PARTNERSHIPS IN INTERNATIONAL POLICY–MAKING

CIVIL SOCIETY AND PUBLIC INSTITUTIONS
IN EUROPEAN AND GLOBAL AFFAIRS

EDITED BY

RAFFAELE MARCHETTI

International Series on Public Policy

Series Editors

B. Guy Peters
Maurice Falk Professor of Government
University of Pittsburgh
USA and Professor of Comparative Governance,
Zeppelin University, Germany

Philippe Zittoun
Research Professor of Political Science
LET-ENTPE
University of Lyon, France

Aims of the Series

The *International Series on Public Policy* – official series of the International Conference on PublicPolicy – identifies major contributions to the field of public policy, dealing with analytical and substantive policy and governance issues across a variety of academic disciplines. A comparative and interdisciplinary venture, it examines questions of policy process and analysis, policy making and implementation, policy instruments, policy change & reforms, politics and policy, encompassing arange of approaches, theoretical, methodological, and/or empirical. Relevant across the various fields of political science, sociology, anthropology, geography, history, and economics, this cutting edge series welcomes contributions from academics from across disciplines and career stages, and constitutes a unique resource for public policy scholars and those teaching public policy worldwide.

More information about this series at
http://www.springer.com/series/15096

Raffaele Marchetti
Editor

Partnerships in International Policy-Making

Civil Society and Public Institutions
in European and Global Affairs

palgrave
macmillan

Editor
Raffaele Marchetti
LUISS
Roma, Italy

CONTENTS

List of Contributors

Clifford Bob has been Professor and Raymond J. Kelley Endowed Chair in International Relations, Department of Political Science and Graduate Center for Social and Public Policy, Duquesne University since 2012. His publications include *The Global Right Wing and the Clash of World Politics* (2012) and *The Marketing of Rebellion: Insurgents, Media, and International Activism* (2005). Bob has recently served as a Visiting Professor at the Graduate School of International Relations at Ritsumeikan University in Kyoto, Japan.

Philip G. Cerny is Professor Emeritus of Politics and Global Affairs at the University of Manchester and Rutgers University-Newark. He has taught at the Universities of York and Leeds, and has been a visiting scholar or professor at Harvard University, Sciences Po (Paris), Dartmouth College, New York University and the Brookings Institution. He is the author of *The Politics of Grandeur: Ideological Aspects of de Gaulle's Foreign Policy* (1980), *The Changing Architecture of Politics: Structure, Agency and the Future of the State* (1990) and *Rethinking World Politics: A Theory of Transnational Neopluralism* (2010). His most recent edited book is *Internalizing Globalization: The Rise of Neoliberalism and the Decline of National Varieties of Capitalism* (2005). He received the Distinguished Scholar Award of the I.P.E. Section of the International Studies Association in 2011 and chairs Research Committee No. 36 (Political Power) of the International Political Science Association.

Marcel Hanegraaff is Assistant Professor in political science at the University of Amsterdam. His PhD dissertation focused on explaining the development transnational interest group communities, as well as the strategic action by interest groups in the context of global governance. He researches the politics of interest representation in a transnational and EU context, as well as the functioning of international

organizations in the fields of climate change and global trade. His work has appeared in *World Trade Review* (2011), and is scheduled for 2016 publication in *Comparative Political Studies*, *Global Environmental Politics*, and *Global Governance*.

Daniela Irrera is Associate Professor of Political Science, University of Catania and Visiting Fellow at the Stony Brook University, New York; Clinton Institute for American Studies, University College Dublin, Ireland; University of Delaware; Université Libre de Bruxelles; University of Oxford; New Bulgarian University, Sofia, Metropolitan University, Prague; Dogus University, Istanbul; National University Singapore. She is Member of the executive committee of the Standing Group on Organised Crime, European Consortium for Political Research. She has published in the areas of International Relations and EU politics, dealing with global terrorism, transnational organized crime, civil society and humanitarian affairs. Her most recent publication is *NGOs, Crisis Management and Conflict Resolution* (2013).

Georgios Kolliarakis is a senior researcher at the Institute for Political Science at the Goethe University Frankfurt and is a member of the Cluster of Excellence 'Normative Orders'. He undertakes research on organizational and strategic aspects of security policies, with a particular focus on non-intended impacts. Georgios advises a number of international organizations, and has launched and chaired more than 20 panels at academic and policy conferences. His publications include *Politics and Insecurity. Strategies in a changing Security Culture* (in German, 2014), Recognition in International Relations. Rethinking a Political Concept in a Global Context (2015), and *In Quest of Reflexivity: Towards an Anticipatory Governance Regime for Security* (2016 forthcoming).

Raffaele Marchetti is Senior Assistant Professor in International Relations (IR) at the Department of Political Science and the School of Government of LUISS. His research interest concerns global politics and transnational civil society. He also acts as external expert for the European Commission and other public/private institutions on issues of governance, public policies, NGOs, and peace-building. In 2015 he produced one of the first MOOCs on IR for Iversity. Previously he was rapporteur for the European Commission on Civil Society in Global Governance, and received the *Lawrence S. Finkelstein Award* by the International Studies Association-ISA. "Among his publications are: Governments and NGOs in Africa, Asia, Europe and Middle East (ed., forth 2017); Global Strategic Engagement. States and Non-State Actors in Global Governance (2016); Contemporary Political Agency (co-ed. with B. Maiguashca, 2013); Global Democracy (2011, co-ed. with D. Archibugi and M. Koenig-Archibugi); Civil Society, Ethnic Conflicts, and the Politicization of Human Rights (co-ed. with N. Tocci, 2011) ; Conflict Society and Peacebuilding (2011, co-ed. with N. Tocci); Global Democracy: For and Against (2008).".

Nora McKeon studied history at Harvard and political science at the Sorbonne before joining the UN Food and Agriculture Organization which she opened up to civil society, particularly small-scale producer organizations. She now engages in research, teaching, and advocacy around food governance, social movements, and UN–civil society relations. Publications include: *Peasant Organizations in Theory and Practice* (with Michael Watts and Wendy Wolford, 2004), *Strengthening Dialogue with People's Movements: UN experience with small farmer platforms and Indigenous Peoples* (with Carol Kalafatic, 2009), *The United Nations and Civil Society* (2009), *Global Governance for World Food Security (*2011), and *Food Security Governance: empowering communities, regulating corporations* (2015). She has co-edited a special issue of *Globalizations* on land-grabbing and global governance (Vol. 10, Issue 1, 2013), contributing an article on land-grabbing, transnational rural social movements, and global governance.

Giuseppe Montalbano is currently a PhD Candidate in Political Science at the LUISS University of Rome, with a research project on the role of the transnational financial firms in the reform of the EU financial governance after the 2007/08 crisis, supervised by Leonardo Morlino and co-supervised by Bastiaan Van Apeldoorn (Vrije Universiteit, Amsterdam).

Kseniya Oksamytna is a Sessional Lecturer in European studies at the University of Warwick. She holds a PhD from LUISS Guido Carli and the University of Geneva prepared in the framework of Erasmus Mundus Joint Doctorate on Globalization, the EU and Multilateralism. Her dissertation is titled 'The Diffusion of Policy Norms to International Organizations: The Protection of Civilians and Public Information in UN Peacekeeping Operations'.

Igor Pellicciari is Professor of Contemporary History and International Aid at the State University of Salento (Italy). He is currently also a contract professor at the Higher School of Economics (Moscow) and LUISS University (Rome). A senior correspondent for International Affairs Review (Russia) and LIMES Geopolitical review (Italy) he is an expert on International Aid Programming, Management and Evaluation for the EC, WB and UNDP and for various other governmental aid agencies.

Lauren M. Phillips is an international political economist with a varied career in international development. She is currently a Senior Policy Specialist at the International Fund for Agriculture and Development, and until recently worked as an Assistant Professor of International Relations at the London School of Economics and Political Science. Prior to those two roles, she has worked for a major development NGO and in the private financial industry. Her research has often focused on the interaction between finance and national policy processes in Latin America and elsewhere. She has a PhD from the London School of Economics.

Chiara Pierobon completed a PhD in Sociology at Bielefeld University (Germany) and Trento University (Italy) with a thesis entitled 'Music and Political Youth Organizations in Russia: The National Identity Issue', which was published by Springer in 2014. She is former Visiting Scholar at University of California, Berkeley (USA), University of California, San Diego (USA), St Petersburg State University (Russia) and the German Kazakh-University (Almaty, Kazakhstan). She currently works as postdoctoral researcher at Bielefeld University and scientific manager of the *Bielefeld / St Petersburg* Center for German and European Studies. Her areas of research are European Studies and EU–Central Asia relations, post-Soviet space: politics, culture and society, development studies and evaluation with a focused on democratization, good governance and civil society, Identity/alterity formation through media and music.

Arlo Poletti is Assistant Professor of International Public Policy and International Relations at the Department of Political Science of the LUISS Guido Carli (Rome). He obtained his PhD at the University of Bologna in 2009 and subsequently worked as a postdoctoral researcher at the Department of Political Science of the University of Antwerp. His research focuses on the broad questions how global governance systems affect domestic public policy making processes and how, in turn, these processes feed back into the realm of international politics. He has published widely in international peer-reviewed journals such as *West European Politics*, *Journal of European Public Policy*, *Journal of Common Market Studies* and *Regulation & Governance*.

Pawel Pustelnik completed his PhD at the School of Geography and Planning at Cardiff University. In his thesis he looked at the European Union Emissions Trading System and the process of including aviation into the scheme. Pawel graduated from Political Science at Vrije Universiteit in Amsterdam and from Social Science Research Methods Masters at Cardiff University. Pawel has also studied and conducted research at La Sapienza University of Rome and more recently at Freie Universität in Berlin. Apart from his academic interest in the interactions between NGOs and state/international institutions he has served in various youth-related NGOs since 2010.

Lyal S. Sunga is Visiting Professor at the Raoul Wallenberg Institute for Human Rights and Humanitarian Law in Lund, Sweden. He specializes in international human rights law, international humanitarian law, and international criminal law. From 1994 to 2001, he was Human Rights Officer at the UN Office of the High Commissioner for Human Rights in Geneva in which capacity he investigated facts and responsibilities relating to the 1994 genocide in Rwanda for the UN Security Council's Commission of Experts on Rwanda. He was also OHCHR's representative in the Rome Conference on the International Criminal Court, and he was Secretary of the Asian regional preparatory conference to the World Conference

on Racism. In 2007, he served as Coordinator for the UN Human Rights Council's Group of Experts on Darfur, and in recent years. He is the author of two books: *Individual Responsibility in International Law for Serious Human Rights Violations*, and *The Emerging System of International Criminal Law: Developments in Codification and Implementation*.

List of Figures

List of Tables

Context

International Policy Partnerships with Civil Society: Risks and Opportunities

Raffaele Marchetti

INTRODUCTION

A noteworthy feature of today's global governance is the interaction between public institutions and private organizations, with the latter including a significant number of civil society organizations. Cooperation between inter-governmental and civil society organizations (CSOs) takes many forms, including multi-stakeholder initiatives, private–public partnerships (PPPs), sub-contracting, political alliances, hybrid coalitions, multi-sectoral networks, pluralist co-governance, and even foreign policy by proxy. The term civil society organizations is widely used and commonly refers to different types of organization including community groups, non-governmental organizations

R. Marchetti (✉)
LUISS, Roma, Italy
e-mail: rmarchetti@luiss.it

3

(NGOs), social movements, labour unions, indigenous groups, charitable organizations, faith-based organizations, media operators, academia, diaspora groups, lobby and consultancy groups, think tanks and research centres, experts, professional associations, and foundations.[1] Both international organizations and states have developed close relationships with civil society organizations for reasons of effectiveness and legitimacy. CSOs are in fact usually expected to provide expertise, capacity to deliver and public credibility. While government-to-government relationships are still very important, it is clear that a player who does not take into account the different components of civil society is bound to fail, or at least to have a harder time pursuing its goals (Marchetti 2016a). As Salamon aptly put it some years ago: 'The proliferation of these groups may be permanently altering the relationship between states and citizenship, with an impact extending far beyond the material services they provide' (Salamon 1994, 109). More recently, Naim incisively confirmed this interpretation (Naìm 2013).

The interaction between public institutions and civil societies in international affairs occurs both multilaterally (usually in the form of multi-stakeholder partnerships) and bilaterally (i.e. government-to-CSOs). Multilaterally, the hybrid interaction among actors of different kinds has played a constant role in international policy-making, not only in setting agendas but also in deciding, implementing, monitoring and evaluating policy. These actors may be external, such as lobbyists, but may also be consultants, experts, partners, protesters, even rebels. Moreover, there are also instances in which this interaction has become institutionalized: consider the Food and Agriculture Organization (FAO) Committee on Food Security, or Joint United Nations Programme on HIV and AIDS (UNAIDS), in which institutional reforms were approved, granting to CSOs a permanent role in the decision-making process of these bodies. This kind of hybrid partnership was considered the functional response to the shortcomings of intergovernmental politics. Bilaterally, too, the governmental engagement with CSOs in international affairs has been growing steadily in the last few decades. It began with the subcontracting of development aid to NGOs, and was then generalized with the new public management turn in the 1980s. In the 1990s the partnership with civil societies became institutionalized in many democracy-promotion policies. Finally, with the new millennium, the collaboration with CSOs diversified in almost all policy fields in more or less transparent ways.

In this book, two axes of such hybrid partnership are examined: global policy-making and European Union (UN) policy-making.[2] Putting the two together is justified by the fact that their dynamics share many

characteristics. The various chapters highlight commonalities as well as differences in these levels of analysis and policy fields. Thus the reader will be able to identify a typology of issue areas—that is, to understand in which issue areas partnerships with civil societies are more successful and, of course, in which issue areas that sort of collective action is hindered by the structure/dynamics of the issue area itself.

Three clarifications as to the boundaries of the present collection are needed before moving on. First, we look at the *cooperative* dimension of the international policy process, given that many studies concerning the relationship between international organizations (IOs) and CSOs have tended to see the process as one of rivalry and dispute in the form of contentious politics (Imig and Tarrow 2001; Tarrow 1994; Uhlin and Kalm 2015). Second, we look at forms of interaction designed to pursue public goods. This means that forms of cooperation aiming at public ills, such as criminal networks or covert operations creating public disutility, are excluded (Heine and Thakur 2011). Third, we look at forms of interaction between public institutions and civil societies that are not aimed at profit. For-profit actors are mostly excluded (Nelson 2002), though in a number of chapters they are taken into secondary account. These research boundaries do not have an absolute value—that is, they are determined by practicality and feasibility. A thoroughgoing research into hybrid partnerships in global governance should ideally include them, but this was not possible here.

As the book will show, the discussion concerning the value of public institutions–civil society partnerships is both underdeveloped and polarized. Indeed, the phenomenon is recent. Research is still at an early stage and randomly located among different specific sectors. These include security, aid and development, public policy, global governance, contentious politics, democratization, human rights and democracy promotion, religious mobilizations and public diplomacy. Perhaps because of this fragmentation and limited development the debate on hybrid partnerships in global governance is highly controversial. With this book, we hope to contribute by introducing new empirical analyses and new interpretations that may help to develop the debate.

Global Governance

The broad theoretical framework of this collection is that of global politics viewed from a post-international, pluralist perspective (Cerny 2010; Ferguson and Mansbach 2004; Mansbach and Rafferty 2008; Marchetti 2016a; Scholte 2000; Steger 2003). Central to this is the system of global

governance. The current institutional frame is composed of different factors, included state entities, international organizations, and transnational players of different kinds.

Since the eighties a significant change has taken place in the international institutional framework concerning the substantial increase and intensification of the mechanisms of global governance (Czempiel and Rosenau 1992; Hale and Held 2011; Koenig-Archibugi and Zürn 2006; Risse 2011; Rosenau 1997). The model of embedded liberalism—a combination of free market and national welfare policies (Ruggie 1982)—has created an expanding need for a wider and deeper international cooperation, which has finally led to the establishment of a dense network of hybrid and mono-functional organizations (Slaughter 2004; Zürn 2004). A constant growth of political norms and legal dispositions, with a low level of democracy, have become increasingly characteristic of the institutional side of present-day society, eroding the legitimacy of both the state and classic international law.

There are three principal causes of the conspicuous interest in global governance during the 1990s: (1) the end of the Cold War and thus the expectation that international organizations would have a more significant role in managing the new world order; (2) the development of globalization in the sense of a significant increase in the flow of goods, capital, services, and persons; (3) the growing realization that the planet is afflicted by a number of problems (e.g. environmental problems) that can be handled only through a globally coordinated approach.

Global governance is distinguished from classic government because it does not require the same level of centralization, formalization, and integration. Global governance is based on norms, rules, and procedures designed to solve problems at a global level, but does not require a single source of power. Among the characteristics of the current system of global governance, the following are the most important. First, every governance covers an ample spectrum of actors, given that it directly regards a system of multilateral rules at global, transnational, national or regional level (Held and McGrew 2002, 8–13). The rules of governance tend to be much more intrusive when compared with traditional intergovernmental rules and generate demands for increased legitimacy (Woods 2000, 217). Secondly, notwithstanding its multilayered structure, the system of governance is more limited in terms of inclusiveness and participation, since it concerns only specific issue areas and the agents involved therein (stakeholders) (Krasner 1982, 185). Third, in being multilateral (including three

or more actors) it induces generalized principles of behaviour and wide reciprocity (Caporaso 1993; Keohane 1986; Ruggie 1993). Moreover, governance is polyarchic, given that it includes different authorities, often on a formally unequal stage, such as states, subnational groups, special transnational interests (Rosenau 1992, 284–285). Global governance thus implies a change in the concept of international agency, insofar as states and the United Nations become increasingly more integrated with a number of other structures of multilateral governance.

