivated, mobilized and empowered vast numbers of Malaysians of Indian ethnic origin to struggle against very powerful interests and forces. There is also no denying that HINDRAF has made a big impact on the Malaysian political scene in 2008 and its rise has in fact surprised and captured the imagination of many Malaysians, and has also given inspiration to others" (ibid.: 3).

In the case of the Penans of Ulu Baram, Suaram states: "the violations faced by the Penans are extreme and sometimes violent. They face threats, killings, rapes, disappearance and hardship in their daily survival. They have struggled against very powerful forces representing the collusion of political powers, business, police, military, timber companies and oil palm plantations" (ibid.).

Thus no matter what area of concern or issue (gender equality, consumer rights, minority rights, the struggle for customary land rights by forest-based communities, etc.), CSOs are articulating these concerns and taking their campaigns beyond the borders of local communities to ensure that they are not only national issues but also global ones.

*Multicultural dimension of civil society activism*

CSOs have worked to address issues of injustice and abuse of power by the executive in Malaysian society. The Mahathir years saw an increase in civil society activism. This was largely an urban middle-class phenomenon, with a strong leadership role played by the English-speaking intelligentsia. However, with the dismissal of Anwar Ibrahim as deputy prime minister in 1989 there emerged a strong Malay Muslim uprising through the justice reform movement, which eventually emerged as a political party to lead the opposition coalition to an unprecedented victory in 2008.

The mass political uprising of sections of the Malay Muslim community in this period has consolidated a strong multi-ethnic presence in civil society activism. There is now a sizeable Malay middle class and intelligentsia who are active alongside other civil society groups and movements.

Sivarasa Rasiah (2005: iix) further projects that the next generation must adopt a non-racial dialogue in dealing with fundamental civil rights questions. "It is this non-racial dialogue grounded in civil rights principles that will produce a resolution of our quest for political, economic and social justice in our multi-racial country."

There was a massive outcry recently not only from CSOs but also Barisan National component parties at the arrest under the Internal Security Act (ISA) on 12 September 2008 of member of parliament and Selangor state executive councillor Hon. Teresa Kok, *Malaysia Today* news portal editor Raja Petra Kamarudin and a newspaper reporter, Tan Hoon Cheng. For the first time Barisan National component party leaders from the Malaysian Chinese Association, the Gerakan, the Malaysian Indian Congress and the People's Progressive Party and ministers in government raised objections and called for a review of the use of the ISA. This incident even resulted in the resignation of a cabinet minister, Senator Datuk Zaid Ibrahim. This incident illustrates the shift in thinking, and the openness in many quarters to the abuse of power and the need for political parties and civil society leaders to share the true aspirations of a just and fair society tolerant of a diversity of ideas and thought.

At a more micro level the story of the People's Service Organisation (PSO) described by Susanna George (2007) is outstanding in showing how poor groups are transcending ethnicity in addressing issues of social exclusion and poverty. The PSO started to work with Tamil plantation workers and has 2,600 members, with collective savings of RM2.6 million, especially among young people and women. It pioneered a credit cooperative called Koperasi Kredit Rakyat (KKR). Both the PSO and KKR

are working with one of the poorest communities in Malaysia, the 78 Orang Asli villages, to develop a savings programme and empower people through economic empowerment. This work is now registered as a separate cooperative, Koperasi Serbaguna Senoi Pribumi, and is a clear example of solidarity and innovation at the grassroots.

The story illustrated by Chok Suat Ling (2008: 20) is based on the research of Frederik Holst, who undertook a review of grassroots action. In the case of the Broga he notes that “to be successful, they must not only reach out to one ethnic group but to all. They must not limit themselves to one ethnic group or else they will be branded as racists.”

The multi-ethnic and multicultural approach transcending race, ethnicity, language, culture, religion, gender and socio-economic background is enabling civil society action to be a powerful mass movement of people into a social movement for change and reform.

### *Emergence of domestic and international networks*

Collaborative civil society domestic networks can be seen in the campaign to free ISA detainees, the struggle for free and fair elections, the campaigns for an independent judiciary and to check corruption and abuse of power, the struggle with the men in blue on police brutality and death in custody, the struggles to ensure that forest-based communities have rights to their customary land, the struggles to ensure gender equality, public awareness of domestic violence and inadequate protection and justice for rape victims, and the struggles to protect the environment, especially the rainforest, from indiscriminate logging.

Suaram in its *Human Rights Report* (2008a) highlights two effective networks at the domestic level which not only illustrate the sophistication of the network but also the multicultural and multi-religious cooperation in a common struggle and agenda. The first is joint action through Gerakan Mansuhkan ISA or the Abolish ISA Movement, a coalition of 83 NGOs and community groups established in 2001. It has taken all the cases of detention without trial under the ISA, irrespective of race and religion of the detainee, and has campaigned for the release of those with alleged links to international militant Jemaah Islamiyah and Darul Islam, and those with alleged links with Tamil Tigers, namely the HINDRAF leaders. These campaigns have borne fruit, as 17 ISA detainees were released in November and December 2008, with 46 still detained at Kamuting detention centre (GMI, 2008).

The second example of effective networking is the call for electoral reform by the Coalition for Clean and Fair Elections (BERSIH – literally meaning “clean” in the Malay language) movement. Seventy-five CSOs

and opposition political parties established this coalition on 23 November 2006. BERSIH staged a mass rally on 10 November 2007, with 40,000 people walking the streets.

Domestic activists have regional and international partners. The campaign for a fairer and just society was no longer isolated. It had a global dimension and solidarity of similar organizations and people's groups. Many international CSOs also work in partnership with national and grassroots organizations. The extension of resources, both technical and financial, enhances the local CSOs. The United Nations and its institutions have played a major role in providing space, opportunity and credibility for isolated domestic struggles to network and be heard at global forums. The UN NGO accreditation mechanism and provision for international development and advocacy agencies have enabled and empowered grassroots networks from around the world.

Malaysian CSOs have played and are playing an active role in the global process through regional and international forums and networks. The lobby from Malaysian CSOs and human rights activists on the question of independence of the Malaysian Human Rights Commission (Suhakam) and its potential downgrading from category A to category B by the International Coordinating Committee of National Institutions for the Promotion and Protection Human Rights (ICC) is a clear example of the influence of human rights activist groups and the access they have to the international policy process. The key issues of concern raised by the ICC in 2008 were matters raised by NGOs like Suaram, as reflected in its annual reports. In 2007 Suaram raised questions pertaining to Suhakam's independence, issues related to selection and appointment of commissioners, the weakness of the Human Rights Act and the government's indifference to Suhakam's recommendations in addressing human rights violations (Suaram, 2008a: 165–181).

### *Power of the alternative media*

In Malaysia mainstream media, including print, TV and radio, are formally under the control of either the state, political parties with the Barisan National or private business linked with the Barisan National government. This aspect is well documented and cited by Zaharon Nain (2002) and Jun-E Tan and Zawawi Ibrahim (2008). However, with modernization, increased access to the internet and the expansion of digital technology there emerged the alternative media of online websites, blogs, e-mails and mobile short messaging services (SMS).

A pioneer in this was Malaysiakini, with news reporting, feature articles, internet TV and opportunities for readers to post their views. It

provided news which was alternative to mainstream media. Malaysiakini writers followed basic journalism principles but were more creative and innovative, including enhancing investigative journalism. They opened the space for democratic discourse, debate and contrasting ideas. In the analysis provided by Tong Yee Siong (2004: 311), it is noted that “Malaysiakini has undoubtedly played a direct role in introducing Malaysians to an alternative information source and more open public platform for dialogue on diverse issues which are neglected by the mainstream media.”

In contrast, mainstream media looked more like a propaganda tool of the state and major political parties, although both *The Sun* and *The Star* newspapers have regularly provided good coverage of civil society action for socio-political reform. In more recent times other well-established websites like Malaysianinsider and Nutgraph have been competing in cyberspace with alternative views.

The main liberation of alternative news emerged through bloggers, who played a major role in providing alternative stories and theories. Jun-E Tan and Zawawi Ibrahim (2008: 82) describe blogging as “an unstoppable means of empowering individuals and civil society”. Cyber-activism emerged in Malaysian society; while the authorities have tried to regulate and control it, this is more difficult than with the conventional media.

Two popular bloggers who made a tremendous impression were Jeffery Ooi and Raja Petra. However, the earlier pioneers who blazed the trail were people like the MGG Pillai, who wrote very critical articles, and newcomers like Mahathir have used this avenue to provide alternative views. Pillai was sued on a number of occasions, but has been an outstanding example of independent journalism. Raja Petra has suffered most at the hands of the state for his stories and highlights. He is being charged under the Sedition Act, and was also detained under the ISA for his views.

### *From activists to elected representatives*

One of the most significant developments is that a majority of civil society activists who contested in the 2008 general election got elected. This differs from both the 1999 and the 2004 general elections. In spite of the major social movements after the sacking of Anwar Ibrahim and his arrest, civil society leaders who contested in the earlier elections did not win. During both these general elections Anwar was imprisoned, but in the 2008 campaign when he was free he played a major role in uniting the opposition parties.

Civil society activists who played an active role in street protests, blogging or fighting abuses of power, especially those who had stood up to

challenge the status quo, managed to win a seat in parliament or the state assembly. With the opposition winning five state governments, many civil society activists saw themselves appointed as members of local governments. There is thus now a change in role from being outside the decision-making process and delivery of services to being responsible for effective delivery. For many this is a new role, but it provides a unique opportunity to draft policies and programmes to address directly the grievances and key concerns of the grassroots.

Leaders in mainstream political parties must continue to reflect on these developments. In democracy it is the voters and ordinary citizens who elect leaders whom they believe will best represent their interests. Many of the activists have emerged as the people's champions. Political power is a delegated power, and therefore if trust is betrayed then the people will look for other leaders who can best champion their concerns.

### Capacity to deliver and accountability

While civil society has been very effective in enlarging the democratic space, its capacity needs further enhancing, including more organized and structured efforts in ensuring sustainability of vision, action and impact. A number of critical areas of concern are discussed, with the view of drawing out the salient points to enhance civil society action with greater vigour and sustainability.

#### *Personal qualities and organizational matters*

Civil society activists in Malaysia have three very important qualities. First, there is a very high level of commitment to their work and target group. This is commendable, as many of the key leaders have been in the field for quite a while in the Malaysian NGO scene. Second, they are highly motivated. They have simple lifestyles and are not motivated by self-interest or money, but have a deep, in-built desire to do good for humanity. Many are also religiously motivated. In spite of many obstacles, struggles and sufferings, civil society activists have pursued the goal of socio-economic improvement. Thirdly, over the years it is obvious that civil society activists have acquired a good level of research competence. This is reflected in written reports and publications, the quality of websites and use of digital photos and videos. It is manifested most of all in the level of analysis and strategies formulated.

While there are many positive dimensions, it must also be noted that CSOs are plagued with many difficulties, personality conflicts and complications. This is not peculiar to NGOs – it is seen in most organizations.

However, some of the common criticisms are the lack of transparency of funding sources and utilization. Anwarul Yaqin (1996: 288) notes that “there has been some public criticism of the working, financial management and general credibility of some of the non-governmental organizations”.