Rosenau and Czmpiel perceive global governance as a totality of regulatory mechanisms not emanating from an official authority but generated by the proliferation of networks in an increasingly interdependent world (Czempiel and Rosenau 1992). Global governance is seen less as a result than as a continuous process that is never fixed and has no single model or form (Koenig-Archibugi and Zürn 2006). Regulation is not simply a body of established rules; rather it is the ongoing result of a permanent game of interactions, conflicts, compromises, negotiations and reciprocal adjustments.

Global governance has been variously interpreted. For some, it is a shift to a form of neo-medievalism characterized by the proliferation of multiple authorities, whose jurisdictional domains only partially overlap (already in Bull 1977). For others, global governance represents the most advanced form of self-regulation of international affairs in terms of the privatization of public functions (Ohmae 1999). For yet others, a post-national constellation is developing, characterized by the absence of a central authority, the presence of highly organized and specialized collective players (rather than individual citizens), and a functional differentiation between players who are not motivated by a common identity or a political principle but by the desire to solve problems (Zürn 1999).

Five tendencies characterize recent forms of global governance: (1) the fusion of national and international; (2) the increased role of non-state players; (3) the emergence of private governance; (4) the move to a new method of compliance; (5) the growing complexity of the institutional horizon (Avant et al. 2010; Hale and Held 2011). It is necessary to analyse these tendencies one by one.

Firstly, national politics are increasingly influenced by international politics, but these, too, remain strongly dependent on national political dynamics, in a reciprocal link that seems difficult to resolve. The neologism 'inter-mestic', combining international and domestic, is often used in this regard. Already in the 1970s Keohane and Nye had begun to study

the phenomenon of interdependence (Nye and Keohane 1971). In the 1980s Putnam's famous study marked a milestone in the debate about constantly balancing the two dimensions (Putnam 1988). More recently Slaughter pointed to the importance of transnational networks (Slaughter 2004).

Secondly, non-state actors have increasingly become protagonists at the international level. Their relevance was a subject of study in the 1970s (Keohane and Nye 1971, 1977). In the 1980s it was relatively marginalized because of the revival of neoliberal institutionalism. In the 1990s non-state actors were again the subject of important studies (Keck and Sikkink 1998; Risse-Kappen 1995) but remained subordinated to interaction with states. It is only in the last decade that it has become evident that non-state actors are able to influence global politics in an autonomous way.

Thirdly, global governance is increasingly more private (Hall and Biersteker 2002). While traditional authority at the international level relied on the principle of delegation and was embedded in an institutional form, today we increasingly witness the consolidation of new forms of authority that are far more privatized. Authority is thus recognized in private subjects not on the basis of delegation through mostly electoral mechanisms but on the basis of expertise (for example, technocrats acquiring increasing power in decision-making processes) (Fisher 1990), or on the basis of moral credibility (consider, for instance, the prestige enjoyed by NGOs or celebrities) (Busby 2007; Kapoor 2012), or on the basis of the ability to accomplish a specific duty (take, for example, mercenaries contracted to wage armed conflicts, or NGOs working on cooperation and development) (Hulme and Edwards 1997).

Fourthly, respect for rules is obtained through soft authority rather than coercive power. Traditionally, respect for rules was obtained through formal sanctions. Today, however, rules are not necessarily formal and their enforcement does not necessarily pass through sanctions. Instead, recourse is made to voluntary regulations, recommendations, best practices, transparency, and accountability. There is a shift from the 'command and control' model to a 'managerial approach', which is substantiated by the improvement in the ability and the will of the actors to comply with international standards through actions of capacity building and normative persuasion (Avant et al. 2010). This shift is in some way made necessary by the lack of a single central authority empowered to sanction, and also by the simultaneous functional need to respect shared standards. These standards can thus be created by very different actors, can apply as

a whole to a group of highly diversified actors that require non-restrictive rules to obtain consensus more easily, imply low costs for their formulation, and assume that persuasion plays an important role in securing their compliance.

Fifthly, the institutional panorama is increasingly more complex. The proliferation of international institutions, whether intergovernmental, hybrid, or private, is transforming the way politics is conducted and the strategies adopted by actors in global politics. This can be seen, for instance, in the consolidation of (even hybrid) institutions composed only of liked-minded actors. Increasingly frequent is the phenomenon of the so-called shopping forum according to which actors look around in search of the most favourable institutional and juridical framework.

The concept of global governance can be seen as the expression of a gradual departure from the classic Westphalian system (decentralized, with its emphasis on the rights of sovereignty and political independence, and on the principle of non-intervention) towards a less conflictual, more cooperative and consensual, system. Apart from the different interpretations of global governance, an important normative question concerns the problem of the legitimacy of these global institutions in respect of the issue of exclusion (Marchetti 2008). The world's growing interdependence increases the need to have institutions capable of regulating interaction among different international players, thereby fostering the cooperation that could not otherwise be reached through the uncoordinated calculations of interest in a heterogeneous sphere of political action. In this sense, the importance of global governance remains anchored to its level of efficiency.

Notwithstanding this, a fundamental normative demand emerges concerning the issue of participation. When international politics were conducted at government level, for a hegemonic actor it was enough to bargain with other state regardless of the demands of legitimacy. Today the issue of legitimacy has regained importance, given that politics has a broader scope and consequently creates a need to create dialogue with different kinds of political player, not solely traditional governments (Woods 2000, 217). Here, the dilemma concerns the joint need for the interventionist implementation of common policies and for the strengthening of legitimacy in terms of the necessary political consensus, in order to obtain efficacy in a complex and pluralistic social system, characterized by global transformations.

Within the context of global governance, it is now widely recognized that civil societies play a significant role (Keck and Sikkink 1998; Risse-Kappen 1995; Smith and Wiest 2012; Tarrow 2005). What is perhaps less widely acknowledged are the contextual conditions that created an environment conducive to such transnational activism (Marchetti 2015). The transnational mobilizations of the last thirty years have taken place within particular political circumstances. The conditions that constituted a favourable environment for the strengthening of transnational activism, and its progressive inclusion in international decision-making, can be divided into two main types: socio-economic and institutional-normative. Among the socio-economic conditions, there are four main factors—first, the transformation of the state's functions; second, the process of globalization; third, the IT (information technology) revolution; and fourth, a number of socio-economic processes related to education and travel. Among the institutional-normative conditions, there are three main elements—first, the new rules for participation; second, the transformation of authority and modes of compliance; and finally, the specific set of liberal principles as embedded in the system of global governance.

Within the four socio-economic conditions, undoubtedly the privatization of functions previously performed by the state cleared new political space for CSOs. The state's financial resources declined in the 1980s and 1990s and its overall role in international affairs was consequently reduced. At the same time, the increasingly discredited ability of the overloaded and over-bureaucratized state to deliver fundamental services mounted up, as did a number of differing ideological perspectives (including not only neo-liberalism and the Third Way, but also the principle of subsidiarity)—all of which suggested that the value of non-state actors as constituting, at times, a better functional substitute, was being recognized. Public welfare spending was considered detrimental, a sort of rival to personal responsibility, entrepreneurship, and private investment essential in times of economic slowdown. The collapse of socialism yielded even more support for the rise of the third sector. As a consequence of this new context, CSOs were able to mobilize resources both from the state itself (which opted for the cheapest and most effective way of subcontracting its tasks, mainly to NGOs) and from other private and public sources, in order to perform collective functions previously in the hands of public institutions (Hulme and Edwards 1997).

The globalization process generated a sense of common purpose among civil society actors and led to both internal unification, by increasing the

sense of solidarity among CSOs, and protest against the socio-economic consequences of globalization (Van Rooy 2004). For the first time, a number of ad hoc coalitions and campaigns were organized on a trans-ideological basis, surmounting the traditional political barriers of previous forms of national mobilization and targeting a number of controversial aspects of globalization.

Technological innovations in the IT field also contributed to revolutionizing organizational patterns within civil society (Hill and Hughes 1998). Through the internet, groups from different parts of the world have been able to increase their political know-how, as well as their ability to join forces transnationally, in order to address common targets.

Moreover, changes in social behaviour, such as the proliferation of higher education and the expansion of international travel, have enabled CSOs to help larger groups of activists to get in contact with one another. The economic growth of the '60s and early '70s generated in many countries a new bourgeoisie, the urban middle class in particular, which in subsequent years was the main provider of transnational activists. The spread of knowledge and the building of new, reliable transnational relations increased the awareness of social inequality and the political mechanisms underpinning it, thereby providing the basis for mobilization (Smith and Wiest 2012, 168). Citizens felt empowered and confident enough to mobilize even at the international level. Subsequent successes simply reinforced such self-confidence by sharing best practices and reciprocal support.

Three further institutional-normative conditions related to the system of global governance are relevant. Current global governance arrangements allow for the participation of a number of different political actors considered to be relevant stakeholders. From the United Nations (UN) to the EU, many IOs and national governments have provided political and financial support for the growth of transnational CSOs. Bilateral official aid agencies have been especially conducive to transnational mobilization by supporting the flourishing of different kinds of CSO under the aegis of assisted self-reliance and participatory development. This has created a significant opportunity for the inclusion of civil society organizations in what were previously behind closed government doors (Hale and Held 2011; Higgott et al. 2000; Joachim and Locher 2009; McKeon 2009).

The transformation of authority, from its traditional form of institutional delegation to one granted on the basis of expertise, principles, or simply the capacity to deliver, has given more scope to the claims of CSOs

(Avant et al. 2010). In the same vein, compliance today is more and more a matter of improving actors' ability and willingness to comply with international standards rather than coercing them into obedience. This context, centred on soft modes such as capacity building, dissemination of best practices, and normative persuasion, is very favourable to CSOs as norm-creators and agent-persuaders.

In addition, the broader international system, based as it is primarily on liberal Western principles, has created an environment conducive to the development of these kinds of activities (Boli and Thomas 1999; Smith and Wiest 2012, 163). The widespread recognition of the transnational value of human rights, civic participation, accountability, good governance and democracy, social empowerment, and gender equality, has made it more possible for CSOs to gain space and legitimacy in the international system outside the traditional framework of state-based representation.

It is within this political constellation, which has facilitated the growth and consolidation of civil activism at the international level, that we need to locate the emergence of the partnership between public institutions and CSOs as a specific type of relationship between public institutions and private actors. As Fig. 1.1 shows, these two types of actor can enter into very different kinds of relation. At one extreme, CSOs can be created by governments (so called GONGOs) or by IOs (so called IONGOs). At the other extreme, CSOs may end up posing a threat to public institutions

Fig. 1.1 Range of relationships between public institutions and CSOs.
Source: The author

and entering into a violent relation with them. Partnerships are located precisely between unidirectional lobbying and informal dialogue.

INTERNATIONAL POLICY PARTNERSHIPS WITH CIVIL SOCIETY ORGANIZATIONS

In the complex system of global politics, the relationship between governmental and non-governmental actors has become more and more central. In the last few decades, global governance has provided civil society organizations with new opportunities to influence public decisions at the international level. Civil society actors are present in all phases of the international policy process—agenda-setting, policy decision, implementation, monitoring, policy evaluation—and in a variety of different forms. They are to be found in the preliminary consultations of think tanks and interest groups; in the agenda-setting of many issues in the EU governance; in the participation of indigenous and peasant groups in the revised Food Security Committee at FAO; as experts in different private standard-setting bodies such as International Organization of Securities Commissions (IOSCO) or Internet Corporation for Assigned Names and Numbers (ICANN); as stakeholders in hybrid global initiatives—such as the Global Fund to Fight AIDS, Tuberculosis and Malaria—which include philanthropic foundations, grassroots organizations, and firms. They are active in the funding of international public policies, in the implementation of countless international public services, often through the formula of PPP; active, too, in disaster relief, development aid and democracy-promotion, as well as in the monitoring and assessing of many international public policies such as those on human rights. Last but not least in political significance, they may participate in less formalized and more contentious contexts, where the relationship between governments and non-governmental actors is equally intense. Suffice it to consider the Syrian or the Ukrainian conflicts and the grey role played in them by rebel, combatant, and terrorist groups, often with strong identitarian or religious connotations. 'Civil' and 'uncivil' society is ubiquitous, and at times decisive, though its participation often remains very controversial.

In the multilateral form, these approaches were developed in the 1980s through public management studies and those on participatory democracy, and were then politically launched at the Rio 1992 UN Summit (Nelson 2002; Willets 2000). The solution to the complexity of global challenges was then seen to reside in multi-stakeholder networks

based on spontaneous collaboration, participation through ownership, power-sharing, better potential for learning, and finally common action (Broadwater and Kaul 2005; Hemmati 2002; Liese and Beisheim 2011). They were created on specific issues and with a format different from that of traditional policy. It was one based on reciprocity (horizontal coordination vs. hierarchy) and equality (collective decision on goals, trust and reciprocal respect vs. hegemony) (Pishchikova 2014). PPPs were developed also to 'save' public institutions by providing both material and public support. Such partnerships in fact were expected not only to improve the understanding of citizens' needs and thereby stimulate trust in public institutions, but also to provide the private capital needed for public investments in times of neo-liberal austerity. This was also expected to be a key to success in terms of compliance.

The recent shift of international politics towards regulatory policy, intended as a tool to further the public interest, soon led to the recognition that stakeholder involvement is crucial in order to adequately identify, achieve, and assess public goods. The framing of the stakeholder approach derives from business management theory (Freeman 1984) and argues that a number of different actors, beyond the traditional investors-suppliers-employees, participate in the whole operation of a firm and do so to obtain benefits. Hence there is no pre-assigned agent-related priority. Here a stakeholder is defined as 'each group or individual who is able to influence or can be influenced by the achievements of the organizational goals' (Freeman 1984, 46). In the political sphere, this has often been linked to the debate on new public management and participatory democracy (Alemanno 2014; Vaillancourt Rosenau 2000). In this context, multi-stakeholder participation, increasing the level of participation of a plethora of different actors, generates different benefits. It helps institutions to grasp the needs and preferences of the citizens, and so is expected to stimulate greater trust in public policy. But it is not only a matter of input legitimacy in terms of collecting information and resources, but equally of output legitimacy in terms of compliance. Decision without public support has a low level of compliance and high level of resistance and protest.

Hybrid international partnerships can be understood as institutionalized transboundary and cooperative interactions between public and private actors for governance purposes (Bäckstrand et al. 2012; Boerzel and Risse 2007, 199; Schaferhoff et al. 2009, 455).[3] Partnerships are a policy tool underpinned by the principles of trust, shared benefits, and

win-win solutions—that is, each actor understands that the inclusion of the other is crucial to the achievement of the common goal. For example, multinational corporations (MNCs) need CSOs (Pattberg 2005), CSOs need MNCs (Austin 2000; Heap 1998), and governments and IGOs need MNCs and CSOs and vice versa (Witte et al. 2000). In international relations (IR) jargon, PPPs constitute a subset of transnational relations— regular interaction across boundaries when at least one actor is a non-state agent (Keohane and Nye 1971, xii–xiii). PPP can perform four main functions: agenda-, rule- and standard-setting, members' empowerment (e.g. through sharing knowledge), policy implementation, and service provision, with this last expected to be the most common type (but no ultimate data are available on this).

As with intergovernmental regimes, these kinds of policy partnership also provide collective goods, reduce transaction costs, and decrease uncertainty (Keohane 1984). In fact, partnerships not only produce regulations, but provide the opportunity for inputs in the entire policy cycle, as well as being a forum for deliberation and resolution of conflicts, for dissemination of knowledge, for organizational learning, and for third-party verification of compliance (Pattberg 2005). Multi-stakeholder partnerships are usually created on specific issues and with a different format from that of traditional policy (Beisheim and Liese 2014). They are based on the idea of collaborative advantages. Since results cannot be achieved individually, the particular result is more than the value of the individual components (synergic retribution). Thus, stakeholders share an interest in the results and show a degree of ownership, while at the same time being also risk-bearers (Clarkson 1994). Apart from the basic issue of access (Sommerer and Tallberg 2016), stakeholder engagement is usually assessed along a scale of different degrees of inclusion that range from public communication, via public consultation to public participation. The solution to public challenges is ultimately to be found in the principle of interdependence itself, and relates to the ability of hybrid networks to effectively tackle them (Brinkerhoff 2002a, b; Hemmati 2002; Martens 2007; Warner and Sullivan 2004). This is usually taken for granted at a general level. What is more controversial is why, in actual practice, partnerships emerge in certain sectors and not in others.

Alternative explanatory perspectives have been formulated to explain why hybrid cooperation and partnerships emerge at the international level. The traditional interpretation of hybrid partnership is centred on functionalism. According to this perspective, hybrid partnerships are interpreted

as a response to systemic needs which are not met either by the state or by the market alone. They are, in fact, responses to both state and market failure. Striving to address global and regional issues by pooling together resources, skills, and expertise, hybrid partnerships are expected to enhance the problem-solving capacity of the political system, and subsequently to increase its legitimacy.

On the other hand, there are rational-choice approaches which suggest that hybrid partnerships are not demand-driven but supply-driven, insofar as they depend on the concrete interest of more powerful private actors and public institutions. In this case it would not only be a matter of governance deficit but also of the interests of the potential actors. This incentive-driven perspective is based on the idea that, through partnership, the actors involved may acquire additional means and tackle problems such as, for instance, lack of financial resources, technical expertise, or political legitimacy. This perspective considers partnerships as the by-product of power positions, but also as power-enhancing instruments. Liberals see partnership as the result of bargaining among a set of independent actors. According to this interest-based perspective, cooperation is developed in order to reap joint gains, especially under circumstances of limited supply of public goods and regulations by governmental actors. It is a cooperation based bargaining, and one that secures compliance through positive incentives relying on cost-benefit analysis. Both realist and Marxist paradigms tend instead to see membership in partnerships as not freely contracted, but rather as coercively, if indirectly, imposed by powerful actors who are able to enforce their policy preferences, but find it more expedient to do it through the format of policy partnerships. Realists tend to see states as the key actors who are able to bring in non-governmental actors (be they for profit or not) in order to increase their international impact. In this power-based account, compliance is secured through top-down (formal and informal) sanctions in a hierarchical mode. Marxists, especially neo-Gramscians, perceive powerful private actors as leaders who are able to coalesce with public institutions and in so doing bend them to corporate interests, effectively manipulating public institutions for private ends.

Focusing on CSOs, a number of different suggestions have been put forward in the scholarly debate to explain why they engage with IOs. By entering into a quasi-institutional relation with public institutions, CSOs gain a number of clear advantages including external recognition and legitimacy, entrance into diplomatic circles, the ability to influence the decision-

making process, funding, new knowledge, external political support (e.g. 'boomerang effect'), but also more service delivery contracts and consultancy work (just like business actors who enter PPP in order to gain access to public tenders and new markets).

Notwithstanding these interest-driven elements, the constructive hypothesis cannot be easily dismissed. CSOs may also engage with IOs as a result of a long process of socialization. Civil societies, especially those sharing the dominant liberal paradigm, would find it right and 'natural' to cooperate with public institutions, quite apart from any particular interest or benefit they might gain from such a partnership. Within such a paradigm, a specific pro-civil society participatory norm was consolidated in the last few decades, producing a new framework within which the identity of many CSOs developed. The norm paves the way for a positive welcoming of NGOs and, to a lesser extent, social movements, not least for their alleged potential in terms of legitimacy and (cost)-effectiveness (the so-called 'new policy agenda'). While each frame presents the norm in a slightly different form, the central pivot remains the same: non-governmental actors should have a voice in the decision-making mechanisms at both the international and transnational level. This new conception of the political agency of non-governmental actors at the international level is revolutionary. Until a few years ago, it was unthinkable to consider non-state actors as relevant in the international realm. However, as argued by Reinman, in the 1980s this new norm began to emerge in international development circles and later became institutionalized within the UN system in the 1990s. As a consequence, civil societies have since been seen, together with the private sector, as the right (at times even indispensable) functional partners to delegitimized states and intergovernmental organizations (Reiman 2006, 59–60). Today this seems increasingly accepted, if not absolutely encouraged. The UN and the EU have in many respects endorsed this norm.

The UN is showing signs of opening up to civil societies, the so-called stakeholders, though in different forms (United Nations 2004). At least four mechanisms can be singled out. The first, by now well-developed, formula for the inclusion of stakeholders, adopted by the UN for many years, is the classic consultation with CSOs. A second mechanism for engagement with civil societies is the subcontracting of specific functions. A third mechanism, more recently observed, concerns the founding, financing, aggregating, or simply sponsoring of newly created CSOs. Finally, a fourth mechanism that has been envisaged and implemented in the last few years is the formal inclusion of NGOs into the decision-making

process of the UN. This is a particularly innovative transformation in that it significantly erodes the pure intergovernmental nature of the UN. With this fourth mechanism, non-governmental actors move within intergovernmental organizations. Two instances of such formalized inclusion of CSOs have occurred in the last seven years. In 2007 CSOs were included in the workings of UNAIDS, the Joint United Nations Program on HIV/AIDS and, perhaps more importantly, in the working of the Committee on Food Security (CFS) of the FAO in 2009.

The European Commission also has a long history of interaction with civil society experts that has changed and expanded over time. In the 1960s and 1970s the Commission focused on 'consultation' within European economic integration, and on dialogue with primarily economic experts within industrial and agrarian interest groups. Later on, in the 1980s and 1990s, it concentrated on developing a 'partnership' with non-governmental actors within the social dialogue on specific policy areas such as security, society and education. However, only in the late 1990s and 2000s did attention turn to the idea of 'participation' itself and the concept of participatory democracy. The White Paper on Governance drew up the framework for such cooperation (European Commission 2001), while the Leaken Conference of 2001 established a qualitative milestone for the recognition of the participation of CSOs in European governance: it included for the first time the representation of civil societies in the Convention working on the Constitutional Treaty. As a result, the process of policy formation went beyond the classic intergovernmental method and included voluntary, informal, inclusive, and participatory forms of coordination, the so-called *new era* of EU multilevel governance.

Just as CSOs have reasons to engage with IOs, so IOs themselves have good reasons to enter into cooperative relations with CSOs. Among the most significant benefits that IOs can derive from this kind of partnership are the following:

- additional external legitimacy through generalized ownership (especially valuable when public institutions are being generally discredited),
- external allies for political projects,
- material and financial support,
- professional know-how based on specific technical/local/social/political expertise,

– enhanced effectiveness based on the assumption that CSOs are considered better equipped than other actors to reach outlying communities, to promote participation, to innovate and to operate at low cost,
– additional strength to overcome internal bureaucratic barriers and to innovate policies,
– the possibility of outsourcing tasks at a low cost without losing control of the deliverables.

Nor can we discard the hypothesis that genuine endorsement of the pro-civil society norm (perhaps the result of the CSOs' own lobbying activity) might itself be a reason for the IOs' engagement with CSOs. The belief in the idea that civil societies are vital to the sustainability of the political system might indeed be shared by many politicians and public officials.

CONTROVERSIES: RISKS AND OPPORTUNITIES

While the growth of the partnerships between public institutions and civil society actors at the international level is evident, the phenomenon remains controversial for a number of reasons (Benner et al. 2003). In this section, the main points of contention will be analysed.

The first set of controversies refers to the role that non-governmental actors play in today's global governance. The kinds of criticism that are raised against civil society participation in global governance are not very dissimilar to those directed against the participation of the private sector. In both cases the issue is their representation gap. Because they are not elected, it is argued, their participation in global governance effectively decreases the democratic quality of the decision-making process, to the disadvantage of formally elected governments (Kaiser 1971). In the same vein, their presence would simply confirm a widespread lack of trust in the operational capacities of public institutions. There are, of course, other scholars who argue the opposite, pointing to the democratic value of stakeholder participation in the decision-making process as a valid alternative (or indeed complement) to traditional electoral representation (Macdonald 2008).

The long-standing dispute concerning the legitimacy of civil actors constitutes a major issue in transnational activism (Brown 2008; Collingwood and Logister 2005). While it is clear that CSOs cannot aim at substituting the traditional channels of political representation, it is also recognized

that they often play a key role, among others, in 'broadcasting' needs and aspirations that struggle to be included in the political agenda. From the activist perspective the issue of political representation should not be interpreted as an answer to the question of *who* they represent, but rather what they *aim* to represent. The issues they tackle and the values they seek to uphold are crucial from their point of view, possibly more than their 'constituencies'. CSOs usually claim to advance the public interest. They claim to speak on behalf of anybody in particular (but on behalf of humanity for common goals). On these grounds they claim not full political decision-making power, but rather consultative power linked to deliberative/discursive practices. While it is evidently not clear what the public interest is with regard to many specific global issues, the ambition of civil societies is to contribute, within the normative battlefield of global public opinion, to the right interpretation of what constitutes the public interest. In addition, what should be noticed is that CSOs do not really aim to seize institutional (representative) power: rather, they call upon government to enhance their own representativeness and accountability (Wapner 2002).

A second set of criticisms refers to the specific engineering of the partnerships. Local, under-resourced actors tend, arguably, to be marginalized, if not altogether excluded from partnership, both at the global and European level. Hence what emerges is an imbalance. The consequent biases concern, in particular, the notion of the 'political correctness' of CSOs, their Western origin, and their bourgeois nature. The first major bias is the focus on the notion of political correctness. This has caused the marginalization of those CSOs that challenge liberal-democratic values in the name of more conservative, religiously inspired political projects. The second major bias is the focus on Western, and in particular English-speaking, CSOs. Related to this is the third bias, which concerns the implicitly bourgeois nature of civil societies. Very often, the focus of attention on CSOs has prioritized, if not exclusively taken into consideration, organizations (typically NGOs) that are technical in expertise, formalized in their organizational structure, (neo)liberal in political perspective, urbanized in location and way of thinking, and mainly composed of middle class individuals. Consequently, other organizations that are political rather than technical, not formalized or loose in structure, not necessarily liberal or based in large cities, and composed of poorer and/or weaker social classes, have received much less attention. An additional problem of institutional design concerns the asymmetric composition

of the partnerships. Not only is it just certain kinds of CSO that have had access, but also, once in, they have faced an unbalanced relationship and a lack of reciprocity with governmental actors. At times, big donors control the agenda and decision-making process, and provide knowledge and material resources, whereas local actors provide political support and legitimacy while acting as sub-contractors. This, in turn, generates a lack of trust and damages the level of collaboration by creating incentives for competition among local actors.

Additionally, a further element of criticism is related to the predominance of western CSOs among those active in global governance. This critical attitude has constituted a relative barrier for the development of CSOs' activism and for the matter of international partnerships. Critical, too, has been the cautious, if not suspicions attitude of the emerging powers towards civil societies and towards their institutional correlating with multi-stakeholder partnerships. Many countries from the south, and the BRICS especially, have tended to see CSOs at best as a duplicator of the power positions of international politics. As a matter of fact, among the CSOs that are active at the international level the vast majority are from the northern countries, especially North America and the European Union. The same proportion is, for instance, present in the NGOs accredited at the UN Economic and Social Council (ECOSOC) in which almost three-quarters of the NGOs are northern. In fact, in the CSOs the traditional governmental imbalance between north and south is even more accentuated. In some cases, CSOs are not only seen simply as duplicators of northern power, but also as multipliers, as tools through which northern governments pursue their foreign policy goals.

From the civil society perspective, two potential risks should, additionally, be pointed out: cooptation and 'ostracization', as examples respectively of full inclusion/integration into, or full exclusion from, the political system. On the one hand the opportunity for, or indeed risk of, cooptation by the institutional system is always high for CSOs, for many political institutions have by now learnt how to take advantage of (or indeed exploit strategically) the interaction with civil societies (Clinton 2010; European Commission 2010; Sardamov 2005). CSOs need financial resources, public recognition and political support, all of which are usually provided or facilitated by the political system (Gary 1996; Henderson 2002; Wu 2003). Under these circumstances, the political system is in a special position to take advantage of the fragmentation and proliferation of CSOs by picking and choosing, on the basis of political convenience,

those groups who are most inclined to cooperate by adopting the current institutional agenda. In this way, CSOs may find themselves being manipulated in order to integrate top-down representation of specific interests or for service delivery of specific goods. Their claims may thus become neutralized or at least de-radicalized in exchange for their status being upgraded to one of partner or supporter. The frequently discussed case of government-owned NGOs (GONGOs) illustrates what full integration into the political system is like (Naìm 2007). From one point of view, in fact, 'the most decisive determinant of third-sector growth will be the relationship that nonprofit organizations can forge with governments. The task for third-sector organizations is to find a modus vivendi with government that provides sufficient legal and financial support while preserving a meaningful degree of independence and autonomy' (Salamon 1994, 122). On the other hand, the issue of violence and resistance at large to the overall political system remains a controversial point, which strongly depends on how they are interpreted politically. From radical antagonism to armed nationalism (Checkel 2013), not to mention terrorist groups, those who oppose institutional politics have often been criminalized and marginalized from the political system or simply classified as terrorist organizations (Asal et al. 2007; Evans 2000; Kaldor and Muro-Ruiz 2003).

Finally, a third set of controversies refers to the partnership between public institutions and CSOs hemselves. While many argue that partnerships are an efficient way to address state and market failures, objections remain. A first line of criticism sees them as a debacle of public politics and a further push towards the privatization of world politics. By letting 'private' actors into the public domain, it is held, public institutions effectively give up their role of chief public regulators. A second line, by contrast, questions the legitimacy of the instrumental use of civil societies by public institutions. By taking advantage of civil society resources, public institutions would be able to make a deeper impact on societies, skipping the classic intergovernmental checks and balances.

The engagement with CSOs becomes more controversial, especially at the bilateral level. It is clear that this represents a shift from the classic Westphalian sovereignty. A famous political dynamic studied a few years ago by Keck and Sikkink is called the boomerang effect (Keck and Sikkink 1998). The assumption is that we do not live any more (if ever we did) on islands. If a group is marginalized from the national decision-making process it can appeal to foreign actors (whether an NGO, a foreign government, or an international organization) for them to put

pressure on the national government in order to open up the channels of access to the decision-making process. It is an inside-out-dynamic. But reality is more complex than this. There is also an outside-in dynamic, used by foreign actors (NGO, states, or international organizations) pushing for a specific policy reform in a country: if they do not succeed in persuading the government, they ally themselves with local civil society actors in order to influence the government from below. This is a second kind of political dynamic that we see very often. And then, there is at least a third important mechanism that we should bear in mind: the inside-out led by a government. The national government itself can rely on foreign support to constrain local opposition.

Yet boundaries are porous (the current refugee flows in the Mediterranean Sea and in the Balkans provide further evidence of that). Many items cross boundaries: ideas, people, money, political support, weapons. The political question is: what is a legitimate border crossing? Ideas, people, money, political support, weapons—none of these cross national boundaries with 100% legitimacy, and yet they all do, either independently or, more frequently, with the help of other countries. We are in a transition period, which has intensified in the last twenty years. But we do not have clear political guidelines on how to handle this. Suffice it here to ponder Ukraine, Syria, Hong Kong, all cases in which foreign influence is denounced by each party to the conflict. All major actors practise this, all major actors denounce it. In a different way, of course.

Or think about these examples:

- Russia shutting down the US Agency for International Development (USAID) offices in Moscow for illegitimately infiltrating into domestic affairs and then providing funding to major populist movements around Europe, such as the National Front in France, or even providing support to the fighters in the Donbas region.
- China accusing foreign actors of interference during the protests in Hong Kong or in the vexed issue of Tibet, but then providing generous funding for Confucius institutes abroad (which are currently the centre of a hot debate as to their being propaganda instruments, with some American universities planning to close them down).
- In the USA, the recent debate on foreign funding of major think tanks (such as Brookings Institution, the Centre for Strategic and International Studies, or the Atlantic Council) suggesting that this involves an alignment with foreign governments' agendas, but then

through the National Endowment for Democracy providing significant financial support for opposition forces in authoritarian countries or, more concretely, providing military training for moderate Syrian rebels.

– Or in the EU itself, the debates about the need to shut down mosques too close to political Islam or even jihadist cells, but then also providing different NGOs around the world with funds through the European Instrument for Democracy and Human Rights, or the European Endowment for Democracy with, among other goals, that of introducing constitutional changes in third countries. Or in a further twist, think about the so-called Western fighters in Syria.

– Iran launching accusations of domestic interference during the so-called green protests in 2009 but then providing continuous support to Shia groups in different countries such as Syria and Yemen.

These are just a few examples. There are major differences, but there are also striking similarities. More investigation is needed to improve our understanding of these difficult issues. The world in which we live is definitely complex and power politics pluralist and hybrid. To reiterate: we don't live anymore (if ever we did) on islands. In this context, international partnerships constitute a central, if controversial, element in today's global politics. This book aims to contribute to understanding them.

The volume brings together some of the most advanced and significant scholarship to have appeared in recent years on the subject of civil societies in global governance. A number of different policy areas are analysed in parallel both at the global and European policy level. They include trade, environment, development, security, and human rights. Together with different policy fields, the book also presents, as case studies, an analysis of a number of different institutional settings including, at the global level, the World Trade Organization, UN Climate Summits, Food and Agriculture Organizations (FAO), International Fund for Agricultural Development (IFAD), International Criminal Court (ICC), UN Human Rights Council (UNHRC), UN Security Council (UNSC), and, at the EU level, the Directorate General (DG), Financial Stability, Financial Services and Capital Markets Union (FISMA), TRADE, CLIMA, Development and Cooperation (DEVCO), Migration and Home Affairs (HOME) and Humanitarian Aid and Civil Protection (ECHO). As a consequence of such a variety of policies and institutions, the choice of the contributors reflects the need to encompass different kinds of expertise covering different institutional settings, different policy fields, and different methodological backgrounds.

The volume is intended as a bridge between scholarly communities and as way to advance the research programme through cross-fertilization. The first part of the book charts the boundaries of the study. The second part examines the participation of non-governmental actors in the global policy process. The third part deals with this relationship at the European level. Finally, the fourth part discusses some of the most controversial issues in bilateral partnerships as seen from American, European, and Russian perspectives.

NOTES

1. The inclusion of political parties and private companies remains controversial.
2. The third axis of national policy making is examined in a twin publication (Marchetti 2016b).
3. According to Boerzel and Risse, PPPs exclude arrangements among private transnational actors which are (1) based on self-coordination (markets); (2) constitute self-regulation among private actors (private regimes); (3) produce public goods and services as unintended consequences (e.g. rating agencies) or provide public bads (criminally oriented) (Boerzel and Risse 2007).