This is ironic, as CSOs call on public officials to declare assets and accounts, but a majority of advocacy society organizations do not have published and audited accounts which are readily distributed to the general public. The justification is that they remain accountable to their funders, and in a majority of advocacy-based organizations the sources are overseas.

Very few organizations have undertaken an independent impact assessment of their projects to determine how effective they have been. The indicators are not well-established in this context, and common standards are seldom utilized. Thus CSOs must have a common position on external audits as well as impact assessments of their projects, programmes and activities. What portion of funds raised in a public area of concern is used directly for public awareness or in direct assistance for the target group, and how much is used for operations? These are unanswered questions, and at times seem to contradict the very positions being advocated by civil society leaders.

Thus far there is no NGO or civil society accountability or audit panel which certifies that certain standards are observed on governance matters and accountability in funding and use of resources. This might be an area that CSOs can foster to improve the governance track record, as well as being subjected to the ideals of good governance they advocate. Compliance to common standards of practice is crucial, as civil society leaders must also “walk the talk”.

### *Incorporation of activists into government and conflicts*

The recent incorporation of civil society activists in state and local government opens a new dynamic of civil society action, in reconciling their decision-making role as being part of government and their advocacy role on behalf of the grassroots. Working within policy areas has different types of dynamics. The activist who fought on ideals must learn to formulate positions and come to terms with budget priorities and other considerations in the decision-making process.

The problem now is that a majority of the good civil society leaders have been elected to government, leaving a vacuum in CSOs. In many cases individuals are playing a dual role of being part of state or local

government on the one hand and on the other being with civil society. Conflicts will arise either with roles played or among the groups.

### *Staff turnover and burn-out, contrasted with outstanding Malaysians*

There is a high turnover of NGO staff for a number of reasons. Most often the salaries are low compared to those in the private and public sectors. Furthermore, promotion prospects are very limited, as job opportunities and career paths are not available in small advocacy-based organizations. The burn-out experience can also be high, as the stamina needed, plus other virtues such as endurance and perseverance, emerge out of maturity and spiritual experience. There is a need to develop some minimum standards and a basic wage structure, including some protection for staff and opportunities for staff training. However, this field of work is a “labour of love”, and therefore it is difficult to retain staff just on the basis of financial remuneration.

Often it is founders and the core team within each organization who have shown tremendous endurance. There are outstanding individuals, such as Dr Colin Nicholas of the Centre for Orang Asli Concerns, Dr Irene Ferdences of Tenaganita, Ivy Josiah of Women’s Aid Organization, and Datin Paduka Marina Mahathir, who have displayed great endurance in their struggles for a fair and just society for indigenous people, migrant workers, abused and disadvantaged women, and those facing the stigma of AIDS and HIV, respectively.

What is essential is to inculcate into young people some of the life stories of these outstanding people. They can serve as role models, and more young people will begin to walk the same road for the betterment of humanity and social change.

### *Effective examples but weak outreach*

Civil society action is very effective at the micro level, but the work is not well distributed nationally. Urban centres such as the Klang Valley and Penang tend to have strong civil society action, but the outreach is not strong enough. Professional bodies such as the Bar Council and active lawyers tend to be located in the national capital.

While the networks of social, economic, religious and cultural organizations which have taken up advocacy and human rights concerns have tremendously enlarged to incorporate grassroots organizations, such as displaced plantation workers, factory and manufacturing workers, indigenous forest-based communities and undocumented people’s groups, other

marginalized groups such as padi planters and fishermen are not part of these civil society initiatives. Thus there must be an effort to reach out to other groups in semi-rural, rural and interior parts of Malaysia, especially in Sabah and Sarawak. For this CSOs require funding and resources to be able to build the capacity of grassroots organizations. Here they face the hurdle of political parties trying to restrict access. However, the CSOs and leaders linked with the opposition coalition must utilize this opportunity, at least in their five states, to undertake mobilization of grassroots leaders based on capacity-building for human rights and democracy.

## Conclusion

A civil society activist turned politician and now an elected member of parliament observed, “an authoritarian and dominant political coalition that has remained in power since independence remains a major obstacle to a genuine civil society in Malaysia”. While this is surely a critical factor, civil society strives in the context of issues and needs, and therefore in spite of the difficulties encountered civil society has been vibrant in its response to the challenges posed by the political élites.

In a globalized world where good governance, transparency and accountability are fundamentally central, compliance with global human rights standards and aspirations is imperative. It is here that political leaders must respond positively to the wishes of the people for greater justice and fairness for all. The promotion and protection of democracy and human rights are fundamental for modern societies, and civil society leaders and organizations will continue to be actors not only at the grassroots but also at the national, regional and international levels.

The Malaysian case study is illustrative of dynamic local actors who have struggled hard in the name of freedom and liberation to build a better society for all, fighting against political power, self-interest, market forces and traditional and conservative ideologies. Whatever the socio-political dynamics, good human beings will arise to champion their cause and that of others.

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## 13

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## Civil society engagement in Japan

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*Jin Sato*

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We may roughly state that in the Nara and Kyoto days, man was valued for the manner in which he did things; in the feudal times for what he did or could do; and after the Meiji Period for what he knew. (Nitobe, [1931] 1970)

### The question

As education in Japan begins to focus more and more on global environmental issues and Japan's role in the international community, the term "global citizen" has become increasingly popular, even appearing frequently in high school-level social studies textbooks. The introduction of such complex world issues to students, however, is not without problems. Consider the following question, which was used as part of a recent public high school entrance examination in Japan:

Fill in the blank to complete the sentence:

In developing countries, poor people in rural areas are forced to destroy \_\_\_\_\_.

The correct answer is "forests", implying a causal connection between poverty and deforestation.<sup>1</sup> Any deeper interrogation of the alleged mechanism between poverty and environmental destruction – for example, who other than the poor are responsible for forest clearance, why

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*Engaging civil society: Emerging trends in democratic governance, Cheema and Popovski (eds), United Nations University Press, 2010, ISBN 978-92-808-1188-9*

poor people are poor to begin with or who actually benefits from deforestation – is discouraged. In the Japanese high school curriculum, this type of question falls under the domain of *komin* (civics). Naturally, potential areas of contention that require a more sophisticated engagement with “facts” – including the subtleties of environmental destruction and poverty – do not fit into the conventional exam format and are treated superficially. In other words, educators aim to create exams that are, first and foremost, fair to all students, without regard to deeper problems of cause and effect.

Unlike the controversial descriptions of Japanese wartime activities and Japan’s historical relationships with China and Korea, Japan’s treatment of international issues such as poverty and climate change in the classroom has gone largely unchallenged. Subjects that touch on these issues are often reduced to non-controversial “facts” that can be safely included in textbooks (e.g. the *year* and *location* of the Earth Summit). More importantly, emphasis on memorization hinders students’ ability to situate the knowledge in a larger causal framework and engage in critical debates. Assumptions formed at the high school level through this way of training are subtle, yet stubborn enough to influence students for life.

My objective is not to criticize the Japanese examination system or to reject outright the particular sorts of knowledge included in the school curriculum. Rather, I wish to identify the structural problems complicit in privileging certain types of knowledge while downplaying others, damaging Japan’s ability to produce true “global citizens” in the process. From climate change to fair trade, global issues need action on the part of ordinary citizens, and this action requires a certain level of global understanding. Even experts, for example, disagree among themselves about the more technical elements of global environmental issues. Because of their complexity, these problems tend to be simplified and pitched to students as either “good” or “bad” (e.g. recycling is good, cutting down trees is bad). The role of schools and media in translating complex issues into accessible forms is therefore critical.

In a departure from much of the current literature’s strict focus on the institutional settings and political influence of Japanese civil society, I wish to explore the realm of education, through which the state is ultimately producing citizens who merely supplement – rather than stimulate – state functions. Critical analysis of civil society demands paying attention to how constituents of society are being produced in light of the global problems that require certain types of citizens. In particular, I would like to focus on high school social studies – the subject that most sensitively reflects societal trends and represents the first significant set of global issues systematically presented to students.

## Governmentality and Japanese civil society

### *The nature of Japanese civil society*

Much of the previous literature on Japanese civil society has focused on the quality and quantity of civil groups, particularly non-governmental organizations (NGOs) and non-profit organizations (NPOs) (Schwartz and Pharr, 2003). As we shall see, the financial and attitudinal dependence of civil society on government support is one of the most highlighted aspects in the literature (Haddad, 2007; Mochizuki, 2001). Critics, identifying excessive government influence as a hindrance to further development of NPOs, often stress the importance of autonomous civil organizations that are free from government intervention.

Interestingly, however, a recent survey conducted by Japan's Cabinet Office indicates that more than 85 per cent of NPOs hope to strengthen collaborations with state agencies and 85 per cent plan either to continue receiving financial support from the government or to seek government support in the future (Cabinet Office, 2008). The results of the survey suggest that, contrary to the cries of critics, most NPOs actually want to work with the state.<sup>2</sup> This surprising result calls into question the conventional framework that has cast relations between the state and NGOs in a decidedly antagonistic light. Perhaps a solution lies in a reversal of the typical framework – in which civil society fights for independence from the state in order to become truly “civil” – that asks instead how the state has so effectively tamed civil society. Indeed, government has played a critical role in the development of civil societies in Japan; however, we should also question the qualities of civil society and the individuals who compose it, carrying out in the process an analytical dissection of the exact way the state exerts its will on citizens and the actual effects of such interventions.

This is a question of “governmentality” (Foucault, 1991). According to Foucault, governmentality refers to “power that operates at a distance”, consisting not of one dogmatic centre but of a “whole series of specific finalities” to be achieved through “multiform tactics” (ibid.: 95). Note that this issue is not composed solely of state “intentions”, but also of the willing contribution of other bodies to state causes. In other words, the question is how modern forms of power deliver their full effects not by forcing people to comply with state-mandated goals but by transforming them into accomplices (Agrawal, 2005). The notion of governmentality is particularly relevant in modern Japan, where civil society is understood to be a force that, despite being placed in opposition to the government, is paradoxically expected to supplement the government system. As we shall see, Japanese civil society organizations (CSOs) are, in general, mu-

Table 13.1 Top 10 NPO activities

Types of activity	No.	% of total (multiple answers)	No. increase since December 2007	% of organizations not relying on state budget
Health, medicine or welfare	20,005	58.2	545	54
Social education	15,805	46.0	459	67
Town life improvement	13,916	40.5	439	60
Promotion of science, culture, arts and sports	11,167	32.5	344	68
Environmental conservation	9,708	28.2	283	50
Human rights and peace	5,346	15.6	158	91
International cooperation	6,749	19.6	155	82
Support for children and youth	13,815	40.2	428	45
Economic activities	4,242	12.3	180	67
Occupational development and employment	5,983	17.4	297	65
Consumer protection	1,798	5.2	73	92

*Source: Basic Survey Report of the Civil Activities Organization 2007, available at [www.npo-homepage.go.jp/data/bunnya.html](http://www.npo-homepage.go.jp/data/bunnya.html).*

*Note: Activities of suborganizations of the listed organizations whose main activities are to provide support in administration, coordination, technical advice and fundraising have been excluded.*

tually dependent on the government. To explore the possibilities of civil society, then, we must explore how the present “space” for CSOs has been shaped by government conduct (Shigetomi, 2001).