REFERENCES

Alemanno, A. (2014). *Stakeholder engagement in regulatory policy*. Paris: OECD (GOV/RPC(2014)14/ANN2).

Asal, V., Nussbaum, B., & Harrington, D. W. (2007). Terrorism as transnational advocacy: An organizational and tactical examination. *Studies in Conflict & Terrorism, 30*(1), 15–39.

Austin, J. E. (2000). *The collaboration challenge: How nonprofit and business succeed through strategic alliances*. San Francisco: Jossey-Bass Publishers.

Avant, D. D., Finnemore, M., & Sell, S. K. (Eds.). (2010). *Who governs the globe?* Cambridge: Cambridge University Press.

Bäckstrand, K., Campe, S., Chan, S., Mert, A., & Schäferhoff, M. (2012). Transnational public–private partnerships. In F. Biermann & P. Pattberg (Eds.), *Global environmental governance reconsidered* (pp. 123–148). Cambridge, MA: The MIT Press.

Beisheim, M., & Liese, A. (Eds.). (2014). *Transnational partnerships. Effectively providing for sustainable development?* London: Palgrave.

Benner, T., Ivanova, M. H., Streck, C., & Witte, J. M. (2003). Moving the partnership agenda to the next stage: Key challenges. In J. M. Witte, C. Streck, & T. Benner (Eds.), *Progress and peril? Partnerships and networks in global envi-*

ronmental governance: The post-Johannesburg agenda (pp. 85–89). Washington, DC: Global Public Policy Institute.

Boerzel, T. A., & Risse, T. (2007). Public-private partnerships: Effective and legitimate tools of international governance. In E. Grande & L. W. Pauly (Eds.), *Complex sovereignty: On the reconstruction of political authority in the 21st century* (pp. 195–216). Toronto: University of Toronto Press.

Boli, J., & Thomas, G. M. (Eds.). (1999). *Constructing world culture*: *International non-governmental organizations since 1875.* Stanford, CA: Stanford University Press.

Brinkerhoff, J. M. (2002a). Assessing and improving partnership relationships and outcomes: A proposed framework. *Evaluation and Program Planning, 25*(3), 215–231.

Brinkerhoff, J. M. (2002b). *Partnership for international development: Rhetoric or results?* Boulder, CO: Lynne Rienner.

Broadwater, I., & Kaul, I. (2005). *Global public–private partnerships. The current landscape.* New York: UNDP/ODS Background Paper.

Brown, L. D. (2008). *Creating credibility. Legitimacy and accountability for transnational civil society.* Sterling, VA: Kumarian Press.

Bull, H. (1977). *The anarchical society: A study of order in world politics.* London: Macmillan.

Busby, J. W. (2007). Bono made Jesse Helms Cry: Jubilee 200, debt relief, and moral action in international politics. *International Studies Quarterly, 51*(2), 247–275.

Caporaso, J. (1993). International relations theory and multilateralism: The search for foundations. In J. G. Ruggie (Ed.), *Multilateralism matters. The theory and Praxis of an institutional form* (pp. 51–90). New York: Columbia University Press.

Cerny, P. G. (2010). *Rethinking world politics: A theory of transnational neopluralism.* Oxford: Oxford University Press.

Checkel, J. T. (Ed.). (2013). Transnational dynamics of civil war. Cambridge: Cambridge University Press.

Clarkson, M. B. E. (1994). *A risk based model of stakeholder theory.* Paper presented at the Proceedings of the Second Toronto Conference on Stakeholder Theory, Centre for Corporate Social Performance & Ethics, University of Toronto.

Clinton, H. R. (2010). Leading through civilian power: Redefining American diplomacy and development. *Foreign Affairs, 89*(6), 13–24.

Collingwood, V., & Logister, L. (2005). State of the art: Addressing the INGO 'Legitimacy Deficit'. *Political Studies Review, 3*(2), 175–192.

Czempiel, E. O., & Rosenau, J. N. (1992). *Governance without government: Order and change in world politics.* Cambridge: Cambridge University Press.

European Commission. (2001). *European Governance*: *A white paper.* Brussels: COM (2001) 428 final.

European Commission. (2010). *European instrument for democracy and human rights* (*EIDHR*). *Strategy Paper* 2011–2013. Brussels: C(2010) 2432, 21 April.

Evans, P. (2000). Fighting marginalisation with transnational networks: Counter-hegemonic globalisation. *Contemporary Sociology, 29*, 230–242.

Ferguson, Y. H., & Mansbach, R. W. (2004). *Remapping global politics. History's revenge and future shock*. Cambridge: Cambridge University Press.

Fisher, F. (1990). *Technocracy and the politics of expertise*. London: Sage.

Freeman, R. E. (1984). *Strategic management: A stakeholder approach*. Boston: Pitman.

Gary, I. (1996). Confrontation, cooperation or cooptation: NGOs and the Ghanaian State during structural adjustment. *Review of African Political Economy, 23*(68), 149–168.

Hale, T., & Held, D. (Eds.). (2011). Handbook of transnational governance. New institutions and innovations. Cambridge: Polity.

Hall, R. B., & Biersteker, T. J. (Eds.). (2002). The emergence of private authority in global governance. New York: Cambridge University Press.

Heap, S. (1998). *NGOs and the private sector: Potential for partnerships?* Oxford: INTRAC.

Heine, J., & Thakur, R. (Eds.). (2011). The dark side of globalization. Tokyo: United Nations University Press.

Held, D., & McGrew, A. (Eds.). (2002). *Governing globalization: Power, authority and global governance*. Cambridge: Polity.

Hemmati, M. (Ed.). (2002). *Multi-Stakeholder processes for governance and sustainability: Beyond deadlock and conflict*. London: Earthscan.

Henderson, S. L. (2002). Selling civil society: Western aid and the nongovernmental organization sector in Russia. *Comparative Political Studies, 35*, 139–167.

Higgott, R. A., Underhill, G. R. D., & Bieler, A. (Eds.). (2000). Non-State actors and authority in the global system. New York: Routledge.

Hill, K. A., & Hughes, J. E. (1998). *Cyberpolitics: Citizen activism in the age of the internet*. Lanham, MD: Rowan and Littlefield.

Hulme, D., & Edwards, M. (Eds.). (1997). *NGOs, states and donors: Too close for comfort?* London: Macmillan.

Imig, D. R., & Tarrow, S. (Eds.). (2001). *Contentious Europeans: Protest and politics in an emerging polity*. Lanham, MD: Rowman & Littlefield.

Joachim, J., & Locher, B. (Eds.). (2009). Transnational activism in the UN and the EU. London: Routledge.

Kaiser, K. (1971). Transnational relations as a threat to the democratic process. *International Organization, 25*(3), 706–720.

Kaldor, M., & Muro-Ruiz, D. (2003). Religious and nationalist militant groups. In M. Kaldor, H. K. Anheier, & M. Glausius (Eds.), *Global civil society* (pp. 151–184). Oxford: Oxford University Press.

Kapoor, I. (2012). *Celebrity humanitarianism: The ideology of global charity*. London: Routledge.

Keck, M., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics*. Ithaca, NY: Cornell University Press.

Keohane, R. (1984). *After hegemony: Cooperation and discord in the world political economy*. Princeton, NJ: Princeton University Press.

Keohane, R. (1986). Reciprocity in international relations. *International Organization, 40*(1), 1–27.

Keohane, R., & Nye, J. (Eds.). (1971). *Transnational relations and world politics*. Cambridge, MA: Harvard University Press.

Keohane, R., & Nye, J. (1977). *Power and interdependence*. Boston, MA: Little, Brown.

Koenig-Archibugi, M., & Zürn, M. (Eds.). (2006). *New modes of governance in the global system: Exploring publicness, delegation and inclusiveness*. Basingstoke: Palgrave Macmillan.

Krasner, S. D. (1982). Structural changes and regime consequences: Regimes as intervening variables. *International Organization, 36*(2), 185–205.

Liese, A., & Beisheim, M. (2011). Transnational public–private partnerships and the provision of collective goods in developing countries. In T. Risse (Ed.), *Governance without a state: Policies and politics in areas of limited statehood* (pp. 115–143). New York: Columbia University Press.

Macdonald, T. (2008). *Global stakeholder democracy: Power and representation beyond liberal states*. Oxford: Oxford University Press.

Mansbach, R. W., & Rafferty, K. L. (2008). *Introduction to global politics*. London: Routledge.

Marchetti, R. (2008). *Global democracy: For and against. Ethical theory, institutional design, and social struggles*. London: Routledge.

Marchetti, R. (2015). The conditions for civil society participation in international decision making. In D. Della Porta & M. Diani (Eds.), *The Oxford handbook of social movements* (pp. 753–766). Oxford: Oxford University Press.

Marchetti, R. (2016a). *Global Strategic Engagement. The New Rules for Global Governance*. Lanham, MD: Lexington Books.

Marchetti, R. (Ed.). (2016b). *Cooperation and competition between governments and NGOs: Perspectives from Africa, Asia, Europe, and Middle East*. New Delhi: Routledge.

Martens, J. (2007). *Multistaholder partnerships. Future models of multilateralism?* Berlin: Friedrich-Ebert-Stiftung. Dialogue on Globalization n. 29.

McKeon, N. (2009). *The United Nations and civil society: Legitimating global governance—Whose voice?* London: Zed.

Naìm, M. (2007). What is a GONGO? How government-sponsored groups masquerade as civil society. *Foreign Policy, 170*(18), 96–98.

Naìm, M. (2013). *The end of power. From boardrooms to battlefields and churches to states, Why being in charge isn't what it used to be*. New York: Basic Books.

Nelson, J. (2002). *Building partnership. Cooperation between the United Nations and the private sector*. New York: United National Department of Public Information.

Nye, J., & Keohane, R. O. (1971). Transnational relations and world politics. *International Organization, XXV*(3), 329–349.

Ohmae, K. (1999). *The borderless world: Power and strategy in the interlinked economy*. New York: HarperBusiness.

Pattberg, P. (2005). The institutionalization of private governance: How business and nonprofit organizations agree on transnational rules. *Governance: An International Journal of Policy, Administration, and Institutions, 18*(4), 589–610.

Pishchikova, K. (2014). Multi-stakeholder partnership nella ricostruzione post-conflitto: Un bilancio della letteratura e della prassi attuale. In R. Belloni, M. Cereghini, & F. Strazzari (Eds.), *Costruire la pace tra Stato e territorio: I dilemmi del peacebuilding* (pp. 165–180). Trento: Erickson.

Putnam, R. D. (1988). Diplomacy and domestic politics: The logic of two-level games. *International Organization, 42*, 427–460.

Reiman, K. D. (2006). A view from the top: International politics, norms, and the worldwide growth of NGOs. *International Studies Quarterly, 50*, 45–67.

Risse-Kappen, T. (Ed.). (1995). *Bringing transnational relations back in: Non-State actors, domestic structure and international institutions*. Ithaca, NY: Cornell University Press.

Risse, T. (2011). *Governance without a state? Policies and politics in areas of limited statehood*. New York: Columbia University Press.

Rosenau, J. N. (1992). Citizenship in a changing global order. In J. N. Rosenau & E. O. Czempiel (Eds.), *Governance without government: Order and change in world politics* (pp. 272–294). Cambridge: Cambridge University Press.

Rosenau, J. N. (1997). *Along the domestic-foreign frontier: Exploring governance in a turbulent world*. Cambridge: Cambridge University Press.

Ruggie, J. G. (1982). International regimes, transactions, and change: Embedded liberalism in the postwar economic order. *International Organization, 36*(2), 379–415.

Ruggie, J. G. (1993). Multilateralism: The anatomy of an institution. In J. G. Ruggie (Ed.), *Multilateralism matters. The theory and Praxis of an institutional form* (pp. 3–47). New York: Columbia University Press.

Salamon, L. M. (1994). The rise of the nonprofit sector. *Foreign Affairs, 73*(4), 109–122.

Sardamov, I. (2005). Civil society' and the limits of democratic assistance. *Government and Opposition, 40*(3), 379–402.

Schaferhoff, M., Campe, S., & Kaan, C. (2009). Transnational public–private partnerships in international relations: Making sense of concepts, research frameworks, and results. *International Studies Review, 11*(2), 451–474.

Scholte, J. A. (2000). *Globalization: A critical introduction*. Basingstoke: Palgrave.

Slaughter, A.-M. (2004). *A new world order*. Princeton, NJ: Princeton University Press.

Smith, J., & Wiest, D. (2012). *Social movements in the world-system: The politics of crisis and transformation*. New York: Russell Sage Foundation.

Sommerer, T., & Tallberg, J. (2016). Transnational access to international organizations 1950–2010: A new data set. *International Studies Perspectives*, (0), 1–20. doi:10.1093/isp/ekv022.

Steger, M. B. (2003). *Globalization. A very short introduction*. Oxford: Oxford University Press.

Tarrow, S. (1994). *Power in movement. Social movements and contentious politics*. Cambridge: Cambridge University Press.

Tarrow, S. (2005). *The new transnational activism*. Cambridge: Cambridge University Press.

Uhlin, A., & Kalm, S. (2015). *Civil society and the governance of development: Opposing global institutions*. Basingstoke: Palgrave.

United Nations. (2004). *We the peoples: Civil society, the United Nations and global governance* (A/58/817/2004). New York: Report of the Panel of Eminent Persons on United Nations-Civil Society Relations. Commission Cardoso (UN A/58/817).

Vaillancourt Rosenau, P. (Ed.). (2000). Public-private policy partnerships. Cambridge, MA: The MIT Press.

Van Rooy, A. (2004). *The global legitimacy game: Civil society, globalization, and protest*. Houndmills, Basingstoke: Palgrave.

Wapner, P. (2002). Introductory essay: Paradise lost? NGOs and global accountability. *Chicago Journal of International Law, 3*(1), 155–160.

Warner, M., & Sullivan, R. (Eds.). (2004). *Putting partnerships to work. Strategic alliances for development between government, the private sector and civil society*. Sheffield: Greenleaf.

Willets, P. (2000). From 'Consultative Arrangements' to 'Partnership': The changing status of NGOs in diplomacy at the UN. *Global Governance, 6*, 191–212.

Witte, J. M., Reinicke, W., & Benner, T. (2000). Beyond Multilateralism: Global Public Policy Networks. *Internationale Politik und Gesellschaft, 2*, 176–188.

Woods, N. (2000). Globalization and international institutions. In N. Woods (Ed.), *The political economy of globalization* (pp. 202–223). New York: St. Martin's Press.

Wu, F. (2003). Environmental GONGO autonomy: Unintended consequences of state strategies in China. *The Good Society, 12*(1), 35–45.

Zürn, M. (1999). *The state in the post-national constellation—Societal denationalization and multi-level governance*: Arena Working Papers WP 99/35.

Zürn, M. (2004). Global governance and legitimacy problems. *Government and Opposition, 39*(2), 260–287.

The Limits of Global Governance: Transnational Neopluralism in a Complex World

Philip G. Cerny

GOVERNANCE AS A CONTESTED CONCEPT

The concept of global governance is becoming increasingly contested as the twenty-first century proceeds. Indeed, in a recent issue of *Governance*, David Coen and Tom Pegram argue that 'Global governance is not working'. They identify a 'first generation' of global governance research that 'focused almost exclusively on formal mechanisms of interstate relations within public multilateral institutions. … With these structures apparently in gridlock, observers now regard global governance to be in crisis' p. 417 (Coen and Pegram 2015). Similar arguments have also been made in a forthcoming symposium in *Public Administration* entitled Global Public Policy and Transnational Administration, edited by Diane Stone and Stella Ladi (see Stone and Ladi 2015). At the same time, the word itself is characterized by a particular ambiguity that has run through the political and social sciences generally since their early development. The very concept of 'governance' as it was previously used in political theory connoted not institutionalized structures nor more formal political processes, but

P.G. Cerny (✉)
University of Manchester, Manchester, UK

informal practices, indirect forms of social control, and loose and fungible structures of power such as the 'self-organizing networks' analysed by policy network theorists, economic sociologists, marketing specialists, and many political economists.

For example, Randall Stone's book *Controlling Institutions* frames global governance as a set of complex, problematic institutions represented by international—or, more properly, intergovernmental or inter-state—organizations (Stone 2011). He argues that they are characterized by a trade-off between more formalized and legalized decision-making processes, on the one hand, and an accepted safety valve for the most structurally powerful states to manipulate outcomes in favor of their own perceived—especially their most 'intense'—interests, policies, alliances and other special relationships, on the other. In this context, more powerful states, reluctant to give up their positions when they see their own interest at stake, are happy to allow these formal/legal processes to develop as long as they have a kind of safety valve or virtual opt-out when they decide they want or need it. But if other countries raise the barriers to US influence—especially if US structural power declines in a globalizing world—then the USA will pull back its commitment, leading to 'institutional decline'. This reflects a fundamental problem with some main assumptions of International Relations theory—that is, that there is an underlying 'levels of analysis distinction' that makes world politics different from domestic politics (Hollis and Smith 1990).

But a familiarity with longstanding—mainly domestic—pressure and interest group theory, public policy analysis, bargaining approaches, pluralism, and neopluralism, corporatism and neocorporatism, elite theory, capture theory and the like might suggest that such a trade-off is not only a normal state of affairs but, even more so, a condition for political processes to work in the first place. However, this leads to the central conundrum of global governance today. To what extent are states themselves the Waltzian 'unit actors' the interaction of which determines outcomes (Waltz 1979)? Global governance institutions are not the kind of structurally differentiated, relatively autonomous, multifunctional institutions represented in political theory, at least, by modern states (Cerny 1990). Authors such as Stone underestimate the roles of private actors in shaping state actors' conceptions of what is in the 'national interest' of states and what states' policy priorities might be. Moreover, non-state actors—often in regular interaction with actors in a Slaughterian 'disaggregated state' (Slaughter 2004)—may be the true 'independent variables' in any analysis of how states and international organizations (IOs) really operate.

In a world without a structurally differentiated, relatively autonomous, multifunctional, overarching state-like governance structure, it is necessary to move beyond realism and consider global governance as a political process more like that of a *pre-state* world. Indeed, recent history suggests that the further development of an effective global governance structure is unlikely, even moving in the opposite direction. Biermann et al. (2009), for example, refer to the 'fragmentation of global governance architectures' as the dominant trend in the twenty-first century. The International Monetary Fund (IMF), as a result of its imposition of conditionality (often at the behest of the USA), especially in the wake of the Asian financial crisis of the late 1990s, is today treated with caution in the developing world. As a result, the organization has turned back to Europe—its original remit in the 1940s—but has limited clout there, as shown recently by its less than successful attempt to introduce the option of debt relief into the 2015 Greek bailout crisis negotiations and the Syriza Government's recent request to expel the IMF from the *troika* overseeing the Greek reform process. The World Trade Organization, although its Dispute Settlement Mechanism is still relatively efficient and respected, has found the Doha Round to be a non-starter and the proliferation of preferential trade agreements, from the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership to myriad bilateral and minilateral pacts, to be the wave of the present, perhaps of the future. Indeed, the United States Trade Representative, Michael Froman, has recently stated the it is time to move 'beyond Doha', a statement which is said to signify the 'merciful death' of the Round (*Financial Times*, 21 December 2015). And the European Union is caught up in the Eurozone and migrant crises, along with the referendum on British membership, challenging the very cooperative core of the union itself. These developments are the result of the increasing governance quagmire brought about by globalization and the complex ramifications of the Washington Consensus/neoliberal approach to economic and financial policy as well as fragmented international security and increasing 'imperial overstretch' not just by the United States under the Obama Doctrine but also by so-called rising powers like China and status quo powers like Russia. In that endeavour, international organizations may be increasingly vulnerable to capture—and to trying to impose reverse capture on the private sector actors and national regulators they will increasingly be interacting with.

Towards Methodological Transnationalism

Stone and Ladi, in particular, point out in their introduction to the afore-mentioned symposium in *Public Administration* that policy-making and implementation in the world today can no longer be analysed through the lenses of either 'methodological nationalism'—which has dominated the study of public administration and public policy, prioritizing the domestic arena—or 'methodological internationalism' (or, more properly, what might be called 'methodological inter-statism')—which has dominated International Relations theory (Stone and Ladi 2015). The days of any clear distinction between the domestic and the foreign are numbered (Rosenau 1997). Instead, Stone and Ladi argue, what is needed is an ana-lytical turn towards 'methodological transnationalism', 'where public administration is not viewed simply as being the repository of states, or state actors operating internationally, [but rather] to recognize the inter-connectedness of different hierarchical and network structures of both a public and private nature at the transnational, international and/or global levels' p. 839. They identify several key issues, including questions of scale and multiscalarity, geographical limitations, diverse socio-political and his-torical contexts, the 'negative externalities of complexity … [e.g.] incon-sistency, duplication and regulatory arbitrage', and that 'global "public" policy is not necessarily "public", as well as problems of coordination and the rise of 'closed, technocratic transnational administrations'. They also identify key sets of actors: business, international civil servants, scientific and expert groups, philanthropic actors and management consultants—as well as policy entrepreneurs and policy brokers. The policy 'toolbox' they identify includes legal and regulatory, financial, information and organiza-tional tools: 'In short, transnational administration operates with different patterns of instrumentation.' Policy diffusion and policy transfer are also crucial processes.

However, they do not go far enough. What globalization, seen as a process and not as an end point, does in the policy field is to open up the process to precisely the kind of special interests that have been identified in the longstanding critical domestic interest group, elitist, corporatist and neopluralist literature mentioned earlier. In other words, the processes of *capture* and *reverse capture* that most recently have been explored by Dauvergne and Lebaron in the case of non-governmental organizations (NGOs) have, if anything, proliferated more widely in the transnational sphere precisely because of the fragmented institutionalization and cross-cutting linkages and networks characteristic of that sphere (Dauvergne and

Lebaron 2014). Davies, in what is seen as the definitive history of international NGOs (INGOs), argues that the burgeoning constellation of such organizations in the 1980s and 1990s has been declining and fragmenting in the twenty-first century, with some limited exceptions (Davies 2013). And the proliferating literature on multinational corporations and transnational production chains, the advances of information and communications technologies, and, in particular, the power of quasi-globalized financial markets and institutions (Cerny 2014) demonstrates that global governance can be even more vulnerable to whipsawing, bypassing, capture and manipulation, even corruption (as with the Federation of International Football Associations), than the traditional domestic public policy sphere.

The key problematic, then, is the classic question of 'who rules?' International organizations and global governance are important parts of the wider system, but they need to be analysed critically, and not framed through traditional realist, neorealist, liberal internationalist, and Keohanian quasi-'neoliberal' approaches. Coen and Pegram's (2015) critique needs to be taken further, asking whether problems of 'complexity, … dynamism … and delivery' are leading to outcomes detrimental to the public interest. At the core of these processes, furthermore, is the interaction of two equally inextricably intertwined categories that are also at the core of the political and social sciences—the public and the private. Governance in a globalizing world, as in domestic politics but at a range of intersecting and overlapping structural levels, is about the *hybridization* of the public and the private. While there is not space here to explore the public/private theoretical debate per se at any length (see Cerny 1999, 2013a), it is central not only to understanding the interaction of these levels, but also to analysing how power and influence are developed and exercised, or, as Robert Dahl so famously put it, 'who governs?' (Dahl 1961).

From Pluralism to Neopluralism

Since the early twentieth century, as noted earlier, another key paradigm has been at work in the study of politics, although mainly limited to the domestic field—pluralism. Pluralism as a paradigm itself has a chequered history, challenged by other paradigms including Marxist class analysis, theories of elitism and corporatism, and the revival of sociological theories of the state in the tradition of Max Weber. For my purposes, however, the key development in the evolution of pluralism as a concept is the version called neopluralism (Lindblom 1977; McFarland 2004), which acknowledges the shortcomings in early versions of pluralist theory and proposes

a more realistic one. In neopluralism, the outcomes of various political processes stem from the interaction of a range of specific, powerful individual and collective (group) actors below, outside, surrounding, cutting across and populating states and societies. These actors—the more powerful economic interest groups, state actors in particular issue areas, certain NGOs (but see below)—have very different kinds of social bonds, levels of social, economic and political power resources, understandings of how to use that power, material interests, normative values, political projects and, of course, the determination to pursue those interests, values and projects in a range of public and private arenas. They have differing and sometimes incompatible interests as well as common interests and they engage in processes of conflict, competition and coalition-building in order to pursue those interests. Those processes take place within, outside, below and cutting across a range of 'structured fields of action' (Crozier and Friedberg 1977) that include, but are not limited to, the state or government.

In this neopluralistic political process, actors depend upon the capacities of real-world, cross-cutting 'interest' groups—including both 'sectional' (or 'material interest') and 'value' groups (Key 1953), including civil society groups, non-governmental organizations (NGOs) and social movements—to manipulate constraints, to identify and take advantage of opportunities, and to shape new directions through processes of competition and coalition-building. What is new, however, are the rapidly growing *transnational linkages* among groups in a growing range of crosscutting, uneven yet crucial, transnational political processes. These processes are not replacing nation-states as such. This is not a 'borderless world' (Ohmae 1990). Instead, they are crystallizing into transnational webs of power. These webs are rapidly expanding, intensifying and consolidating, becoming more and more densely interwoven as the new century advances. In particular, Lindblom's (1977) concept of the 'privileged position of business' reflects the skewed distribution of resources, network connections and positional power of such groups.

States are themselves increasingly trapped in these webs. The most important movers and shakers are no longer simply domestic political forces, institutions and processes, but transnationalizing ones—whether in terms of economic interdependence, including multinational firms and global financial markets, as well as production, distribution and consumption chains; social interconnections, migration and the movement of people; relationships of violence and force (including terrorism); 'transgovernmental networks' cutting across governments; problem-solving 'epistemic

communities'; technological change from the internet to a growing variety of human activities; ideological conflict and competition; and a whole range of other deep trends. Instead, the most influential actors are those who can coordinate their activities across borders, at multiple levels and multiple nodes of power, and are thus able to convince and/or bully governments, other competing actors both public and private, and mass publics alike, thereby shaping in this process not merely transnational—even global—outcomes but also local and regional micro- and meso-politics too. This 'transnational neopluralism' is, however, a work in progress, continually shaping political action and institutional change and in turn itself being reshaped in a range of inextricably intertwined ways, and embedded through a process of 'structuration' that ultimately leads to institutional as well as behavioural change (Cerny 2010b).

Complex Globalization and the Diffusion of Power

In a globalizing world, therefore, political power itself is becoming more diffuse, refracted through an increasingly complex, prismatic structure of socio-economic forces and levels of governance—from the global interaction of transnational social movements and interest/pressure groupings, multinational corporations, financial markets, and the like, on the one hand, to the re-emergence of subnational and cross-national ethnic, religious and policy-oriented coalitions and conflicts of the type familiar in domestic-level political sociology, on the other (Cerny 2012). Governance is therefore being transformed into a 'polycentric' or 'multinucleated' global political system operating within the same geographical space—and/or overlapping spaces—in a way analogous to the emergence of coexisting and overlapping functional authorities in metropolitan areas and subnational regions (Ostrom et al. 1961).

On the one hand, it becomes harder to maintain the boundaries which are necessary for the efficient 'packaging' of public or collective goods; and second, it becomes harder to determine what collective goods are demanded or required in the first place—that is, even to measure what is the 'preferred state of affairs' (Ostrom et al. 1961, 832–835; cf. Cerny 1999 and Lowi 1964). On the other hand, state actors themselves paradoxically act in routine fashion to undermine the holistic and hierarchical character of traditional state sovereignty, authority, or *potestas*—leading to a 'hollowing out of the state' (Jessop 1997). The international system of states as unit actors is thus being superseded by a much more diffuse,

decentralized and cross-cutting structural pattern, based on version of Durkheim's division of labour that transcends the nation-state scale he assumed (Durkheim 1893/1933, 405–406). As today's increasingly transnational division of labour expands, the kinds of things that states can do, and the constraints that derive from external pressures, are constantly changing. Different 'groups' are often interconnected with each other in complex ways that reflect diverse, even contrasting, identities and belongings, cutting across territory, class, gender, ethnicity, family ties, and the like.

In this changing environment, the stage is set for an increasingly active, accelerating and open process of interest group adjustment at several levels, leading to a dialectic of stabilization and destabilization, especially among so-called 'overlapping' and collusive groups (Coser 1956; Simmel 1922/1955) as well as competing and conflicting ones. At one level, the physical or material environmental bases of certain types of interest group association have been transformed by both technological change and greater awareness of the international and transnational interconnectedness of environmental and other issues. In particular, the multinationalization of industry, the expansion of trade and the globalization of financial markets, along with the development of a transnational consumer society, have transformed many of what V.O. Key (1953) called 'sectional groups' into transnational interest groups, operating across borders and involved in complex competition and coalition-building with each other, with state actors, with so-called 'global governance' regimes, and increasingly with mass publics. At another level, values and consciousness are also being transformed in the context of globalization.

Within and across states, too, bureaucrats, politicians and other officials or 'state actors' have become more and more imbricated with groups of their counterparts in other countries through transgovernmental networks, policy communities and the like. In the economic sphere, post-Fordist forms of production based on flexibilization have transformed 'techniques of industry', labour markets, finance and the like. And the rediscovery of ideas, not merely in terms of formal arguments but even more so in terms of discourses—whether constructivist discourses of institutional reconstruction or postmodernist discourses of multiple circuits of power—has transformed the everyday content of both formally organized and informal groups, as well as that of political actors and intellectuals, into forums for developing increasingly global or transnational understandings of the major challenges of the day, year or millennium—what I have elsewhere described as a post-Foucauldian *raison du monde* (Cerny 2010b, chapter 8).

STRATEGICALLY SITUATED ACTORS

At the same time, however, such changes also give rise to adaptive as well as transformational modes of behaviour. Therefore the particular shape a transformed international system is likely to take will be determined primarily by whether particular sets of groups—in particular, those competing groups led by 'institutional entrepreneurs' or 'change masters' (Kanter 1985)—are best able, either strategically or accidentally, to exploit the manifest and latent structural resources or political opportunity structures available to them most effectively in a period of flux. A key variable in explaining group-led change is thus the presence of strategically situated groups in a flawed and/or fluid structural context. Their presence constitutes a necessary—but not sufficient—condition of structural change.

This question is at the forefront of public consciousness at the time of writing, when a range of poorly coordinated national responses to the recent (and still current) global financial crisis raises fundamental questions about the capacity of either states or 'global governance' to cope with the most pressing issues of the day. Key sets of groups that have in the past been closely bound up with the territorial nation-state are increasingly experimenting with new forms of quasi-private regulation of their activities, especially in the context of neoliberal ideology and approaches to governance. And state actors themselves, once said to be 'captured' by large, well-organized domestic constituencies, are increasingly captured instead by transnationally linked sectors. These actors not only set state agencies and international regimes against each other—a process sometimes called 'venue shopping' (or 'forum shopping') or 'regulatory arbitrage'—in the desire to 'level the playing field' for their domestic clients in the wider world, on the one hand, but they also cause them simultaneously to try to network in an increasingly dense fashion with their peers in other states, on the other. Among the major losers are trade unions and other groups with few transnational linkages, although they are sometimes still in a position to demand and obtain compensatory side payments from national governments.

Alongside these economic developments has come a range of meso- and micro-social and political developments. Major social movements and cause groups are increasingly focused on transnational issues, such as the environment, human rights, women's issues, the international banning of landmines, opposition to the holding of political prisoners, promoting

'sustainable development', eliminating poor countries' international debts and the like. Growing pressures for migration, along with new possibilities for international communication, have not only led to the growth of active diasporas as well as of 'global tribes' (Kotkin 1992) but of major movements of refugees and asylum seekers attempting to escape the civil wars and unrest of the current decade.

And, finally, those alternative outcomes—or 'multiple equilibria'— which may exist in theory and in the minds of key actors may prove either too ambitious, on the one hand, or too amorphous and fragmented, on the other, to form an effective foundation for those groups' strategic or tactical calculations and for their pursuit of specific, coherent outcomes. As specific actors continually probe the potential for new ways to pursue their interests, the key driving force in this transformation and reconstruction will consist of transnationally-linked group political actors engaging in crosscutting competition and coalition-building behaviour, exploiting the growing institutional loopholes of global politics, constructing new power games, creating new networks and changing people's perceptions of how world politics works—changing the parameters and dynamics of who gets—and should get—what, when, and how.

Global Policy Issues

The main variable propelling this process of change is usually seen to be the nature of the policy issues and challenges that face both states and IOs today. These challenges include global economic growth, climate change and pollution, cross-border civil and insurgent wars, increasing relative inequality and the growing public salience of poverty and uneven development—not to mention a range of significant issues concerning particular transnationally networked economic and financial sectors, crosscutting transportation and infrastructure issues, technological changes with global implications, such as governing the internet, and the like. Operating in such a changing world is leading to new problems of management and control, what Lake has called 'the privatization of governance' (Lake 1999; Kahler and Lake 2003) and others have identified as the emergence of 'private authority' in international affairs (Cutler et al. 1999; Ronit and Schneider 2000; Hall and Bierstecker 2003). Institutions and formal processes of 'global governance' do not have the direct sanctioning power

that has been at the core of state development and power in the modern era—especially in the form of Weber's 'monopoly of legitimate violence', whether domestic or international. In the meantime, the sovereignty of states is only partially and unevenly 'pooled' through the development of intergovernmental institutions and processes.

In this world, even small firms that seem ostensibly 'local' are not immune, being dependent upon 'foreign' raw materials, export markets, investment finance, migrant labour and the like, and both increasingly form nodes of wider networks and coordinate their actions. Less formal networks and more formal interaction among firms, 'private regimes', 'alliance capitalism', and the ability of non-state actors in general to develop a range of formal and informal interconnections, both economic and political, have led to significant degrees of policy transfer both across states and in terms of shaping the evolution of global governance more broadly (Higgott et al. 1999; Evans 2005). Significant issue-areas, such as accountancy, auditing and corporate governance, have witnessed ongoing negotiation processes among firms, private sector organizations representing particular industrial, financial and commercial sectors, as well as governments and international regimes, in order to reconcile conflicting standards and move towards a more level playing field (Mügge 2006). The organization of the world of work—once embedded in the Fordist factory system—increasingly depends upon flexible, complex transnational economic activities and circuits of political-economic power.