The general assessment of the state of civil society in Japan from an international perspective is not encouraging. According to a cross-national comparison conducted by Johns Hopkins University, Japan ranked nineteenth on the Civil Society Index,<sup>3</sup> one of the lowest among advanced nations (Salamon and Sokolowski and Associates, 2004). Another international ranking revealed that Japanese civil society exerts relatively little influence on policy-making (Tsujinaka et al., 2006). Although some have called into question the validity of rankings based on comparisons made between countries with different cultures (Malena and Heinrich, 2007), many agree that Japanese civil society performs poorly (Haddad, 2006). Popular explanations for Japan’s underdeveloped civil society include severe financial constraints that hinder organizational sustainability and the failure of the government to allow free participation of civil society sectors in international development (Reimann, 2003). However, as shown in Table 13.1, NPOs that participate in international cooperation are less dependent on government support than NGOs working primarily

in a domestic context. We must seek alternative explanations for why NGOs engaging in international activities are less prominent than expected, despite their relatively high degree of autonomy from the state.

### *Internationalization of civil society in Japan*

Before tackling this issue, let us take a brief look at the history of internationalization of civil society activities. While domestic voluntary activities in the realms of welfare, education and occupational training can be traced back to the seventh century in Japan, international NGOs have emerged relatively recently. Before the Second World War, Japan's CSOs were largely under the control of the government. Japan, eager to catch up with the Western powers, had aligned all non-state actors under the banner of Westernization, leaving little room for autonomous CSOs to evolve (Shigeta, 2005). Japanese NGOs first began to engage in international activities in the 1960s, inspired by volatile student movements. International NGO activities continued to grow steadily in subsequent decades, particularly during the 1970s, when organizations such as Amnesty International and Shapla Neer first appeared. The 1980s saw further expansion as NGOs spread not only internationally but also diffused into domestic society, as exemplified by the foster-parent activities of Plan International. These activities resulted in the enactment of the NPO Act in 1998, which gave all NPOs a firm legal foundation to expand their domain of influence further. In 2007 the total number of registered NGOs was close to 300, almost 10 times the number registered in 1980 (JANIC, 2007).

However, focusing exclusively on quantitative growth in the number of organizations may obfuscate the qualitative challenges that these organizations face. A closer look at the working conditions inside active international organizations in Japan reveals the following: 36 per cent and 56 per cent of those employed by NGOs have worked with the same organization for less than two and four years, respectively, indicating a high level of staff mobility; NGOs have a low proportion of full-time employees; and NGOs have a high proportion of female staff members (*ibid.*). Even after taking into account the increased societal mobility of recent years, the organizational characteristics of NGOs are almost the exact opposite of typical Japanese companies, which are dominated by men and often employ workers for life. This distinctive working environment suggests something unique about Japanese CSOs.

The composition of the United Nations (UN) is even more revealing. Each year, the UN Secretariat announces its staff sufficiency based on the budget contribution of each member country. Japan, which contrib-

utes over 16 per cent of the UN budget, accounts for only 4 per cent of UN staff members, and is always considered “under-represented” compared to other advanced nations. Perhaps the most interesting aspect of the Japanese UN staff is the unusually high proportion of women – over 60 per cent of Japanese UN staff are female (United Nations, 2008),<sup>4</sup> and, as of 2007, roughly 80 per cent of Japanese employees of UN organizations such as the UNFPA and UNICEF were women. This is a striking contrast to the proportion of women in Japan’s Ministry of Foreign Affairs offices abroad, which is only 15 per cent.

It is apparent, then, that CSOs represent a refuge from the traditional aspects of many Japanese organizations, and, as such, members of these organizations have been alienated from the political status quo. In fact, many of these individuals can be seen not as the goal of government-sponsored education but as fortunate by-products who could not adapt themselves to the conventional Japanese working environment – or, like many perfectly competent women, intentionally avoided it to pursue their career goals. To be sure, the need to open up the country to promote internationalization (*kokusaika*) has long been recognized by the Japanese government – the most recent example being the long-debated decision to make English a required subject for all elementary school students, which is to go into effect in 2011. However, the steadily low staff enrolment rates of CSOs, particularly the international ones, suggest that the Japanese government has failed to produce “global citizens” systematically and provide a suitable work environment in which these citizens can thrive.

Previous literature has rightly emphasized state-society relations in analysing civil society; however, the exact mechanism through which the state reaches the general population – that is, why the state has failed in its attempts to create “global citizens” through education – has yet to be explored. Seeking an explanation for this failure, I would like to turn to the civics curriculum in Japanese junior high and high schools.

## The state and the production of civics

### *The evolution of komin (civics) in Japan*

Junior high school students (age 13 to 15) learn about the world primarily through three subjects: geography, history and civics. At the senior high school level, civics is divided into politics and economics, ethics and modern society,<sup>5</sup> all of which may touch upon global issues and Japan’s role in the international community.

The Ministry of Education's "course of study" defines the aim of social studies classes in junior high schools as follows:

[Social studies] aims to nurture the foundation of civicness necessary for a peaceful and democratic nation and society in an international setting. It aims to allow students to cultivate their interests in society from a wider perspective and enable them to think from multiple angles and dimensions so that their understanding and love for our land and history will be deepened.

In Japanese, two different terms are used to express the concept of civics: *shimin* (市民) and *komin* (公民). *Shimin* is a direct translation of "citizen" in English, emphasizing individual rights in a modern sense, while *komin* implies a more traditional role for nationals within the state system. The fact that *komin* remains today is a manifestation of the state's influence on social science education. *Komin* constitutes an important part of high school social studies, to which all junior high school and most senior high school students are exposed. It covers not only the basics of politics and economics, but also international themes such as foreign aid, environmental problems and Japan's role in addressing global issues.

*Komin*, officially established in 1924 as a subject to be taught in Japanese schools (Matsuno, 1997), has a long history in Japan. *Komin* was originally a response to the democratization movement and the general election of 1925, which gave male commoners the right to vote for the first time. Until it was temporarily abolished in 1943 during the Second World War, as many as 8 million students studied *komin* at school (Matsuno, 1997: 15). Although pre-Second World War civics emphasized some aspects of what it meant to be an international citizen, the subject focused primarily on ethics connected to nationalism, nurturing a sense of belonging to the emperor (Tsuchiya, 2001).

Analysis of textbooks provides a view into the essence of what is taught in the classroom. Iokibe (1992: 68) points out that during the Meiji period (1868–1912), when the Ministry of Education was first established, textbooks were typically liberal and dynamic, encouraged by free competition among individual textbook writers. Free competition, however, was soon hampered by state-mandated textbook screening that frowned upon Western-style independent citizenship (exemplified by the best-selling translation of Samuel Smiles's *Self-Help*) and emphasized obedience to the Japanese state through the revival of Confucian teachings. Today, textbooks take a more proactive, multicultural standpoint. The Ministry of Education's latest "course of study" (2008) in social studies stipulated that civics should include appreciation of religious and cultural diversity (Shibusawa et al., 2008).

### *Practical problems of civic education*

Despite the admirable aim of producing “global citizens” through education, Japan seems to be failing, as a whole, to turn out a large number of students who have the potential and willingness to make positive contributions to the international community. There are three reasons for this failure: practical problems in teaching schedules and the nature of the subject matter; incentive problems related to entrance exams; and influence of state control and the relative lack of initiative on the part of civil society in choosing educational content.

First, a closer look at how much teaching time is allocated to junior high civics classes reveals disorganization on the part of many schools. The “course of study” suggests that geography be given 120 unit hours, history 130 unit hours and civics 100 unit hours. For many students in their senior year, however, history ends up consuming much of the time allotted to civics, and the final semester is devoted almost entirely to preparation for entrance examinations. In addition, poor coordination among the social studies subjects makes integrated teaching difficult.

Second, *komin* – compared to other social studies fields such as Japanese history, world history and geography – is regarded as a minor subject because it is not emphasized in the university entrance examinations. Some of Japan’s leading universities, including the University of Tokyo, Keio University and Sophia University, do not even offer a civics exam. A 2006 survey administered to high school students on the subject of politics and economics (*seiji-keizai*) revealed that about 45 per cent of students feel these subjects are not useful for gaining admission to universities or finding jobs (National Institute for Educational Policy, 2007: 388).

Nevertheless, many students who participated in the survey demonstrated a clear understanding of critical issues and showed more interest in civic topics such as global environmental issues and international cooperation than in domestic issues like the ageing society and social security. A lack of awareness of global issues, then, is not to blame; rather, the core problem is a faulty societal foundation that prevents students from transforming their interests into constructive participation.

### *Textbook politics and state interventions*

Komikawa (2007: 5) notes that movements challenging state regulations in present-day Japan are fragmented and disorganized. Making matters more difficult, the state has increased its influence through both direct means – including laws and regulations, textbook screening, moral

education and teacher training – and indirect means, such as performance evaluation through achievement tests, administrative reform, awarding (and penalizing) teachers with promotions and planning education through budget allocation.

In the name of education, the state exercises its power over the people through textbooks and teachers. As eloquently noted by Lipsky (1980: 2), public policies are formulated not only in the legislatures or top-floor suites of high-ranking administrators, but more so by the everyday conflicts and encounters between ordinary citizens and street-level bureaucrats, including teachers. Teachers, then, have the power to influence students (and, by extension, the public at large) through their choice of textbooks.

Textbook screening is one of the most visible and traceable ways by which the state has attempted to keep the influence of teachers in check. Textbooks, which are produced by private publishers, must pass screening before they can be used in schools, and the actual adoption of a particular textbook is the decision of each district's educational committee (or heads in the case of private schools). It takes roughly four years to complete the cycle, from the submission of the first draft to screening, adoption, supply and use. The official justification for this centralized system is to guarantee equal access to quality education and maintain impartiality.

Many countries, including Norway, Germany, China and Korea, have similar textbook screening systems, while countries such as France, England, Canada and Australia do not. In the screening system, a maximum price is set for each textbook, forcing publishing companies to reduce the number of pages. Up to the high school level, the Japanese government stipulates that all textbooks are free of charge; the government buys the textbooks and distributes them to individual schools. This system allows all textbooks to be less costly and ensures that they comply with the "course of study".

In Japan, social studies textbooks are screened every four years by a group of experts appointed by the Ministry of Education. Most of the comments made by the examiners are on technical matters (e.g. wrong names, numbers or spelling), while some comments are on the inappropriate use of diagrams. More problematic, however, are comments regarding "one-sided" explanations. Consider the following example on Japanese official development assistance (ODA), which appeared in a politics and economics text drafted in 2005 for classroom use starting in 2007.

(Original draft) Although the grant element of ODA has increased, further aid is needed in the fields of medical services, social welfare, and education.

(Examiners' comments) The new ODA Charter, which was revised in 2003, already emphasizes these sectors. The given description might cause students to misunderstand ODA.

(Revised text) The grant element of ODA has increased, and the new ODA Charter emphasizes the importance of sectors such as medical services, social welfare, and education.