Ordinary people in everyday life are growing more and more aware that their fates depend not so much on decisions taken at national level but on wider developments and transformations at international, transnational, and translocal levels (Hobson and Seabrooke 2007). Perhaps most salient of all, given the recent growth of concern with issues like climate change and the increasingly obvious effects of global warming, have been environmental groups, which have come to occupy a central place in the claim to represent people in general across borders, not only transcending the nation-state but calling for global solutions to deal with a growing, imperative crisis (Kütting and Cerny 2015). In sum, world politics is coming to be increasingly characterized by what sociologists call 'functional differentiation', governance organized around different social, economic and political 'functions' or cross-cutting issue-areas (Albert et al. 2013; Cerny 2013b).

Dimensions of Transformation

This overall process of transformation, I suggest, has three main interlocking dimensions. The first involves a change in the character of the state's domestic functions, especially how so-called 'public goods' and 'social justice' are perceived, pursued and provided, challenged by the marketization and transnationalization of economic activities (and of the state itself). Second, state actors are increasingly concerned with promoting the competitive advantages of particular production and service sectors in a more open and integrated world economy—the 'Competition State' (Cerny 1990, 2000b, 2010a; Horsfall 2011). States and state actors are increasingly *agents* of globalization, rather than of resistance. Third, rather than continuing path dependency, these effects generate multiple equilibria, creating the possibility of new 'branching points', thus opening the way to potential path modification and reconstruction of the system itself. The economic mission of the state has shifted considerably from its traditional role as a 'decommodifying agent' to that of a 'commodifying agent' (Cerny 1990)—that is, concerned with making markets work better and more efficiently, rather than replacing them with new authoritative allocation mechanisms.

In this rapidly changing world, those actors who will be most effective at influencing and shaping politics and policy outcomes are those who possess the most transnationally interconnected resources, power and influence in a globalizing world—namely, those who perceive and define their goals, interests, and values in international, transnational and translocal contexts; are able to build cross-border networks, coalitions, and power bases among a range of potential allies and adversaries; and are able to coordinate and organize their strategic action on a range of international, transnational and translocal scales in such a way as to pursue transnational policy agendas and institutional *bricolage* (see Cerny 2010b).

Globalization in this sense not only constitutes a set of permissive conditions for the development of transnational pluralism and neopluralism; it also is itself increasingly constituted by the very political processes identified here. At the base, we find such factors as the distribution of resources in society; the kind of processes of production, distribution and exchange prevalent therein; the state of consciousness or the perception of interests, values and possibilities of the various individual and group actors; and the sorts of basic solidarities and alliances of a more political nature that

emerge from all of these taken together. The second level concerns the character of 'intermediaries', sometimes called the power structure. Is public policy made by 'iron triangles', closed policy communities, wider policy networks, or transparent, competitive, pluralistic processes? The third level concerns the structure of the institutional playing fields themselves, whether concentrated or diffused, unitary or fragmented, and the sorts of rules and practices that have evolved to coordinate different levels and/or pillars of the political system.

Perhaps more salient, however, has been the emergence of 'new' groups of entrepreneurs, whether in countries that have traditionally encouraged such groups (e.g. the United States) or in those that have in the past suppressed or inhibited their activities (e.g. China and India (Baumol et al. 2007)). The power of latent or potential groups or categories has been growing. New categories of losers have been created as well, although in some cases these are groups that have already long been disenfranchised, suppressed or subsumed in authoritarian social hierarchies, such as tribes or clans—they now confront 'centralizing elites' through more localized, quasi-tribal resistance, as with the Islamic State in Syria and the Levant (Ahmed 2013). It is becoming more and more difficult to organize politically effective resistance to globalization as such, especially in the more developed capitalist states. Meanwhile, recent attempts to reform financial regulation are increasingly facing obstacles stemming from the lack of a coherent transnational response (Goldbach 2015). The blurring of these traditional lines between what once formed the basis for the left–right divide at national level has switched the focus of group politics towards other kinds of linkages, whether the translocal restructuring of influence around multiculturalism and/or mutually exclusive but cross-border religious and ethnic identities, diaspora communities, world cities, and the like, on the one hand, or the transnational/global reorganizing of businesses and market structures around more extended networks, the development of epistemic communities of scientists and experts, the rapid growth of transnational advocacy coalitions and networks (NGOs, civil society, environmentalism, etc.), on the other.

Long-term left/right blocs are giving way to mixed and looser coalitions, as evidenced in the Spanish parliamentary elections of December 2015, leading to political cognitive dissonance and, at times, to strange alliances that can distort preferences rather than effectively pursue them. This is reflected in the support for the Republican Party in the United States by less well-off 'social conservatives' since the Reagan era of the

1980s (Frank 2004), as currently evidenced by support for the Tea Party and for Donald J. Trump in the 2016 presidential primaries. When governmental leaders go home from major international meetings like the G20 or the COP21 climate change conference, they are immediately faced with such domestic pressures, making the transnationalization of policy something that often has to be pursued surreptitiously and legitimated indirectly—or 'depoliticized'—especially when the light of crisis or disruptive change is shone on particular domestic sectors and interests (Roberts 2010).

Therefore there is unlikely to emerge a broad-based, public interest oriented 'global civil society' that would permit social actors to develop an overall structural impact of a kind that could transform the international system itself. Each set of actors faces not only promising opportunities, but also significant constraints in pursuing their group goals, veering between convergence and divergence, between a widening process of relatively stable horse-trading and bargaining, on the one hand, and a neomedieval 'durable disorder' (Minc 1993; Cerny 1998), on the other. Globalization is not an exogenous variable, imposed on states from outside (*pace* Pierre 2013). It is a complex dialectic of bottom up/top down, inside/out, endogenous and exogenous variables that come as much—or even more—from within states and societies as from the 'international' level of analysis. Restoring political action and process, rather than an institutional focus, to center stage will provide the best way to conceptualize the restructuring of governance during the rest of this century.

References

Ahmed, A. (2013). *The thistle and the drone: How America's war on terror became a global war on tribal Islam*. Washington, DC: Brookings Institution Press.

Albert, Mathias, Barry Buzan, & Michael Zürn, (Eds.). (2013). *Bringing sociology to IR*: *World politics as differentiation theory* (Cambridge: Cambridge University Press).

Baumol, W. J., Litan, R. E., & Schramm, C. J. (2007). *Good capitalism, bad capitalism, and the economics of growth and prosperity*. New Haven, CT: Yale University Press.

Biermann, F., Pattberg, P., van Asselt, H., & Zelli, F. (2009). 'The Fragmentation of Global Governance Architectures: A Framework for Analysis', *Global Environmental Politics*, *9*(4), 14–40.

Cerny, P. G. (1990). *The changing architecture of politics: Structure, agency and the future of the state*. London: Sage.

Cerny, P. G. (1998). Neomedievalism, civil wars and the new security dilemma: Globalization as durable disorder. *Civil Wars, 1*(1), 36–64.

Cerny, P. G. (1999). Globalization, governance and complexity. In A. Prakash & J. A. Hart (Eds.), *Globalization and governance* (pp. 188–212). London: Routledge.

Cerny, Philip G. (2000b). "Restructuring the Political Arena: Globalization and the Paradoxes of the Competition State," in Randall D. Germain, ed., *Globalization and Its Critics: Perspectives from Political Economy* (London: Macmillan), pp. 117–138.

Cerny, P. G. (2010a). The competition state today: From *raison d'État* to *raison du monde. Policy Studies, 4*(1), 5–21.

Cerny, P. G. (2010b). *Rethinking world politics: A theory of transnational neopluralism.* New York: Oxford University Press.

Cerny, P. G. (2012). Globalization and the transformation of power. In M. Haugaard & K. Ryan (Eds.), *Political power: The development of the field* (pp. 185–214). Leverkusen/Opladen: Barbara Budrich for the International Political Science Association, Research Committee No. 36, Political Power.

Cerny, P. G. (2013a). The paradox of liberalism in a globalizing world. In R. Friedman, K. Oskanian, & R. P. Pardo (Eds.), *After liberalism? The future of liberalism in international relations* (pp. 189–214). Basingstoke: Palgrave Macmillan.

Cerny, P. G. (2013b). Functional differentiation, globalization and the new transnational neopluralism. In M. Albert, B. Buzan, & M. Zürn (Eds.), *Bringing sociology to international relations: World politics as differentiation theory* (pp. 205–227). Cambridge: Cambridge University Press.

Cerny, P. G. (2014). Rethinking financial regulation: Risk, club goods and regulatory fatigue. In T. Oatley & W. Kindred Winecoff (Eds.), *Handbook of the international political economy of monetary relations* (pp. 343–363). Cheltenham: Edward Elgar.

Coen, D., & Pegram, T. (2015). Wanted: A third generation of global governance research. *Governance: An International Journal of Policy, Administration and Institutions, 28*(4), 417–420.

Coser, L. A. (1956). *The functions of social conflict.* London: Routledge and Kegan Paul.

Crozier, M., & Friedberg, E. (1977). *L'Acteur et le système: les contraintes de l'action collective.* Paris: Éditions du Seuil.

Cutler, A. Claire, Virginia Haufler, & Tony Porter (Eds.). (1999). *Private authority and international affairs*, Albany, NY: State University of New York Press

Dahl, R. A. (1961). *Who governs? Democracy and power in the American city.* New Haven: Yale University Press.

Davies, T. (2013). *NGOs: A new history of transnational civil society.* London: C. Hurst.

Durkheim, E. (1893/1933). *The division of labor in society*, (George Simpson, Trans.). New York: Free Press, original French edition 1893.

Evans, M. G. (2005). *Policy transfer in global pesrpective*. London: Ashgate.

Frank, T. (2004). *What's the matter with Kansas? How conservatives won the heart of America*. New York: Henry Holt.

Gabriela Kütting & Philip G. Cerny, 'Rethinking Global Environmental Policy: From Global Governance to Transnational Neopluralism', *Public Administration*, *93*(4) (December 2015), 907–921: doi: 10.1111/padm.12189.

Hall, Rodney Bruce, & Thomas J. Bierstecker (Eds.). (2003). The emergence of private authority in global governance (Cambridge: Cambridge University Press)

Higgott, Richard, Geoffrey R.D. Underhill, & Andreas Bieler, (Eds.). (1999). Non-state actors and authority in the global system (London: Routledge)

Hobson, John M., & Leonard Seabrooke (Eds.). (2007). Everyday politics of the world economy (Cambridge: Cambridge University Press)

Hollis, M., & Smith, S. (1990). *Explaining and understanding international relations*. Oxford: Clarendon Press.

Horsfall, D. (2011). *From competition state to competition states? An empirical exploration*. Unpublished Ph.D. thesis, Department of Social Policy, University of York.

Jessop, B. (1997). *The future of the national state: Erosion or reorganization? Reflections on the West European case*. Paper presented at a conference on Globalization: Critical Perspectives, University of Birmingham, 14–16 March.

Kahler, Miles, & David A. Lake (Eds.). (2003). *Governance in a global economy: Political authority in transition* (Princeton: Princeton University Press)

Kanter, R. M. (1985). *The change masters: Innovation and entrepreneurship in the American corporation*. Glencoe, IL: Free Press.

Key Jr., V. O. (1953). *Politics, parties, and pressure groups*. New York: Thomas Y. Crowell.

Kotkin, J. (1992). *Tribes: How race, religion and identity determine success in the new global economy*. New York: Random House.

Kütting, Gabriela and Cerny, P. G. (2015). Rethinking Global Environmental Policy: From Global Governance to Transnational Neopluralism, *Public Administration*, *93*(4), 907–921.

Lake, D. A. (1999). Global governance: A relational contracting approach. In A. Prakash & J. A. Hart (Eds.), *Globalization and governance* (pp. 31–53). London: Routledge.

Lindblom, C. E. (1977). *Politics and markets: The world's political economic systems*. New York: Basic Books.

Lowi, T. J. (1964). American business, public policy, case studies, and political theory. *World Politics, 16*(4), 677–715.

McFarland, A. S. (2004). *Neopluralism: The evolution of political process theory.* Lawrence, KS: University of Kansas Press.

Minc, A. (1993). *Le nouveau Moyen Âge.* Paris: Gallimard.

Mügge, D. (2006). Private-public puzzles: Inter-firm competition and transnational private regulation. *New Political Economy, 11*(2), 177–200.

Ohmae, Kenichi (1990). *The Borderless World: Power and Strategy in the Interlinked Economy* (Pensacola, Florida: Ballinger Publishing).

Ostrom, V., Tiebout, C. M., & Warren, R. (1961). The organization of government in metropolitan areas: A theoretical inquiry. *American Political Science Review, 55*(3), 831–842.

Peter Dauvergne & Genevieve Lebaron, *Protest, Inc.: The Corporatization of Activism* (Cambridge: Polity Press, 2014)

Pierre, J. (2013). *Globalization and governance.* Cheltenham: Edward Elgar.

Roberts, A. (2010). *The logic of discipline: Global capitalism and the architecture of government.* New York: Oxford University Press.

Roman Goldbach, *Global Governance and Regulatory Failure: The Political Economy of Banking* (Basingstoke, Hants.: Palgrave Macmillan, 2015).

Ronit, Karsten, & Volker Schneider (Eds.). (2000). Private organizations in global politics (London: Routledge)

Rosenau, J. N. (1997). *Along the domestic-foreign frontier: Exploring governance in a turbulent world.* Cambridge: Cambridge University Press.

Simmel, G. (1922/1955). *Conflict and the web of group affiliations.* New York: Free Press.

Slaughter, A.-M. (2004). *A new world order.* Princeton, NJ: Princeton University Press.

Stone, D. & Ladi, S. (2015). Global public policy and transnational administration. *Public Administration, 93*(4), 839–855.

Stone, R. W. (2011). *Controlling institutions: International organizations and the global economy.* Cambridge: Cambridge University Press.

Waltz, K. (1979). *Theory of international politics.* Reading, MA: Addison-Wesley.

Global

How Participatory is Global Governance of Trade and Environment? The Cases of WTO and UN Climate Summits

Marcel Hanegraaff and Arlo Poletti

INTRODUCTION

The emergence and increasing importance of multiple layers of governance 'above' the state has become a central feature of contemporary international relations since the 1990s. Few would question that during the last decades, the policy process has increasingly migrated to the international level. To a greater or lesser extent, virtually all economic, political, and social activities are today subject to rules decided upon, implemented, monitored, and enforced by international institutions of various sorts. While domestic institutions have not gone out of business, it is beyond doubt that an increasing number regulatory processes traditionally confined within the boundaries of nation-states have today been supplanted, or at least complemented, by new forms of policy-making taking place within a wide array of different international institutional venues. Areas as

M. Hanegraaff (✉)
University of Amsterdam, Amsterdam, The Netherlands

A. Poletti
Department of Political Science, LUISS, Rome, Italy

51

diverse as trade, finance, the environment, human rights, and even national security are more and more subjected to rules developed under the auspices of international governance systems (Mattli and Woods 2009).

At the heart of the debate about global governance lies the question of its democratic legitimacy. As global governance systems have become increasingly central in contemporary public policy-making, concerns about the democratic legitimacy of these political processes have also emerged, questioning the viability of democratic processes still largely confined within the boundaries of the nation-state and calling for a number of possible reforms to make global governance more democratically accountable and thus redress its massive 'democratic deficit' (Nanz and Steffeck 2004).

The question how to address the problem of democratic legitimacy in global governance is subject to debate and different answers to this question largely reflect different underlying normative positions concerning the definition of the scope of the global *demos* (for an overview see Marchetti 2011). What is common to these different conceptions is the idea that a reform global governance is necessary in order to create the social and institutional conditions that can facilitate the expression of citizens' concerns and ensure the responsiveness of power (Archibugi et al. 2011; Castells 2008; Held 1995; Nanz and Steffeck 2004; Scholte 2002).

Granting greater access to civil society actors to these institutions is widely perceived as one potentially effective solution to provide global governance with more expertise, accountability and, ultimately, legitimacy (Charnovitz 2000; Robertson 2000; Scholte 2000). The ultimate goal of opening up global governance to greater participation by civil society actors is, these arguments go, the creation of an appropriate public sphere, that is an institutionalized arena for deliberative political participation beyond the limits of national boundaries (Nanz and Steffeck 2004; Scholte 2002). In light of the growing gap between the global space where the issues arise and the national space where such issues are managed, a flourishing international public sphere is deemed necessary in order to avoid that the global socio-political order remains defined by the realpolitik of nation-states (Castells 2008; Held 2004).

Whether more openness of global governance is conducive to the emergence of an international public sphere however, largely remains an empirical question. Assessing empirically whether greater openness fosters the emergence of an international public sphere and can thus be instrumental to addressing global governance's democratic deficit is particularly important given that critical voices warn us that greater civil society

access to global governance may deepen the bias of interest representation already existing at the domestic, hence it may turn out to worsen, rather than solve, existing problems of democratic legitimacy (Fischer and Green 2004; Fischer 2010; Spiro 2000).

Recent research shows that global governance has witnessed a systematic shift towards greater involvement of civil society actors. While there is of course significant variation in how much different global governance systems grant access to societal actors, empirical evidence confirms the existence of a far-reaching institutional transformation of international organizations (IOs) over the past two decades pervading all issue areas, policy function, and world regions: these IOs increasingly share authority with organized societal actors (Tallberg et al. 2014).

Has greater openness of IOs led to the emergence of a truly international public sphere? In this chapter we assess whether existing claims about the changing nature of political mobilization by societal groups resulting from greater IOs openness withstand empirical examination. On the basis of original datasets collecting information on the participation of both 2000 societal groups at World Trade Organization (WTO) Ministerial Conferences and 6500 societal groups at UN Climate Summits over the 1995–2012 period we are able to trace the evolution of the population of societal interests active within these international governance systems. Both international fora provide significant access to societal actors, but to a varying degree. While the General Agreement on Tariffs and Trade (GATT) system explicitly denied access to societal interests, with the creation of the WTO in 1995 specific guidelines stipulating more openness towards these organized groups were also adopted (Steffek and Kissling 2006; Van den Bossche 2008). Nevertheless, the UN Climate Summits are even more open to the input of societal actors due to the even more lenient accreditation requirements (see research design for more details). Comparing both cases thus allows us to reflect on the impact of IO openness towards the creation of an international public sphere with a higher degree of generalizability.

The chapter proceeds as follows. In Section 2, we briefly review the existing literature to come up with a broad definition of how a truly international public sphere should look like. Having set such a normative benchmark, we then turn in Section 3 to our data to assess the extent to which patterns of actual participation by societal groups in these two governance systems meet these normative standards. Our rough and largely illustrative analysis suggests that greater access to these two international governance systems has not brought about a fundamental change in the

nature of political action by societal groups. While the number of societal groups targeting these two international venues is substantial, we find that the nature of their political mobilization remains overwhelmingly 'domestic', both in terms of issues that they deem important and act upon and with respect to their organizational character.

AN INTERNATIONAL PUBLIC SPHERE: SETTING A NORMATIVE BENCHMARK

Before any assessment is made of whether an international public sphere has emerged as a result of the greater access granted to non-state actors in international governance structures we should define how such an international public sphere should look like. In other words, a benchmark is needed in order to proceed with a meaningful assessment of actual patterns of political mobilization by non-state actors within global governance structures.

We briefly review the existing literature and identify at least three components of what could be plausibly defined as a 'truly' international public sphere, the emergence of which many authors' identify as a necessary condition for existing governance structures to be democratically legitimate.

As a starting point, it is important to stress that arguing in favour of the emergence of an international public sphere to redress the international governance democratic deficit does not necessarily mean advocating the creation of a national democracy writ large (Jens and Steffeck 2004). While some authors' have argued along these lines (see Marchetti 2008), others have taken a less radical stance and argued that the institutionalization of arenas for deliberative political participation beyond the limits of national boundaries would be a more realistic goal (Jens and Steffeck 2004). The normative assumption underlying this position is that the actors affected by particular political decision should be given the opportunity to meaningfully participate and make their voice heard to the very decision-making procedures that lead to the adoption of such decisions (Macdonald 2008). Interaction between these actors and political institutions do not need to take the form of electoral authorization and accountability, the argument goes, as long as effective expression of stakeholders' concerns and some degree of responsiveness of political power is ensured (Archibugi et al. 2011).

Having clarified that an international public sphere should not be confused with a global polity, there remains the question of what should be its key defining properties. Three properties seem key for a public sphere to be truly international. The first concerns the *organizational scope* of

the constituencies that actively participate to the political processes taking place within global governance fora. Since structures of decision making increasingly transcend national boundaries, meaningful international deliberation is deemed to require new forms of participation of the very transnational interests affected by these political decisions. A first condition for the emergence of an international public sphere can thus be considered the presence and active participation by non-state actors that represent constituencies transcending national boundaries—that is, that have a transnational organizational character. The existing literature provides ample illustrative evidence that organizations with a transnational organizational character, be they global or regional, may affect the management of political issues within international governance fora in significant ways (Glasius et al. 2005; Keck and Sikkink 1998). Yet, it remains be seen whether their influence is purely idiosyncratic or reflects the emergence of a truly international public sphere.

A second key property of an international public sphere concerns what we define the *issue scope* of constituencies' political action. While the organizational scope of the societal interests active in global governance tells us whether constituencies transcending national boundaries have become important, perhaps more important is to assess the types of issues these actors' act upon. A proper international public sphere requires that actors involved in it address transnational problems, not only that that they have a transnational organizational character. If deliberation about international issues is what an international public sphere is about, then we should observe that actors participating to such deliberative processes increasingly act with a global or international frame of reference in their action and goals (Castells 2008). The challenge for the emergence of an international public sphere to emerge consists therefore in giving voice to opinions that are shaped independently from the single national perspectives shaped by purely national interests. As Jens and Steffeck (2004, 322) put it, an international public sphere entails the creation of 'deliberative forums in which groups of social actors cooperatively address a certain global problem, and the ensemble of which could serve for enhancing broader transnational policy debates. Such participatory debates reserve themselves the prerogatives to scrutinize and monitor policy choices of international organizations'.

The third property of an international public sphere that we consider concerns the *degree of inclusiveness* of the interests that get to participate, hence that get represented, in international decision making processes.

Who are the interests that actively participate to these deliberative processes? Are all relevant stakeholders fairly represented or is there a structural imbalance in the systems of interest representation emerging at the international level? One of the greatest challenges in making global governance more democratic is to ensure that all stakeholders, that is, those affected by political decision adopted within global governance fora, can make their voice heard. As Scholte (2002, 296) nicely argues 'all interested parties must have access and preferably equal opportunities to participate. Otherwise civil society can reproduce or even enlarge structural inequalities and arbitrary privileges.' To put it differently, the observation of the growing relevance of transnationally organized groups that focus on transnational issues might still obscure the possibility that these actors are only a subset of a large population of potentially relevant stakeholders, hence that access to global governance remains skewed in favour of privileged interests. Critical voices have long noted the emergence of a truly international public sphere can be hampered if the business community and/or constituencies from developed countries disproportionally profit from the opening up of global governance structures to non-state actors relative to 'civil society' actors and developing countries respectively (Fried 1997; Fischer and Green 2004; Spiro 2000).

To sum up, we believe we can fruitfully use the concept of international public sphere as a normative benchmark to empirically assess whether increased access to global governance structures can foster greater democratic legitimacy of these systems of political authority. Greater access can help address concerns about the democratic legitimacy of global governance insofar as it fosters the emergence of an international public sphere. In our view, a truly international public sphere can be defined as such when the constituencies that actively participate to the political processes taking place within global governance fora (1) have a transnational organizational character; (2) act upon transnational issues; (3) are inclusive.

Research Design

The data is drawn from a large-scale project (see Hanegraaff 2015) that maps all interest group participation at two international venues: the World Trade Organizations Ministerial Conferences (MC) (between 1995 and 2012) and the United Nations Climate Summits (CS) (1997–2011). Next to the mapping of organizations also a set of interviews were done at one MC (Geneva 2012) and two CSs (Durban-2011 and Doha 2012).

About the first, the interest population of the WTO MCs, we coded all interest organizations that were registered by the WTO-secretariat as eligible to attend and/or attended in one of the seven ministerial conferences the WTO organized since 1996 (see Hanegraaff et al. 2011, 2015; De Bièvre et al. 2016). In total we identified 1962 different organizations that were eligible and/or attended at least one of the seven Ministerial Conferences. All these organizations were coded on the basis of a limited number of variables which were identified by systematically coding all the websites. For 1,409 organizations we could identify a website which offers some to more elaborate data on the organization; for 360 organizations we were not able to find a website, but information stored on other websites enables us to code at least some basic features of these organizations. Only 24 organizations could not be traced. This dataset with web-based information gives us a comprehensive insight into the type of organizations interested in WTO policies, the region or the countries where they come from, their respective areas of interest, how they are organized and so on. Moreover, because we rely on all MCs since 1995 (Singapore) until the last in 2012 (Geneva), we can account for density, diversity, and stability changes over time. Despite the fact that our dataset provides us with a very rich map of trade related interest groups that operate at a global scale, we should also mention a number of weaknesses.

The second data source is the mapping of the UN climate summits interest group population (see Hanegraaff 2015a). To assess the development of the Conference of the Parties (COP) interest group community we mapped all interest organizations that attended COPs between 1997 and 2011. The dataset includes 6655 organizations which all attended one or more of the COPs since 1995. Note that this number substantially differs from some earlier accounts of the COP interest group community (see Muñoz Cabré 2011; Nordang-Uhre 2014). The reason is that previous studies included only organizations which had official UNFCCC observers. One important accreditation requirement to become an observer at a climate conference is that the organization is a non-profit establishment, which excludes individual firms from registering. This, however, does not mean that firms do not attend these conferences. Quite the contrary: firms, and other ineligible organizations for that matter, often cope with these official requirements by registering as a member of an official observer delegation. For instance, Shell and the Dow Chemical Company attend as members of the World Business Council for Sustainable Development,

while Siemens and Google attend as part of the Alliance to Save Energy. As the UNFCCC lists each individual participant and its affiliated organization on its website we were able to identify all the organizations that attended the COP's meetings. This makes our overview of attendance much more encompassing and larger than those provided in earlier accounts. That is, where former analysis identifies 1,322 organizational entities attending COPs, this dataset consists of 6,655 unique organizations. Moreover, it is also one of the main reasons that the interest group population of the UN climate summits is considerable larger than the dataset of the WTO.

As with the WTO research strategy, the next step included a website-search for all these organizations. For most organizations a website was identified which provided more elaborate data on the organization. For about 20%we were not able to find a website, but information stored on other websites (for instance, from other interest groups who refer to the organization in question) enabled us to code some basic features of these organizations. Only for a small number of organizations no information at all was found (less than 5%). This dataset with web-based information gives a comprehensive insight into the types of organizations attending COP meetings, the region or countries from which they stem from, the issue areas in which they are active, their constituency base, and how they are organized. In addition, because there is data on almost all COPs from 1995 (COP3-Japan) to 2011 (COP17-Durban), we can account for density, diversity and stability changes over a substantial period of time.

The final dataset we rely on is an extensive interview project for both the MCs as well as the COPs (see Hanegraaff in press). The interviews were conducted during three major transnational negotiations rounds at the WTO's 2012 Ministerial Conference and the UN Framework Convention on Climate Change Conferences of the Parties in Durban in 2011 and in Doha in 2012. At these events, a team of three to four researchers asked lobbyists to participate in a 30-minute interview. The respondents were randomly chosen by the researcher in charge ('pointer') to make sure interviewers would not (unknowingly) have a bias in their selection of respondents (e.g. convenience sampling). Moreover, the researcher in charge made sure all physical areas at the conference location were targeted in order to increase the chance of getting a random and representative sample of the participants at the conferences. During the interviews, respondents were asked to mention

a specific issue they were working on and the strategies they used to influence policymakers in regards to the issue. The lobbyists were also asked to provide information about their organizations. In total, 348 lobbyists were interviewed at the three conferences.

AN INTERNATIONAL PUBLIC SPHERE IN GLOBAL GOVERNANCE?

In this section we proceed by looking at patterns of political mobilization by non-state actors in the context of two important global governance fora: the WTO and the UN Climate Summits. We look at this considering the three key properties of an international public sphere identified above, assessing actual patterns of political mobilization resemble fare relative to these three benchmarks.

Organizational Scope

We start with organizational scope, or the active participation by non-state actors that represent constituencies transcending national boundaries (see also De Bièvre et al. in press). Figure 3.1 plots the evolution over time of the number of non-state actors that have participated to WTO MCs and UN CSs. respectively, distinguishing between groups with a 'national' organizational character and groups with a 'global' organizational character. We distinguish between 'national' and 'global' depending on whether the sources of funding of these organizations are purely national or stem from more than one jurisdiction. The first indication of these figures is that while the population of non-state actors accessing the UN CSs has consistently increased over time, in the case of WTO MCs we observe an increase around 2005 which is, however, followed by a marked decrease in the subsequent phase. Second, at COPs more organizations participate, which, as argued earlier, is most likely a result of the more stringent accreditation requirements at the WTO. Finally, and most important for our analysis on the potential at the conferences for the creation of a global public sphere, we see that the 'national' component of these populations is very significant. At each conferences—both at the COPs and at the MCs—the number of national oriented organizations exceeds the number of global organizations.
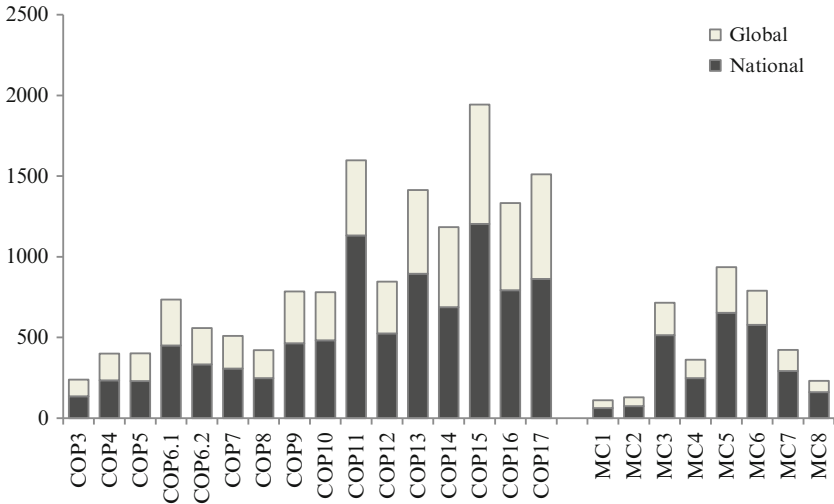
Fig. 3.1 Number of actors per COP (left) amd MC (right). Authors' own compilation

Perhaps more telling regarding this second point is Fig. 3.2, which consider the evolution over time of the percentage, and not the absolute numbers, of 'national' and 'global' organizations attending these conferences. Figure 3.2 indicates with clarity that the organizational character of non-state actors actively participating to both UN CSs and WTO MCs remains overwhelmingly domestic (consistently over time 60% and 70% respectively). These figures suggest that while the population of non-state actors might be on the increase in some cases, the organizations representing constituencies transcending national borders remain a minority, while the vast majority of these populations is composed of 'national' organizations seeking access to international institutions. Moreover, we also see that at the climate conferences, more globally oriented organizations are active compared to WTO-MCs. This latter result is quite understandable given the nature of the problems at stake. While climate change is an issue that inherently requires joint action and has implications that are global in scope, trade issues are characterized by a more marked national dimension, both in terms of priorities and distributive effects.

These aggregate data of course obscures potentially interesting differences within the populations of non-state actors attending these two
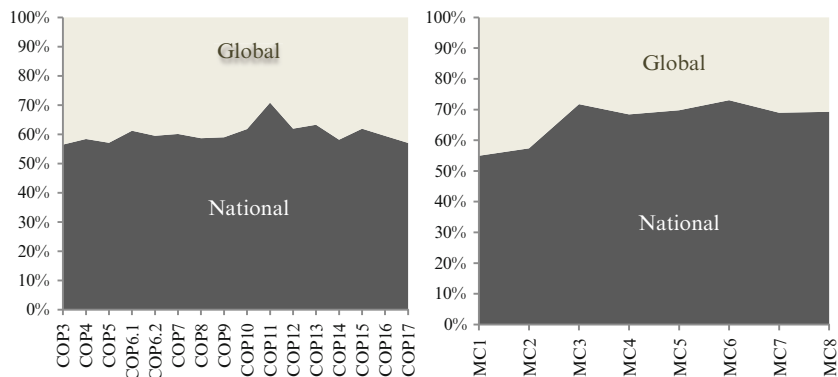
Fig. 3.2 Percentage national versus global per COP (left) and MC (right). Authors' own compilation

conferences. In particular, we note that there are important differences in terms of the organization character of active non-state actors depending on whether they represent concentrated or diffuse interests (Olson 1965). We capture this difference by distinguishing between 'business' organizations and 'non-governmental organizations (NGOs)' organizations. The results are presented in Fig. 3.3, for the COPs, and Fig. 3.4, for the MCs.

The results, portrayed in Fig. 3.4, for instance, show that 'business' organizations attending WTO MCs tend to be more 'national' than the average (around 8 % compared with around 70%), whereas 'NGOs' tend be relatively more 'global' than the average (around 40% compared with around 30%). Interestingly enough, Fig. 3.3 show the same results do not hold in the case of UN CSs, as we can observe a much more balanced distribution between 'business' and 'NGOs' concerning their organizational character.