Japanese ODA is often treated negatively in original drafts, causing the textbook screeners to emphasize the positive aspects of government policies in subsequent revisions. In contrast, renewable energy issues are often treated confidently in first drafts and approached more cautiously in revised texts. In both these examples, revised textbooks serve to affirm the present political status quo. Competition between textbook companies may also encourage textbook writers to write towards the "left wing", a philosophical orientation shared by the majority of social studies teachers, who have the ability to decide which textbooks to use.<sup>6</sup> Government intervention, meanwhile, strives to reorient textbooks towards the "right" through the screening process. This balancing act can be traced back to the 1950s and 1960s, when the teachers' union expressed strong opposition to government interventions in school education. While such fierce political conflict has been nearly absent since the 1990s, the battle between the government and textbook writers continues to shape the Japanese education system.

The aggregate effect of this balancing act on students is very simple: more empty terms – such as "ODA Charter" – to be memorized. Balanced descriptions of controversial issues can complicate matters by requiring longer sentences and more keywords, and teachers innovative enough to go beyond memorization may face pressure from parents, who worry that such an education will not adequately prepare their children for exams, or from the state, through the various regulatory measures listed above. Ultimately, the government screening process ends up whitening down debatable issues into pointless "facts", erasing students' opportunities to express or even develop critical opinions.

It is characteristically Japanese that voluntarism has somehow merged with – or even supplemented – the activities of the state. This is not "wrong" in any way; rather, the problem lies in the system's inherent inability to realize that civil society activities – which have stressed the ideal of autonomy from the state – are promoting state interests. Komikawa (2007) identifies a particular "mood" in Japan that prepares the public to tolerate government regulations. Textbook production plays a role in supporting this "mood", which in turn supports the expansion and stability of state power.<sup>7</sup>

## Conclusion: Envisioning alternatives

When Japan was emerging as a modernizing state struggling to compete with the world powers of the time, unified nationalistic education was necessary for “the mental and social uplift of the masses” (Nitobe, [1931] 1970: 241). Unification of the nation, previously segmented into disparate territories controlled by local lords (*daimyo*), was dependent on the moral power of the emperor. Civics in its original form was thus conceived as a code of “national ethics” that aimed to form men into proper members of the state, with the state having absolute power over their bodies and souls (ibid.: 243). When national aims were clearly defined – in this case, catching up with the West while suppressing the development of individuals – such a nationalistic vision of civics was deemed acceptable.

Now that Japanese nationhood lacks such a clear-cut cause, however, what should be the aim of public education? The answer revealed in various civics textbooks seems to be the production of “global citizens” (*chikyu shimin*). The question is whether Japanese civic education, which was originally designed to encourage “good citizens” to take part in the nation-building project in line with government directions as *komin*, can foster the individuals (or *shimin*) necessary to face the problems and uncertainty of the modern world.

I argue that the current educational content alone is insufficient for producing “global citizens”. In fact, much time has been spent in Japan on the development of content and methods in civics and related subjects, without positive results. However, having an understanding about a particular world issue is one thing; taking a stand to create positive change is quite another. Action requires motivation, commitment, the ability to extend one’s imagination to others and the ingenuity to generate alternatives. Because these new attitudes may threaten social stability and traditional notions of careers and citizenship, however, promotion of these values is somewhat lacking in the civic education now prevalent in Japan.

Perhaps what Japan needs now is not *komin* – remnants of an obedient nationalistic age – but *shimin* – critical thinkers who are committed to the greater international good. Furthermore, it is not enough to teach about global issues; rather, the very foundation of society must be changed in order to foster students who are literate in global issues. There is nothing wrong with the state playing an active role in guiding the nation through education; however, the absence of a countervailing force to locate and limit state power where necessary is dangerous, and we must be careful when permitting state interventions into the education sector.

To this end, a balance must be sought between state interests and the development of curricula – emphasizing motivation, commitment, imagination and ingenuity – that will actively foster a new generation of critical thinkers with solutions to global issues. The real evaluation of “civicness” in Japan thus depends not on its superficial quantification (such as the number of organizations), but on the public values – reinforced through education – that may interfere with the unchecked domination of state power.

Although hope remains for change through improvement in educational content, teaching methods, textbook structure and selection methods for entering universities, there is a limit to the results that can be achieved by these means alone – a more fundamental change in values is also necessary. Inevitably, the most realistic scenario for this change in values may come not from well-prepared educational reform plans but from an unexpected external shock. Deepening economic and ecological uncertainty will create a world in which those who have the capacity to develop and implement alternatives will be rewarded. As these individuals become more and more visible, educational institutions will be forced to nurture new types of citizens. Phrased in a more positive light, Japan must transform this wave of negativity into opportunity – the education of future generations and, indeed, the fate of the world at large depend on it.

## Notes

1. This connection is by no means an invention of textbook companies, however – it has become common knowledge through its presence in various authoritative documents.
2. The survey highlights the ability to extend the scope of NPO activities and gain increased public recognition as the two most significant merits of working with the state (Cabinet Office, 2008: 9).
3. The index is derived from capacity (relative size of the non-profit sector), sustainability (diversity of financial sources and reliance on government) and impact (various indicators of contributions to the non-profit sector).
4. Japan scores unusually high on this criterion. Other countries' numbers are 55 per cent (United States), 42 per cent (Germany), 47 per cent (France), 47 per cent (Italy) and 41 per cent (Britain).
5. The “course of study” did not specifically identify “Japan’s role in international society” as an area for study until 1978 (Kato and Yoshioka, 2002).
6. Following the “course of study” is mandatory for textbook publishers if they wish to pass screening. Textbooks therefore often end up containing many keywords with superficial explanations in order to comply with page limitations and avoid controversy.
7. Ironically, when social studies was reformed after the Second World War with strong pressure from the US government, the aim was to emancipate individuals from the two main sources of external suppression: family duties and state demands (Usui, 2007).

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Part IV

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Experience in Africa

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## 14

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## Civil society in Africa: Constraints and opportunities for democratic change

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*Goran Hyden*

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Africa has a rich associational life, but does this fit the description of a “civil society”? This question is particularly relevant for a discussion of its possible contribution to democratic change. In most discussions of civil society it is taken for granted that it is a vital part of democratization. This link stems from the record of democratization in Western countries, where voluntary associations have been a force in bringing about participatory and accountable forms of governance. But what should one expect of civil society in this regard in African countries that have been only marginally affected by previous waves of democratization and where, therefore, the political foundation on which to build democracy remains fragile?

The purpose of this chapter is to provide an overview of the factors that constrain or facilitate civil society’s contribution to democratic change in Africa. Following a brief historical introduction, the chapter proceeds with a discussion of the civil society concept before turning to an analysis of the nature of associational life, state-society interactions, democracy assistance and social capital in Africa. It concludes with a comparative assessment of the role that civil society plays in fostering democracy in the region. A rider must be entered here to make it clear that the social and political landscape in Africa is more diverse than can be handled in a single book chapter. Despite being forced to generalize, I believe that the features discussed below are sufficiently characteristic of African countries south of the Sahara to merit consideration in a comparative perspective.

## A historical perspective

Before discussing civil society in its contemporary African context, it may be worth mentioning a little about its African past. Voluntary organizations among Africans first became politically significant in the urban areas of colonial Africa. People living and working in the towns came together for a variety of reasons: some because they shared an ethnic origin and spoke the same language; others because they worked in the same industry; still others because they went to the same church. Some were formally registered with the colonial authorities; others were more informal and not registered. Regardless, as the British historian Thomas Hodgkin (1956) showed during the years of decolonization, these urban-based voluntary organizations made a significant contribution to the growth of nationalism and the demands for political independence from the colonial powers. Civil society grew and flourished because of the widespread dislike of colonialism.

Once African countries gained their independence, however, civil society turned from hero to villain. The new nationalist leaders in government wanted everyone to support their agenda. They wanted all voluntary organizations to join the political movement charged with responsibility for national development. The result was that civil society organizations (CSOs) were coopted into single political movements or banned outright. Most African countries lost the associational vibrancy that had characterized the decolonization period. Mahmood Mamdani (1996) attributes this decline to an absence of civic consciousness outside a relatively small circle of urban-based activists. Other factors include a weak independently wealthy African middle class and a poor understanding of the line that distinguishes public from private matters. The important thing here is that while the socio-economic conditions for the growth of a civil society in African countries were not congenial, there was nonetheless on the eve of independence a good deal of civic activism that subsequently was discouraged or banned by political leaders who wished people to join their nationalist movements instead.

During the first two decades of independence, civil society had disappeared as a political concept. The focus was on centralized development planning and implementation by government, an approach that was generously supported by the international donor community. Despite the fact that government bureaucracies typically lacked the commitment and capacity to lead national development, their dominance continued and was never questioned until the 1980s, when economic reforms giving a greater role to the market were enforced upon African governments. These reforms, or structural adjustments, also opened the door to more participation in development by voluntary and private sector organiza-

tions. Thus it was in the wake of these reforms that the term “civil society” was brought back into the political vocabulary in Africa. But what does the term really mean?

### Uses and abuses of the concept

Civil society is one of the most frequently used concepts in the literature on democratization, but for that reason it also has a reputation of being one of the more abused. There are at least four problems with the way authors use “civil society” that warrant attention here: the tendency to overlook its historical – and philosophical – origin; the inclination to ignore its underlying structural condition; the preference for treating it as an “arena”; and the neglect of the quality of associational life connected with it. We shall discuss each one in turn.

Civil society has historically been associated with the rise of democracy in both Europe and North America. This is not the place for a full review of its varied philosophical origins (cf. Keane, 1988; Cohen and Arato, 1992; Hyden, 1998; Bermeo and Nord, 2000), but it is important to emphasize that it is a product of a specific historical evolution associated with the Enlightenment and subsequent elements of modernization, notably urbanization, industrialization and the rise of modern capitalism.

More specifically, the growth of civil society in Europe was in response to the closed and exclusivist nature of aristocratic society, where privilege counted and individuals were inducted to status positions in society by virtue of birthright. It is not difficult to see that civil society was a product of the emerging middle classes, both commercial and professional. Trade unions followed suit as industrialization brought people together in new manufacturing entities and they grew more aware of their potential power in numbers. The rise of civil society in these conditions took many specific forms. In the United States it was based on voluntary civic participation in town settings. As noted by Tocqueville in the early 1800s,<sup>1</sup> the extent to which a civil society based on voluntary associations flourished in North America was impressive to a visiting European observer. In Northern Europe, where a free peasantry existed, the growth of civil society crystallized around private and voluntary initiatives. Peasant co-operatives, side by side with urban trade unions, constituted the mainstay of this growth. These were genuine social movements that served as a major impetus for democratization. This impetus was much weaker in Southern Europe, where instead the Catholic Church helped mobilize social forces, but doing so on its own terms and thus limiting the eventual growth of trade union militancy (cf. Putnam, 1993, Gellner, 1994; Bermeo and Nord, 2000). These variations notwithstanding, civil society was a

“modern” project in the sense that it entailed the “disembeddedness” of individuals from local communities and the creation of alternative institutions that could serve human needs (Giddens, 1990). Civil society in these countries served the dual purpose of satisfying substantive needs while also changing the “rules of the political game” in a participatory and accountable direction.

The second problem is the neglect of the underlying structural conditions of civil society. This may be a particularly serious omission in the African context, where modernization has yet to take hold. Although attempts have been made to analyse Africa in terms of social class (e.g. Markovitz, 1998), there is a general understanding that societies on the continent tend to be divided primarily along ethnic (or possibly racial) rather than class or caste lines. A state was an influential factor in shaping social relations in countries like Ethiopia and Rwanda. The state, however, was a pre-capitalist or pre-modern institution. Many of these features have not disappeared, and therefore the underlying structural conditions in Africa to this day are quite different from those in Europe and North America, even Asia and Latin America. This is especially true with regard to the level of social alienation and anomie that served as a contributing factor to the growth of civil society in other places. African countries are made up of an assemblage of ethnic groups, all of which compete for influence and control over the state. These groups typically operate through individual patrons or “big men” whose role it is to advocate and ensure the interests of their respective communities (Hyden, 2006). Politics in Africa is thus less dependent on organized interests and much more influenced by entrepreneurialism as practised by individual patrons (Lemarchand, 1972; Medard, 1996; Bratton and van de Walle, 1997). Furthermore, there is at best only a weak civic public realm that makes it possible for a civil society to develop. Unlike the kind of “public sphere” that followers of Jurgen Habermas emphasize (e.g. Calhoun, 1992), African societies typically rely on a “communitarian” public realm (Ekeh, 1975). Political discourse in African countries tends to lack the “universalist” character associated with Habermas’s notion of a public sphere. Most of the analysis of civil society in Africa tends to ignore these structural differences, and proceeds on the assumption that they can be ignored or that autonomous associations stand ready to promote democracy at the national level.

The tendency for civil society to be treated as an “arena” without a specified content is the third problem. In this interpretation, civil society becomes pretty much everything, and therefore nothing. Any organized activity between the family and the state becomes part of civil society, regardless of purpose or objective. What matters to observers and aid administrators alike is the number of organizations, and not their normative

orientation. This approach disconnects civil society from democracy or democratization, in the sense that civil society becomes a “value-neutral” concept. It makes no difference if civil society is democratic or authoritarian. Such a definition is fine as long as it is accepted that the focus must then be on associational life as a separate variable. It becomes mandatory to find out what individual associations are doing and how they do it. This is rarely done in analyses of civil society. Instead, civil society is automatically taken to be a “positive” or “good” thing that must be maximized, regardless of associational content.

That is why it is important to consider more carefully the quality of associational life in particular regions or countries. In African countries, the attention has naturally been paid primarily to non-governmental organizations. There are few, if any, social movements that have driven democratization as the case has been in, for example, Eastern Europe and Latin America. Furthermore, most NGOs have a strong connection to external resources. They are either branches of international NGOs or extensively reliant on funding from external sources. These features have important implications for their ability to be effective. Hadenius and Ugglå (1996), for example, point to the problems that such outside dependence cause for autonomous action. This weakness is exacerbated in the African context by the clientelist nature of politics, which pre-empts a formalized state-society relation and instead encourages informalization of relations between officials, representing the state, and subjects, representing the society. As Bratton (1989) has noted, NGOs cannot rely on laws that give them autonomy and freedom. They exist at the whim of political officials. It is difficult to form viable associations in this kind of social and political context; but this does not preclude the possibility that international NGOs with a commitment to helping local organizations to grow may have a positive role to play in terms of reducing the detrimental effects of donor dependence and clientelism.

### The role of voluntarism

Voluntarism is a key aspect of civil society, because it is made up of organized activities in which individuals make a deliberate choice to participate. People may join organizations for a variety of reasons. Some do it for altruistic reasons, others for utilitarian purposes, i.e. because they believe that they can get something out of it. Mancur Olson (1965) questioned the first set of reasons when he stated, contrary to conventional wisdom at the time, that America is a society of “joiners”. Whether out of solidarity with others or out of self-interest, voluntarism involves a deliberate choice based on a specific normative preference.

The place of voluntarism in African society is more complex, and is best understood with the help of a distinction between relationships in primary and secondary types of organization. The former include family and similar entities into which a person is born. They provide an identity that is not easily changed. Relations in primary types of organization, therefore, are not voluntary in the sense that people have made a deliberate choice to be a member. As anthropologists have pointed out, rights and duties in these organizations come from ascribed status (e.g. Hamer, 1987: 183). Secondary types of organization, in contrast, provide the scope for voluntarism, because they straddle the boundaries of primary types and involve a deliberate choice. Individuals do not get involved in just any organization. They do it with a purpose. For instance, a self-help association that spans across kinship boundaries is an interesting case of what is relatively typical in rural Africa. Because such an association is community-based, it tends to carry features of both primary and secondary types. The choice that members make is "embedded" in the sense that it is not completely autonomous; nor is it concerned with abstract or ideological issues, but rather practical problems affecting the local community. The notion that choices are embedded in a social or economic context is not specific to Africa, as Granovetter (1985) has pointed out. Much of the literature on institutions in the past two decades, however, has tended to overlook context and accepted that choice is autonomous. The mainstream premise is that only formal rules determine choice (Williamson, 1985; North, 1990; Ostrom, 1990).

It seems appropriate to assume that a level of formalism is inevitable in order to identify voluntarism fully. People sharing an interest or perceiving a common enemy may feel obliged to register as an association in order to sustain their pursuit. The challenge in much of Africa is the relatively low level of economic development, which tends to limit the extent to which people perceive "common interests". It is primarily in urban settings that they exist and may bring people together in pursuit of a broader common interest. In the countryside they are typically limited to an individual community or a group thereof. The rationale behind these associations is often the threat from a real or perceived enemy. For instance, cooperative societies once flourished in East African countries because of the dominance by Indian traders (Nash, Dandler and Hopkins, 1976). They remained strong as long as the contractual nature of the organization was respected. Once leaders began to misappropriate funds and undermine contractual rights and obligations, these organizations faltered (Hyden, 1973). They were reduced to mechanisms for sustaining a clientelist form of politics rather than the common interest of members.

Democratic governance in Africa thus continues to be a hybrid involving individual and group values. For this reason it is difficult to disentangle voluntarism from communalism. The "civic" aspects of civil society

tend to be weakened by communal forces that set group against group and sometimes lead to conflict. It is clear that one reason for civil and political violence in some African countries is a society lacking a universalist voluntarism based on adherence to particular ideas or interests. Another reason is the nature of the state.

### Nature of state action

There has been much written about the nature of the state in Africa. Most of it has focused on its weakness or failure (Migdal, 1988; Rothchild and Chazan, 1988; Wunsch and Olowu, 1990). More recently, it has focused on the consequences of these features, as authors have studied post-conflict situations (Carothers, 2004; Rotberg, 2004; Fanthorpe, 2006). The literature suggests that a strong state is more conducive to civil society than a weak one. Diamond (1994: 17) posits that effective state institutions “do not guarantee wise and effective state action but they at least ensure that the government will be able to make and implement policies of some kind rather than simply flailing about impotent and deadlocked”. In a similar vein, another Africanist writes that “civil propensities have surfaced most strikingly in countries where the institutional hegemony of the state has been rejected but its importance has been retained” (Chazan, 1992: 292).

The problem in African countries has been the lack of a balance between state action that is affirming the rule of law, on the one hand, and enabling non-state actors to participate in the political process, on the other. State action has rarely accommodated an active associational life that is intent on strengthening civil society and its role in democratic governance. Government leaders have often looked upon such associations as being involved in conspiratorial activities. They have over-reacted by detaining their leaders or forcing them into exile (Moyo, 1993). Even in countries where the response has been less drastic, there has been a common inclination to rein in civil society associations through new legislation. These initiatives have typically been labelled “NGO Acts”, reflecting a premise that development is the responsibility of government. Non-governmental organizations are viewed by political leaders as being merely of secondary value in this pursuit, needing to be subordinated to overarching government decisions. Thus government attempts at legislating the space of civil society have discouraged and in some countries intimidated voluntary associations, whether international or national, from actively engaging policy issues for fear of antagonizing government leaders. In many respects, Africa to this day is still a lot like czarist Russia in the nineteenth century, where efforts at voluntary organizing were seen as conspiratorial (Engelstein, 2000).

State action in Africa does not help to protect the public realm that needs to be nurtured in order for civil society to flourish. Because the state often acts arbitrarily and with little regard for its social consequences, it tends to alienate individuals and groups in society (Fuchs, 1993). It fails to incorporate views from non-state actors that may be helpful for development. In the worst possible scenario, the state in Africa often promotes civil and political violence, causing it to disintegrate. In other less dramatic scenarios, it “merely” alienates other actors, but even then with costly consequences in terms of failed development.

## Democracy assistance

Broadly defined, democracy assistance is aid designed to advance social, economic and other conditions believed to be beneficial to democracy (Burnell, 2000). What such assistance actually constitutes, however, is contested. Furthermore, given the plurality of actors in the international community, the means and methods used in promoting democracy are seldom uniform, and cover a variety of competing approaches. Regardless of approach, the rise in importance of such assistance in the past two decades is undeniable, especially in sub-Saharan Africa (Carothers, 1999). It starts from the perspective that in order to strengthen democracy, the attitudes, norms and behaviour associated with democratic citizenship must be imparted and a vibrant civil society developed (Burnell, 2000).

Much of this assistance is channelled through international non-governmental organizations. Although proportionally civil society assistance accounts for a very small percentage of overall development aid, there has been a net increase in the proportion of aid allocated to civil society programmes and projects. Reflecting this increase in such aid is the rapid growth of NGOs since the 1990s. According to the *Yearbook of International Organizations*,<sup>2</sup> a conservative estimate for international non-governmental organizations alone was more than 26,000 a few years ago (Mansbach and Rhodes, 2003). NGO assistance to the developing world was US\$8 billion in 1992, more than all UN humanitarian assistance combined, and continued to increase (Carothers, 1999).<sup>3</sup> NGOs have been particularly important in Africa, where they have played a key role in promoting not only development but also democratic governance.

Democracy assistance targeted on civil society in the African region has been plagued by two factors that have limited its effectiveness. The first is that support for NGOs has often been extended as a means to enhance the effectiveness of implementing specific policies. Thus support for more democracy has not been the ultimate objective, but a sub-goal in the context of a broader development aid programme. This integration of democracy assistance into a wider social or economic development

programme has been prompted partly by administrative and partly by political considerations. For instance, many donors have wanted to avoid being seen as sponsoring organizations that are in outright opposition to government policy. Another factor is the tendency to “sectorize” civil society support and see it outside the framework of the mainstream programmatic aid given to governments in the form of official development assistance (ODA). For both these reasons, democracy assistance has lost much of its clout and its results in the African context have been rather modest. This is not to imply that it has been a total waste but, with the exception of a few organizations, civil society as a collective entity has not grown in any significant way thanks to the democracy assistance its individual members have received.

### The role of social capital

Much has been made of the importance of building social capital as part of strengthening civil society and, by implication, democracy. Drawing foremost on the seminal work by Putnam (1993) on the role of social capital over the centuries in fostering democracy in certain regions of Italy but not in others, those aiding democracy efforts in Africa have embraced this concept. But what is social capital? Is it always the same as Putnam describes it, i.e. based on civic values? In addition, is it always positive?

Much of the confusion surrounding the concept stems from two issues. The first is whether social capital is analysed at an individual, community or societal level. The second is whether it is understood as causal of social behaviour or the result of interactional behaviour. With regard to the latter, Narayan and Pritchett (1997), for instance, discovered a positive correlation between social capital and household income in rural Tanzania, a study in which the concept is treated as a causal variable. Varshney (2002), on the other hand, in a study of the relationship between different religious groups in Indian cities, takes the view that it is generated through particular types of social interaction. Social capital may be either positive or negative, depending on how people behave towards each other and what kind of associations they form.

At the individual level, social capital is typically viewed as a factor of production, an additional resource to achieve individual goals. It typically exists between two individuals in the form of goodwill, non-monetary expectations and obligations or non-monetary debts that can be traded or called in when resources are needed (Coleman, 1988). These obligations occur through the norm of reciprocity or through cultural traditions – as in the case of Italy cited above. It can also exist between an individual and a group in terms of gaining access to group benefits, resources and

information. Most of the literature on social capital in developed countries tends to analyse social capital at this level.

Social capital at the community level is manifest in generalized forms of trust like a capacity to act in concert to achieve common goals or informal but very real community sanctions against those who deviate from prevailing norms. Just as social capital works to enhance or multiply an individual's stock of other types of capital, it does the same for the community. Literature on social capital at the community level tends to treat it as more deeply embedded in culture than is the case with analyses at the individual level. Thus social capital at the community level may be likened to an iterated prisoners' dilemma game played on the thick carpet of culture, religion and morality (Granovetter, 1985). The manifestation of social capital is the appearance of trust, reciprocity or goodwill that exists within dyadic interactions between people.

To project this upwards, a community's or society's social capital is the potential and actual cooperation that each of its members provides to the rest of the group as a whole. This exists in two parts: one is composed of the social norms that facilitate cooperation that reduces transaction costs; the other is composed of the aggregate potential for group members to cooperate for the good of society as a whole – cooperation itself being a public good. Individuals' cooperation with the community at large requires facilitating community action as well as social enforcement of community norms, e.g. in the form of ostracism. The point here is that the higher the level of analysis, the more structural it tends to become. For instance, in his analysis of Italy, Putnam (1993) regards social capital at the society level as habituated patterns of interaction predicated on governmental and religious history. There is little room for human agency independent of these habituated patterns. By focusing on the differences in the radius of trust, Fukuyama (1995) manages to bridge this gap between structure and agency. For instance, he shows that the United States and Japan have been more successful than China and Italy in generating generalized forms of trust that have allowed for the creation of mega-corporations. The latter two have been confined to reliance on a narrower radius of trust that has led to nepotistic hiring practices, and by implication greater difficulty in building successful large corporations.

It would be wrong to treat social capital in Africa as being primarily community-based. It once was, in the sense that communities had stable norms and mechanisms for enforcing these norms. This has changed in the past decades. Individuals are more autonomous as agents than their parents and grandparents ever were but, because of the breakdown of norms and mechanisms for enforcing them, there is also an enhanced risk of anomie, i.e. people acting opportunistically without regard for norms that foster the growth of a civic form of social capital. Civil violence is

the most extreme manifestation of this state of affairs, but it is evident also in various forms of corruption. The problem with social capital in Africa today, therefore, is that it is fluid and confined to a narrow radius, being more particularistic than generalized, and thus fails to provide the basis for the growth of civic norms that transcend narrow community boundaries based on ethnicity, race, religion or language.

### Africa in a comparative perspective

Civil society played an important role in the democratic transition in Latin America and Eastern Europe. This transition was the result of a protracted struggle over principles of governance that placed citizen groups that had been alienated by the authoritarian or totalitarian system of rule in opposition to incumbent regimes (O'Donnell, Schmitter and Whitehead, 1986; Linz and Stepan, 1996; Alvarez, Dagnino and Escobar, 1998). These groups, organized initially underground but subsequently in the streets, held together not only because of solidarity against the incumbent regime but also because the political opportunity structure that had previously limited civic participation was itself beginning to give way as a result of the persistent opposition by these citizen groups and critique from governments in other countries of the world (Tarrow, 1998).

Although many prominent leaders of these CSOs and movements became absorbed by the newly formed democratic governments, and in this sense they shifted sides in the political game, scholars have kept studying civil society and stressed its importance. For example, Huber Stephens (1990) emphasized the importance of continued attention to the role that trade unions, student groups and grassroots movements play in the emerging democratic dispensation in Latin America. Others, such as Escobar and Alvarez (1992), realized that in the post-modernist atmosphere that was seen as affecting not only Europe but also Latin America, there was good reason to pay attention to organizations wrapped up with questions of identity, such as environment, feminism or gay and lesbian rights. Whether in Eastern Europe or Latin America, citizens have shifted their attention and battle from system-wide regime transition issues to how a vibrant civil society can be sustained and promoted through a focus on more specific issues that bring people together.

CSOs in Africa played a much more modest role in the transition to more democratic forms of governance in the early 1990s. To be sure, there was a rise in public protest during the latter part of the 1980s (Bratton and van de Walle, 1997), but it did not crystallize into civic organizations

aimed at changing the political regime. Rather, the transition in African countries was driven by what was happening in other regions of the world, not least in the Soviet Union and Eastern Europe. Those who made the final decisions to accept a transition were the incumbent leaders, most of whom remained in power after the first democratic election. The regime transition was driven from the top and relied much less on civil society than it did in Latin America and Eastern Europe. Civic groups, especially among professional categories, enhanced their position after the transition, but the ceiling in the political house in African countries stayed much lower than it did elsewhere in the world. This has continued even though CSOs have gained in strength in some countries, and do play an important role in raising civic awareness about human rights and other issues that are ignored by those in government power (Kasfir, 1998).

### A balance sheet

So, based on what we know about the process of building forms of democratic governance in Africa, what kind of balance sheet can be offered?

There is little doubt that civil society as a collective actor in African politics so far plays a less prominent role than it does elsewhere in the world. An important reason for this is structural. Society has yet to evolve to levels of development and modernization that provide the basis for the growth of organized activities around common interests that cut across primary forms of social organization. The persistence of the latter, and thus an economy of affection (Hyden, 1980) in which choice is embedded in communal values and interests, reduces the evolution of a civil society capable of exercising influence on policy and governance.

This is not to suggest that things are static in Africa. The boundaries of civic action are being constantly contested, especially in countries where human rights are trampled upon. Kenya is a case in point, where civil society is quite powerful because it has been forced to engage in battles to earn its rights. The long-lasting constitutional review that took place in the early 2000s helped civic groups to learn strategies and tactics that make them much more difficult to ignore than before. Another case is Ghana, where civic organizations played an important role in containing anomic tendencies in the face of the hotly contested 2008 election. Similar trends are in place in many other African countries, but they often result in the emergence of a few strong individual organizations rather than a civil society acting in a cohesive or concerted fashion. For instance, there is a pronounced difference between organizations that prioritize a role as policy implementers and others that see themselves as formulating and defending a political agenda that goes beyond what government

wants. At the same time, it needs to be said that the growth of civil society in African countries is not a linear process. There are places where its role has declined and become more confined than some years ago. An extreme case in point is Ethiopia, where legislation makes it possible for government to jail civil society leaders for up to 10 years if they accept democratic assistance from other countries.<sup>4</sup> There is reason to be cautiously optimistic that civil society in African countries will become more influential in promoting democratic governance, but it won't happen everywhere, and in some places it is likely to suffer before it can celebrate success.

## Notes

1. See Alexis de Tocqueville (J. P. Mayer, ed.) (2000) *Democracy in America*, New York: Harper Perennial Modern Classics.
2. See Union of International Associations (ed.) (2007) *Yearbook of International Organizations, Volume 1: Organization descriptions and cross-references*, Munich: KG Saur Verlag, <http://www.uia.be/yearbook>.
3. According to the Development Assistance Committee of the Organisation for Economic Co-operation and Development, "government and civil society" aid was 2.9 per cent of all official development assistance (ODA) in 1998. Six years later it had risen to 6.7 per cent of total ODA, still a relatively small percentage (OECD-DAC, 2007).
4. This new law was first reported in the *New York Times* on 7 October 2008.

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## The role of civil society in national and local development in Africa

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*Kadmiel Harrison Wekwete*

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### Introduction

The London School of Economics Centre for Civil Society (2004) defined civil society as:

the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and civil societies are often populated by organisations such as registered charities, development non-governmental organisations, community groups, women's organisations, faith-based organisations, professional associations, trades unions, self-help groups, social movements, business associations, coalitions and advocacy groups.<sup>1</sup>

This comprehensive definition will form the basis for understanding and interrogating civil society in the African situation. While the history of and interest in civil society are an integral part of industrialized capitalist societies, its application and visibility in Africa are fairly recent and have largely been in the post-colonial period of development. The interest has also been to a large extent stimulated by the interests of donors and international partners in promoting pluralist democratic systems of governance in Africa. This is problematic, because it has meant that the definitions and applications have not been home-grown, resulting in

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*Engaging civil society: Emerging trends in democratic governance, Cheema and Popovski (eds), United Nations University Press, 2010, ISBN 978-92-808-1188-9*

outside NGOs largely playing the role models for emerging “civil society” and providing it with the means of survival, but not necessarily accountability to the dynamic of the evolution of African civil society.

At a recent International conference held by the International NGO Training and Research Centre in the Netherlands (December 2008), the key question posed was “Whatever happened to civil society?” The main concern expressed was how a shift in focus of the aid industry had de-emphasized civil society, and with it devalued the notion of the importance of civil society to individual citizens, collective associational life and the state itself. There was concern with policies being implemented globally and locally which relegate civil society and its actors to subservient roles within the aid chain. In this conception the aid industry ends up simply taking care of short-term humanitarian concerns rather than the fundamentals of civil society, which include generating the social basis for democracy, promoting accountability among citizens, promoting social trust, reciprocity and local networking, and supporting the rights of citizens and the concept of citizenship.

A review of all the major donor development partners’ websites (DFID, USAID, World Bank, UNDP, CIDA) reveals the significant importance attached to civil society and civil society organizations (CSOs) as a key factor in supporting national and local development in the African region. The importance of civil society is attributed to building voice and accountability; providing services and humanitarian assistance; and promoting awareness and understanding of development. The United Nations in its Charter fully embraces civil society as central to its mission, bringing the collective power of CSOs to the building of the social, economic and political agendas at national and global levels.

In September 2005 the UN Security Council underlined the potential contributions of a vibrant and diverse civil society in conflict prevention, as well as in the peaceful settlement of disputes. It noted that a vigorous and inclusive civil society could provide community leadership, help shape public opinion, and facilitate and contribute to reconciliation between conflicting communities.

Within development policy circles, strengthening civil society is central to the new policy agenda, which focuses on the role of NGOs and grass-roots organizations in addressing poverty reduction and social welfare objectives. This new agenda falls within a liberal approach (often associated with the writings of Alexis de Tocqueville) which views civil society as a largely autonomous sphere of freedom and liberty, and which stresses the beneficial effects of vibrant civic associations. This view in the developing and former colonial countries has been associated with “the uncritical adulation” of civil society and its role in engendering the democratization process (McIlwaine, 1998).

While most African governments have embraced civil society in their national and local development agendas, and in the implementation of donor and NGO programmes, there have been significant tensions in terms of fully accepting the role of CSOs and managing the inevitable political tensions when civil society agendas touch on political voice and accountability. Scholars and development practitioners in the South have also been critical, and questioned the “imposition” of civil society as a Western concept without interrogating its relevance to the circumstances of specific countries (*ibid.*).

This chapter<sup>2</sup> argues that conceptualizations of civil society in Africa have been distorted, and negative attributions made, due to a lack of a “bottom-up” understanding of civil society and limited organic civil society growth. Given that the role of CSOs is usually prescribed from the “top”, donors “search” for civil society as they engage the developing world, and in many cases it has become a precondition for countries receiving donor development support to include civil society. This has resulted in central governments in turn calling (sometimes begrudgingly) on civil society to support national and local development, and in many cases making CSOs an operational arm for delivering a variety of development services. The consequence of this top-down approach is that it has distorted the real understanding of civil society and resulted in the creation of many “phoney” organizations in the name of civil society. This has resulted in the phenomenon of “briefcase” NGOs which are looking for opportunities to act on behalf of civil society.

It is widely recognized that civil society is more than NGOs, and every society has its own distinct forms of social organization and cultural and political traditions, as well as contemporary state and economic structures – all of which are central to the development of civil society and shape its specific features (Barnes, 2006).

## Understanding civil society in Africa

In Africa we have to make important distinctions between rural and urban economies, between the national and various subnational levels and between traditional and modern in trying to understand and locate the nature and forms of civil society that exist.

Rural economies, which are primarily agricultural, are dominated by small peasant farmers, who function individually but are closely linked to traditional structures and extended family networks. In most countries tribal and clan identities predominate, blurring what is generally associated with “modern” civil society. Therefore we have to search for the proto-“modern” civil society emergence and the dynamic that it sets

with these primary activities and structures of social and economic reproduction.

Extended family networks are the key to social security, and so individuals and households have obligations and responsibilities which shape their social existence (marriage, family ceremonies, deaths). This forms the basis of structures that are fundamental for building social capital, which in turn translate into supporting basic delivery and provision of services, agricultural production and creating village and inter-village networks.

Civil society in the rural economies therefore largely manifests in the form of community-based groups seeking to improve the welfare and living conditions of the local citizens, at the intersections of the tribal and modern state institutions. This could eventually result in cooperatives and self-help groups to support agriculture and related non-farm activities.

Civil society in urban economies is more vibrant and diverse, and serves a more heterogeneous population base. It is also a response to the significant challenge that new migrants face as they adjust to the circumstances away from their immediate and extended families. A variety of CSOs emerged, including ethnic clubs, recreation clubs, youth organizations, housing cooperatives, community-based service groups and women's organizations.

Yoshikuni (2007), writing on the African urban experience in colonial Zimbabwe, highlights the birth of many mutual aid associations as a major coping mechanism by migrant communities in dealing with the brutal colonial conditions. These included burial societies, recreation clubs, sports clubs and eventually the trade union movement. It was through these mutual associations and trade unions that the nationalist political movements and parties were born. In the post-colonial era several of these associations have been transformed and some have disappeared. There are new associations linked to churches, to international NGOs and to specific issues (such as HIV) which are dealing with the current challenges of rapid urbanization and informalization of urban economies.

## The challenge of defining civil society in Africa

Most published literature on civil society in developing countries focuses on national development, highlighting the state-civil society dynamics.

Jude Howell and Jeremy Lind (2008) present a historical evolution of civil society in Afghanistan which highlights the convergence of domestic politics, aid, security and foreign policy. The historical phasing is crucial in juxtaposing state-building and civil society, which is typical of all countries. Each of the five phases of historical development gave rise to differ-

ent organizational forms, ideologies and values, also bearing the footprints of different external forces and interests. The case of Afghanistan is instructive for Africa, which faces similar geopolitical challenges that are fundamental in shaping the changing landscape of civil society.

This sudden influx of international NGOs and the concomitant mushrooming of Afghan NGOs in the early post-invasion years inscribed the associational landscape of Afghanistan with new contours, meanings and values. Propped up by aid flows this new tide of NGO actors began to assume a salience in the processes of development, relief and reconstruction that overshadowed the potential roles of pre-existing institutions such as shuras, jirgas, khans, maliks, ulema, village elders and mosques . . . As in other aid-recipient contexts NGOs came to embody the very essence of civil society. (Ibid.: 15)

This has raised debate and discussions about the definition of civil society, and the legitimacy of international NGOs and Afghan returnees as Afghan civil society actors. Such tensions are reminiscent of the situations in Africa, where the mushrooming of international donor agencies has also resulted in the mushrooming of NGOs and community-based organizations (CBOs) to capture the resources targeted towards food security, HIV/AIDS, service delivery and implementation of poverty-reduction strategies.

Mark Robinson and Steven Friedman (2005) summarize the key findings of a comparative research project on the contribution of CSOs to democratization in Africa, from empirical case studies in South Africa, Uganda and Ghana. They conclude that organizations that are closely linked to political parties and the state through ideological affinities or material resources have the greatest ability to exert policy influence. They also conclude that it is the character of a particular organization's internal governance in galvanizing citizens' voice and its specific relationship to the state and the political realm that are the most decisive factors in achieving policy influence.

Thus an important observation for Africa is that civil society assumes a character shaped by prevailing ethnic and kinship structures, the legacy of colonialism and patterns of economic development. The problem with the African dynamic is that instead of civil society evolving out of society, there is a tendency for CSOs to be induced in a top-down manner and to act largely as proxies for foreign/international NGOs. The locally based CSOs tend to be very small, parochial and not significant players in development.

Historically, pre-colonial African civil society intertwined with tribal, clan and kinship systems. In cases where centralized tribal systems emerged approximating a state (Ghana, Nigeria, South Africa, Botswana), civil

society began to organize in the form of craft associations, entertainment groups and secret societies.

The colonial system had a major impact on African societies through colonization, subjugation and forcible removals from land. This triggered resistance, which ultimately became the basis for anti-colonial struggles, political parties and associations to organize labour and the community at large. Thus CSOs with different characteristics began to coalesce, particularly in urban societies where self-help groups, ethnic societies, trade unions, church groups, burial societies and recreation associations emerged.

With the attainment of political independence realignment occurred, with significant incorporation of the leadership of the active CSOs into the state apparatus – politics, administration and the emerging and expanding commercial and industrial sectors. It took the first decade in most cases for a realigned civil society to emerge, and this was stimulated by a demand from donors and international NGOs, which sought the non-state sector to work within a variety of areas including governance and human rights, service delivery (health, education, water supply), rural development and, increasingly, conflict and conflict prevention. The civil society dynamic with the state was initially positive, only becoming aggravated with increasing corruption, poor governance, poverty and marginalization of the poor.

This conflict became amplified with the adoption of structural adjustment in the 1980s and 1990s, when international policies began seriously to challenge the hegemony of the state and state dominance in all sectors of the economy. Economic structural adjustment policies (World Bank/IMF) became the mantra for supporting African economies with conditionalities which significantly reduced and undermined public sector employment and lauded the private and other non-state sectors as the legitimate institutions to fill the vacuum of the shrinking and contracting state. This led to a boom of NGOs (international and local), which became the key beneficiaries of donor aid and support. The idea of the state as the leading agent of development was seriously challenged, and thus there was a “brain drain” away from civil services as money flowed to the non-state sector.

This has continued in many countries, where NGOs are now significant and recognized employers and have budgets that dwarf national budgets and attract the best manpower. More recently this has been illustrated by the efforts to deal with the AIDS/HIV pandemic, where CSOs have become a dominant actor and the international transfers of funds to these non-state entities dwarf the limited flows that come to support the health systems in a more formal way. This unfortunately means that while clinics and local hospitals are collapsing and have no basic drugs, the health

NGOs are well funded and perform various advocacy and paramedical functions.

The challenge many African countries face today is that, although there is much rhetoric about civil society and what it does for poverty reduction strategies and the Millennium Development Goals, there is a lack of space for real and genuine civil society created and functioning for the people. The people have no control over or significant input into the CSOs which are supposed to be closest to them. This is of course a very harsh qualitative judgement which requires significant empirical work to substantiate, but one which is very evident on the ground in many African contexts.

### Understanding specific cases of civil society in Africa

In their paper on civil society, democratization and foreign aid in Africa, Robinson and Friedman (2005) sampled seven CSOs in South Africa: the South African National Civic Organization; the Congress of South Africa Trade Unions (COSATU); the Foundation for African Business and Consumer Services; the Women's National Coalition; the Institute for Democracy in South Africa; and two farmers' associations. These organizations emerged and were shaped by the political struggle against apartheid in South Africa. In the post-apartheid era they have realigned themselves around the objective of improving the welfare of their members in a democratizing society. There has been significant engagement through formal consultations in the legislative process (preparation of green and white papers), lobbying and informal discussions.

The most influential organization has been COSATU, with 1.8 million paid/current members, which has been closely allied to the ruling African National Congress and has had a major role in shaping policy and the formulation of the Reconstruction and Development Programme. COSATU is a mass-based organization with a strong internal democratic culture, regular leadership elections and a high level of participation in union affairs. It also enjoys a high level of autonomy and financial independence.

In terms of impact on government policy, there is limited comparison with the other national CSOs, which tend to have more local impact in mobilizing citizens at neighbourhood and municipal levels. Indeed, this is an important part of the diversity of civil society and the diversity of needs and challenges, such as housing, employment and violence. It is also interesting to note the different approaches that the different organizations have employed in their interaction with the state, from quiet engagement to vocal lobbying and incorporation in the state and local government structures.

In comparison with the rest of Africa, CSOs have been much more organized and better resourced, and the space for action much clearer and less impeded than in similar situations where states have been outright hostile to the existence of CSOs. The engagement with the state has been more positive (although tense and contentious at times), allowing for the existence of think-tanks, support organizations and locally based institutions.

In Uganda the public process is far less institutionalized than in South Africa, and the space between the state and civil society much less defined and unclear. In comparison with an urbanized and industrialized South Africa, Uganda is still a predominantly rural and agricultural-based society with one major metropolitan city. This distinction is important, because the existence of COSATU in South Africa is a product of a large unionized base of industrial and mine labour which does not exist in Uganda.

With respect to Uganda, Robinson and Friedman's (ibid.) work covered six case studies: the Development Network of Indigenous Voluntary Organizations; the Uganda National Students Association; the National Organization of Trade Unions; the Uganda Manufacturers' Association; the National Association of Women's Organizations in Uganda; and the Human Rights Network. According to the study, the Uganda Manufacturers' Association has the most effective policy impact of all Ugandan CSOs. It has developed a specialized lobbying, advocacy and networking capacity and has been clear about its objectives and articulating the needs of its members. It has a degree of financial security derived from membership subscriptions and income-earning ventures. The National Organization of Trade Unions has substantial membership in formal workplaces, but has limited influence in terms of government policy and no history of confronting the state on critical legislative and policy matters. The human rights and women's organizations focus on advocacy of their specific themes through informal lobbying, seminars and workshops. Other NGOs focus on poverty reduction and service provision, and tend to play a more localized role and depend on "capturing" donor funding. They have a limited membership base, and indeed some are "briefcase" NGOs which are driven by "quasi social entrepreneurs" who have no base on the ground but fly in with resources to implement the "priority agendas" when resources avail.

Experiences in Ghana, Zimbabwe, Senegal, Ethiopia and Tanzania all point to CSOs that have limited membership bases and policy impact, and whose engagement with the state is a mixture of cohabitation, confrontation and cooption. In several countries the CSOs have coalesced to form the nucleus of the opposition parties, and sometimes have succeeded in pushing the democratic agenda on from the *de facto* one-party

systems that have prevailed since independence. This evidently political agenda has encouraged civil society movements, while making states more wary and tense about any form of NGO. There is clear evidence in many countries of efforts to undermine civil society and make it toe the official line, in part by making the registration processes for CSOs more cumbersome and difficult.

An important conclusion from the analysis by Robinson and Friedman (*ibid.*: 21) is that “Most civil society groups surveyed in Ghana, South Africa and Uganda do not express the views of social constituencies. Most are NGOs engaged in welfare provision and service delivery rather than membership based organizations with a strong constituency.”

In South Africa less than 10 per cent of the 229 civil society groups surveyed were found to be engaged in activities designed to strengthen political participation, promote a democratic culture and uphold the rule of law. The majority were engaged in health, education, social welfare and economic development, and this is a common trend in most African countries.

The big challenge for Africa is to have CSOs that seek to express citizens’ interests and values, and that are open and accessible to the citizens. Unfortunately, most of the CSOs do not originate from the communities whose interests they purport to represent, and they are therefore more shaped by the forces of demand and supply for donor funding. In many African countries it is not uncommon for senior politicians, civil servants and academics to be associated with CSOs and NGOs for personal interest or monetary gain. They use NGOs, CSOs and even CBOs as platforms for political influence and as a means to raise additional income.

There is an urgent and important need to create a framework which allows for a meaningful evolution of civil society and CSOs, strengthening their organizational capacities and providing financial support for activities needed and prioritized by local communities. There is a need to create and preserve space for civil society to organize, through enabling local and national laws and regulations. Countries must encourage local organizations to form and be concerned with local affairs – an important goal in strengthening civil society. The emerging organizations must be encouraged to be inclusive member organizations that foster local and democratic development. There is a need to build the financial capacities of the emerging organizations through tapping donor, private sector and private foundation support. It is important to promote umbrella civil society financial organizations through which resources can be mobilized to avoid situations where every little organization is scrambling for donor funding. This will help minimize abuse and emergence of the “quasi-business civil society organizations”.

In a paper prepared for the Global Partnership for the Prevention of Armed Conflict,<sup>3</sup> “Joint Action for Prevention” by Paul van Tongeren and Christine van Empel (2007), a strong emphasis is placed on the role of CSOs in the different stages of the conflict cycle and the overall peace-building agenda. Emphasis is given to the spectrum of government-CSO interaction, which ranges from cooperation to confrontation, with an important distinction made between domestic civil society and international civil society.

## Civil society and local development

The local is the most critical space in the dynamic of state-civil society, capturing the important notions of decentralization of state power and authority, participation, empowerment, democratization and the role of CBOs and NGOs. Most activities of CSOs are targeted towards local development. It is therefore important to unpack the local and understand how civil society manifests itself and plays a role both as a provider and a recipient of local development.

As a provider for local development, civil society represents the self-organization and self-reliance upon which communities and individuals depend in addressing the challenges they face. Self-help voluntary organizations exist in both rural and urban areas, and work with NGOs in providing and advocating for services. As a recipient of local development, civil society is a target for sector and local government programmes, donor programmes and private sector initiatives. It is where the “rubber meets the road”, and the action space for projects and programmes for local development.

Unfortunately, it is the recipient role that is dominating in most African countries, and this has severely compromised local initiative through self-organization. Many rural and urban communities have become passive recipients of aid and ideas coming from government, donor, local government and international NGO programmes. Most development assistance insists on the use of Northern NGOs supporting Southern NGOs and grassroots organizations, and there is trumpeting of civil society as the “true” development platform for national and local development.

However, the biggest challenge that many countries face is clearly defining what civil society is and the role it plays in local and national development. For many it is a concept and category they are “forced” to use without fully understanding it and building their capacity for self-organization. Many rural villages are organized as traditional units based on clan and kinship lines. The social capital that exists has been built around the history of these villages and the political and economic strug-

gles they have undergone. While several traditional institutions exist, most have been marginalized or incorporated in the modern local government, church and political party organizations. Thus many of the community-based institutions reflect the new patterns of social reproduction – producer associations, parent-teacher associations, church organizations, sub-branches of national and international NGOs, political party branches and some extended family organizations.

In the urban sector there is a stronger tradition of voluntary associations and more influence from mass-based organizations like trade unions, burial societies and business associations. There are also many service-based associations which have been formed to cope with the challenges of rapid urbanization and deficiencies in basic services of the rapidly growing informal cities. The formation of voluntary associations is part of the larger coping strategy by communities in the face of bad governance, poor economic performance and deficiency of services.

More recently the economic situation has rapidly deteriorated in many African countries, resulting in the collapse of both state and local government capacities to deliver basic services in education, health, water supply and sanitation. The only alternatives are those provided by CBOs and NGOs, the informal sector and other voluntary groups. In most African countries international NGOs are the dominant suppliers of alternative services, and significantly shape the nature and function of the small village and neighbourhood community groups through provision of funding and technical support.

This raises the fundamental question of promoting “sustainable local development” through these forms of civil society. It is unlikely that a local, dependent civil society would offer much of an alternative beyond short-term relief and amelioration of a crisis. Local development requires strong democratic and accountable local institutions staffed by qualified and motivated people. “Local” is defined to include villages, cities, provinces and regions in which the institution of local government, subscribing to the subsidiarity principle, is a key actor.

Civil society and CSOs are central to making local governments work. In reality this does not happen easily in Africa, where CSOs have been viewed as competing and alternatives to state/government institutions. This has been strongly emphasized in social fund programmes (World Bank and other donor initiatives), which have promoted parallel local institutions accountable to the projects and programmes. Increasingly, however, there is a convergence in Uganda, Malawi and Tanzania, where government ownership is being asserted through increasing budget ownership and harmonization of donor programming. However, this has not necessarily resulted in better support to civil society or making CSOs more grounded and accountable to their communities.

Evidence from the UNDP (2009) and the other bilateral and multilateral organizations still points to critical weaknesses of African civil society, linked to poor organization, funding and limited connection to local communities. Most of the CSOs that are thriving are those that are acting as contractors, providing short- and long-term inputs to projects. While there is no doubting the importance of CSOs in water and sanitation, slum upgrading and urban management (UN Habitat), or in addressing HIV/AIDS and other health challenges through global coalitions or the work of women's groups, there are still major problems of sustainability of many CSOs as they respond to the demand by donors and international NGOs for local implementation vehicles. This raises fundamental questions on structure, legal and political space, values and functionality.

### Creating an enabling framework for civil society in Africa

The first challenge is to define what civil society is, in a simple and practical way for each context, accepting that there are unique political and social circumstances determining both civic culture and social capital. A cross-cutting principle in such contextual definitions is the voluntary (uncoerced) participation of citizens in the public and private spheres. They participate in CSOs which range in size from small neighbourhood and village institutions to national and international NGOs. This understanding and explication of civil society should be apparent in the spheres of both state and local government, in part through the creation of space for the initiatives of citizens. Many African countries have become very suspicious of CSOs as the bedrock of opposition politics (Zimbabwe, Zambia, Kenya, Uganda), and therefore central governments have created, at different times, major political and administrative hurdles for CSOs.

Secondly, the development of civil society and CSOs depends on the growth and nurturing of social capital. Putnam (2000) made a distinction between bonding and bridging capital, with the former developing when we get involved with people like ourselves, and the latter when we get involved with those with dissimilar backgrounds and circumstances. In Africa it is common that bonding and bridging social capital work to reinforce each other, and the two cannot be strictly delineated. The important tribal, kin and clan relationships form the basis of most relations that people make in rural and urban areas. In rural areas it is even more likely that bonding capital is the basis of community-based organizations.

Therefore the state (centre/local) has to play a nurturing role in social capital formation in traditional institutions and ensuring effective linkages with the emerging institutions of the state and private sector. Build-

ing trust and cooperation among communities is a key role of the state without coercing them into political institutions where they have no voice. This can be achieved through promotion of participatory democratic institutions, funding CSOs in specific initiatives and promoting local and national dialogues.

Thirdly, individuals and communities can be encouraged through community education to promote and participate in civil society. As articulated by Paulo Freire (1985), there is a need to develop education for critical consciousness which enables individuals and communities to master their environments. The state and local governments must develop programmes to promote voluntarism and develop a civic consciousness among communities, particularly the youth. Developing consciousness must be an integral part of the education curriculum in order to promote citizenship values which build social capital. Most emphasis in Africa has been on political mobilization, which is important but becomes negative if it is just the propaganda of one party or another (particularly if it is just about a one-party system which promotes intolerance).

Fourthly, although NGOs are part of the constellation of CSOs, they are *not* civil society. They contribute to civil society through development projects, advocacy and financial support. Far too often there are serious confusions when NGOs are seen as the only manifestation of civil society, and speak as though they are civil society. It is important for local and national governments to promote a multiplicity and diversity of CSOs. Emphasis must be placed on grassroots organizations with a membership base, to create accountable organizations and limit the “briefcase entrepreneurial” NGOs, which are created to “capture” donor funds.

Finally, the support of civil society and CSOs should be a priority for African governments to strengthen the democratic base and the voice of the local communities in development. Support to the development and emergence of CSOs is a priority that cannot be left to donor and outside funding. It represents one of the most important components of human development, and fuels the long-term sustainable development of rural and urban communities.

## Conclusions

In asking the question “whose” civil society, the answer must be “their civil society”, to ensure that it belongs to and is shaped by the local communities. The same applies to CSOs, which have to be rooted in the local communities and have a grassroots/membership base to allow them to be accountable and focused on the real and priority needs articulated by the people.

Civil society and CSOs in national and local development cannot be real if they just represent organizations seeking contracts from donors and international NGOs. The priority must be first and foremost connectivity to the community, allowing the citizens to engage in an “uncoerced” manner and true local agendas to emerge.

Civil society is in the villages in the informal settlements and poor areas of the country, and therefore CSOs, NGOs and CBOs must have their roots in these areas if there is going to be any meaningful change in the way advocacy and development impact on people’s lives. The large concentration of urban-based CSOs championing the needs of the poor and the disadvantaged in rural areas is certainly not a positive phenomenon.

The pyramid for understanding civil society must be inverted, so that the needs of the villagers and squatter communities emerge at the top, and support must be provided to make their CSOs work for them. Before they serve the interests of the large NGOs or the aid industry, they must be given space to allow them to support the rights of local citizens and to engage in activities that benefit associational life.

Promoting the needs and interests of civil society must therefore be an integral part of the local development paradigm, calling on local governments and other subnational organizations to build the capacities of village associations and culture groups, and allowing associational life to thrive. Too much emphasis is being placed on the instrumental value of civil society to support technical and administrative initiatives such as debt relief advocacy and championing the Millennium Development Goals and poverty reduction strategies. These are important concerns, but sometimes undermine the real value of associational life, which is civil society that values the hopes and aspirations of local people first.

## Notes

1. See [www.lse.ac.uk/collections/CCS/introduction/default.htm](http://www.lse.ac.uk/collections/CCS/introduction/default.htm).
2. The views and ideas expressed in this chapter belong to the author, and do not reflect the official position of the United Nations or the UNCDF.
3. An international network of CSOs working for conflict prevention and peacebuilding, and stressing a shift from reaction to prevention.

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