An additional graph provides an even more fine-grained picture that is illustrative of two important points. Figure 3.5 provides an illustration of how different non-state actors are distributed regarding the 'organizational character' dimension across different sectors. The business category is further disaggregated into four subcategories, namely. labour, services, manufacturing, and agriculture, while the NGOs category is further disaggregated into three subcategories, human rights, development, and environment.
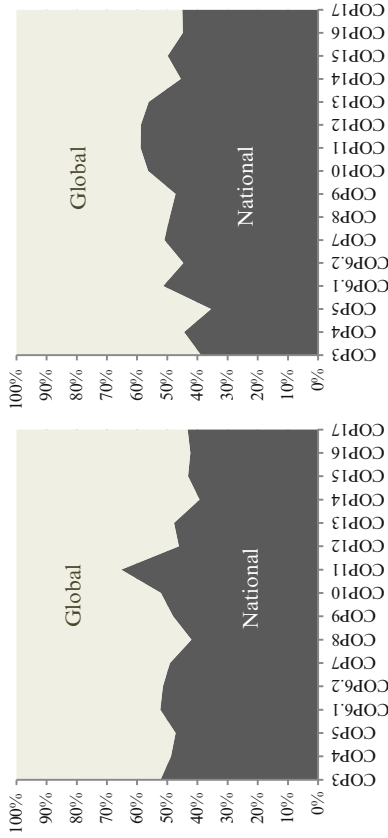
Fig. 3.3 Percentages domestic & global among business and NGOs at COPs. Authors' own compilation
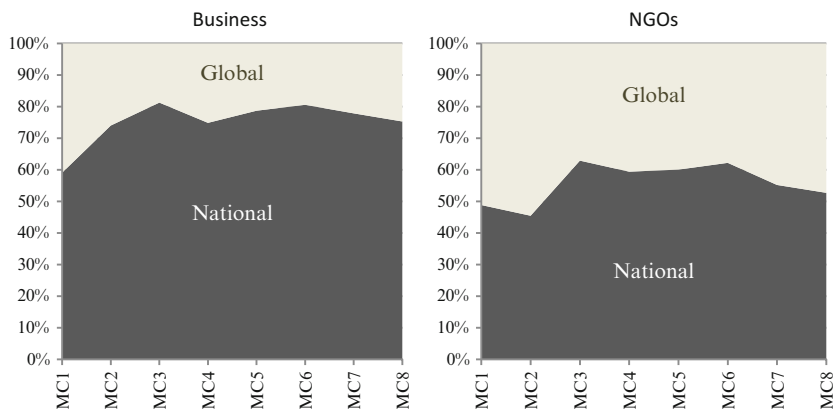
Fig. 3.4 Percentages domestic & global among business and NGOs at MCs. Authors' own compilation
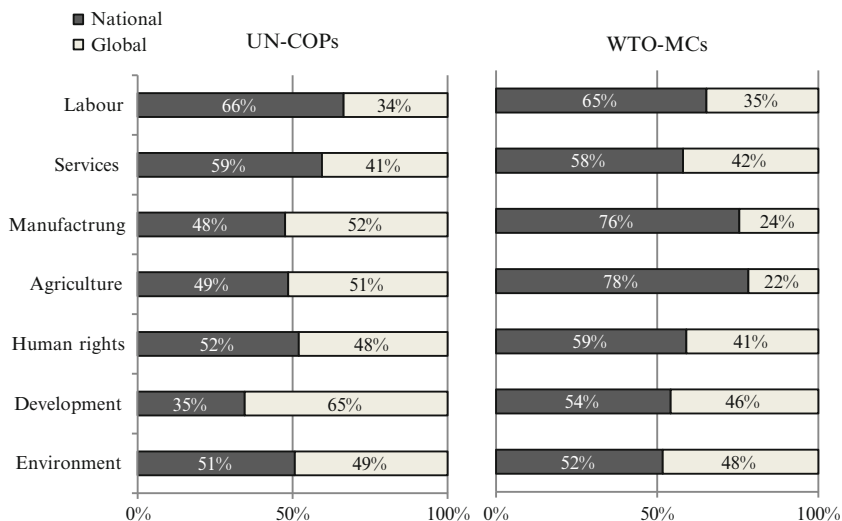
Fig. 3.5 Percentages national & global per sector at COPs and MCs. Authors' own compilation

The key observation here is that all organizations representing different 'business' sectors tend to have a more 'national' organizational character and, in line with previous data, more so in the context of WTO MCs. This means that our data suggest that business actors defend more

domestic interest, while NGOs defend, on average, more the interests of a transnational community. Yet, important to add is that even among NGOs a considerable amount of NGOs still defends the narrow interest of a single country. At the WTO MCs this is even more than half. At the CSs, with the expectation of the development organizations, also half of the NGOs defends the interests of just one country. In sum, our findings show that national groups are much more dominantly present at two crucial transnational political venues, and, perhaps more importantly, this hasn't changed over time. The distribution between domestic and global organizations in the 1990s is similar to the distribution at the more recent conferences, over 15 years later. This means that, at least in terms of the issues that are defended at the conferences, we see no real development in the direction of an increased global sphere.

Issue Scope

In the addition to the organizational scope of the constituencies represented in the WTO MCs and UN CSs, we also consider the issue scope of the activities of global organizations, i.e. the issues they act upon. Do global non-state actors that actively participate in policy-making processes at the international level mostly focus on global issues—in other words, do they act politically upon global issues, or do they in fact defend the interest of a single domestic constituency? To see which interest 'global' interest groups defend we asked them the extent to which they defended global interest or more narrow domestic interests.

Figure 3.6 shows the amount of time these groups defend global interests or domestic interests for all groups, and disaggregated to business and NGOs. A first remarkable observation is that, on average, the global organizations dedicate as much as one-third of their time to lobbying on domestic political issues. Again, these numbers appear to be quite consistent independently of whether we consider business groups or NGOs. This means that global organizations, which are already significantly underrepresented at the conference in question, are not solely dedicated to defend transnational interests. This finding has important implications for our assessment concerning the existence of an international public sphere, suggesting that we should be cautious in assuming that organizations with a transnational organizational character are also necessarily organizations with a global issue scope. Quite to the contrary, our results suggest that
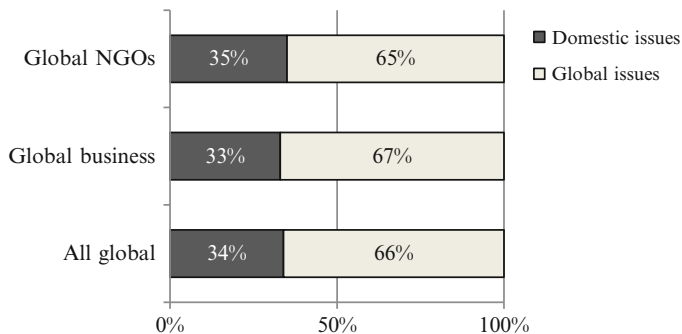
Fig. 3.6 Global organizations defending domestic or global issues (split by global NGOs, global business, and all). Authors' own compilation

organizations with a transnational organizational character may actually act as vessels of national interests.

Degree of Inclusiveness

The final set of data we consider looks into the degree of inclusiveness of the population of non-state actors attending the two international venues. In particular we consider two questions. First, we assess whether their business interests are disproportionally represented in these fora at the expense of NGOs. The data clearly reveal that, contrary to what one might have expected, 'business' and 'NGOs' seem to be fairly equally represented in both international venues and consistently over time. Indeed, Figs. 3.7 and 3.8 show that, with limited exceptions in the case of few UN CSs, the number of these two categories of non-state actors go consistently hand in hand over time. A meaningful assessment would require a comparison between the balance of representation of these groups at the domestic level and the observed equal balance in these two international venues. Yet these figures suggest that non-state actor's participation in these international venues is not skewed in favour of business. This is surprising in the sense that we know from studies in a domestic setting and in the EU that interest populations tend to be heavily skewed towards business interests.

The picture changes when we consider whether there is a balanced representation of non-state actors from developed and developing countries. The evidence we provide in Fig. 3.8 concerning UN COPs provides
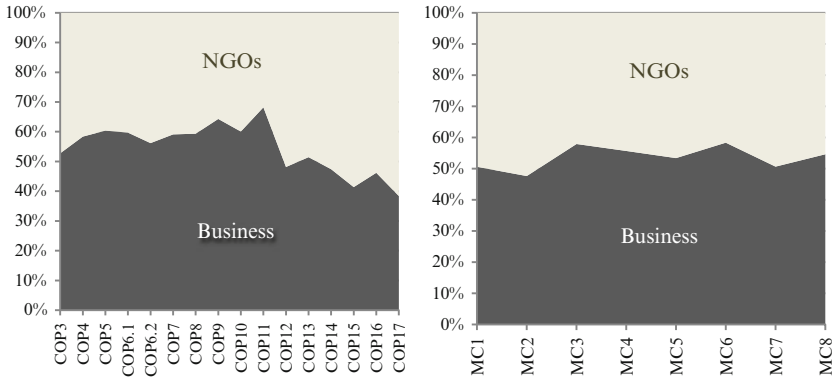
Fig. 3.7 Business versus NGOs at COPs (left) and WTO (right). Authors' own compilation

straightforward indications that non-state actors from developed countries are heavily over-represented relative to non-state actors from other, less developed, countries. Yet we do see a trend in which the developing countries are increasing their relative share somewhat over time. Instead, the representation of developed and developing countries' interests seems more balanced in the case of WTO MCs.

Conclusion

In this chapter we have addressed the empirical question whether concerns about the democratic legitimacy of global governance are warranted. The emergence of a truly international public sphere—that is, an institutionalized arena for deliberative political participation beyond the limits of national boundaries, is considered by many observers a potential solution to problems of accountability and legitimacy that plague global governance. Granting greater access to non-state actors to these international institutions has long been considered conducive to the emergence of such a truly international public sphere.

Our chapter subjects this latter contention to empirical scrutiny by assessing whether important international governance systems that have substantially opened themselves up to non-state actor's participation in
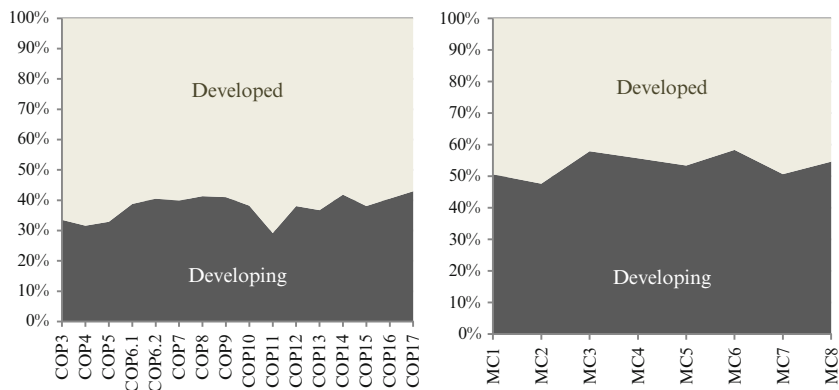
Fig. 3.8 Level of development at COPs (left) and WTO (right). Authors' own compilation

recent years such as the WTO and the UN Climate Summits have led to the emergence of a truly international public sphere. In order to develop such an exercise we start out by identifying a normative benchmark. We do so by defining an international public sphere as an arena for deliberative political participation in which non-state actors largely have a transnational organizational, largely act upon global issues and that are characterized by a high degree of inclusiveness.

The largely illustrative nature of our empirical analysis only allows us to highlight some general trends. First, and despite some important differences across venues, non-state actors with a national organizational character remain central in these two global governance systems attending these conferences. Second, both non-state actors with a national and a global organizational character, although much more in the former case, devote a significant amount of their lobbying effort to national rather than global issues. Finally, while patterns of political mobilization in global governance do not seem to be skewed in favour of business at the expense of NGOs, non-state actors from developed countries enjoy privileged access to international institutions. Our (very) preliminary results suggest that there is still a long way to go before we can speak of the existence of a truly international public sphere in global governance.

REFERENCES

Archibugi, D., Koenig-Archibugi, M., & Marchetti, R. (2011). Introduction: Mapping global democracy. In D. Archibugi, M. Koenig-Archibugi, & R. Marchetti (Eds.), *Global democracy: Normative and empirical perspectives.* Cambridge: Cambridge University Press.

Castells, M. (2008). The new public sphere: Global civil society, communication networks, and global governance. *The Annals of the American Academy of Political and Social Science, 616*, 78–93.

Charnovitz, S. (2000). Opening the WTO to non-governmental interests. *Fordham International Law Journal, 24*(1), 173–216.

De Bièvre, D., Poletti, A., & Hanegraaff, M.C. (in press). WTO judicial politics and EU trade policy: Business associations as vessels of special interest? *British Journal of Politics and International Relations.* doi:10.1111/1467-856X.12071.

De Bièvre, D., Poletti, A., Hanegraaff, M. & Beyers, J. (2016). 'International institutions and interest mobilization: the WTO and lobbying in EU and US trade policy', *Journal of World Trade*, *50*(2), 289–312.

Fischer, D. (2010). COP-15 in Copenhagen: How the merging', of movements left civil society out in the cold. *Global Environmental Politics, 10*(2), 11–17.

Fischer, D., & Green, J. (2004). Understanding disenfranchisement: Civil society and developing countries' influence and participation in global governance for sustainable development. *Global Environmental Politics, 4*(3), 65–84.

Fried, A. (1997). *Muffled echoes: Oliver north and the politics of public opinion.* New York: Columbia University Press.

Glasius, M., Kaldor, M., & Anheier, H. (Eds.). (2005). *Global civil society 2005/2006*, London: Sage.

Hanegraaff, M. C. (2015). Interest groups at transnational conferences: Goals, strategies, interactions and influence. *Global Governance: A Review of Multilateralism and International Organizations, 21*(4), 599–620.

Hanegraaff, M. C. (2015a). Transnational advocacy over time: Business and NGO mobilization at UN climate summits. *Global Environmental Politics, 15*(1), 83–104.

Hanegraaff, M. C., Braun, C., De Bièvre, D., & Beyers, J. (2015). The global and domestic origins of transnational advocacy. Explaining interest representation at the WTO. *Comparative Political Studies, 48*(12), 1591–1621.

Hanegraaff, M. C., Braun-Poppelaars, C., & Beyers, J. (2011). Open the door to more of the same? The development of interest group representation at the WTO. *World Trade Review, 10*(4), 1–26.

Held, D. (1995). *Democracy and the global order: From the modern state to cosmopolitan governance.* Cambridge: Polity Press.

Held, D. (2004). Democratic accountability and political effectiveness from a cosmopolitan perspective. *Government and Opposition, 39*(2), 364–391.

Keck, M., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics.* Ithaca: Cornell University Press.

Macdonald, T. (2008). *Global stakeholder democracy: Power and representation beyond liberal states.* Oxford: Oxford University Press.

Marchetti, R. (2008). *Global democracy: For and against. Ethical theory, institutional design and social struggles.* New York: Routledge.

Marchetti, R. (2011). Models of global democracy: In defense of cosmo-federalism. In D. Archibugi, M. Koenig-Archibugi, & R. Marchetti (Eds.), *Global democracy: Normative and empirical perspectives.* Cambridge: Cambridge University Press.

Mattli, W., & Woods, N. (2009). *The politics of global regulation.* Princeton: Princeton University Press.

Muñoz Cabré, M. (2011). Issue-linkages to climate change measured through NGO participation in the UNFCCC. *Global Environmental Politics, 11*(3), 10–22.

Nanz, P., & Steffeck, J. (2004). Global governance, participation and the public sphere. *Government and Opposition, 39*(2), 314–335.

Nordang-Uhre, A. (2014). 'Exploring the Diversity of Transantional Actors in Global Environmental Governance', Interest Groups & Advocacy, *3*(1), 59–78.

Olson, M. (1965). *The logic of collective action.* Cambridge: Harvard University Press.

Robertson, D. (2000). Civil society and the WTO. *World Economy, 23*(9), 1119–1134.

Scholte, J. A. (2000). Civil society and democratically accountable global governance. *Government and Opposition, 39*(2), 211–233.

Scholte, J. A. (2002). Civil society and democracy in global governance. *Global Governance, 8*(3), 281–304.

Spiro, P. (2000). The new sovereigntists: American exceptionalism and its false prophets'. *Foreign Affairs, 79*(9), 9–12.

Steffek, J., & Kissling, C. (2006). *Civil society participation in international governance: The UN and the WTO compared*, TranState Working Papers, Bremen: University of Bremen.

Tallberg, J., Sommerer, T., Squatrito, T., & Jonsson, C. (2014). Explaining the transnational design of international organizations. *International Organization, 68*(4), 741–774.

Van den Bossche, P. (2008). NGO involvement in the WTO: A comparative perspective. *Journal of International Economic Law, 11*(4), 717–749.

Civil Society-Public Institution Relations in Global Food Policy: The Case of FAO and the CFS

Nora McKeon

Opening Up the United Nations System to Civil Society

Sovereign states alone called the shots when the United Nations was founded in1945, at least in formal terms. Article 71 of the UN Charter did empower ECOSOC to 'make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence'. However, the rules were fashioned in such a way as to limit access to international non-governmental organizations (INGOs) and their status to that of observers of a strictly inter-governmental process in a ritualized relation.

N. McKeon (✉)
Independent, Rome 3 University, Italy

The UN remained frozen in the same procedures for forty years, despite all the changes that occurred in the post-World War II world. Finally, in the late 1980s a cumulative combination of factors—from the end of the Cold War to the triumph of state-restricting neo-liberal policies and globalization—succeeded in shaking up the situation. Beyond the entrenched INGO universe, new categories of nongovernmental actor began to take interest in the impacts of global decisions. At the same time, popular movements of resistance to the impact of neo-liberal policies emerged. The term 'NGO', which had remained dominant for four decades, was increasingly felt to be too narrow to cover the universe it was expected to describe. The concept which began to come into use to replace it was that of 'civil society', an extremely heterogeneous and quite possibly un-useful category. For the purposes of this chapter the issues of concern are not definitional but ones of representativity and legitimacy. Who has the right to speak for whom? Under what conditions can the views of the social actors directly concerned—particularly those with least voice—be heard and taken into account in decision-making? An important distinction in this regard is that between NGOs—voluntary, non-profit, and intermediary organizations that provide services to disadvantaged sectors of the population but do not represent them—and what could be called 'peoples' organizations' directly established by and mandated to speak for these sectors: peasant farmers, artisanal fisherfolk, slum dwellers, and others.

The UN system progressively recognized the need to move from strict intergovernmental process towards involving other actors. A Commission on Global Governance was established in 1992 under the auspices of Secretary-General Boutros-Ghali. In terms of practice, the 1990s was the decade of the UN global summits, which represented an unprecedented opening up to civil society organizations (CSOs). In 1992, at the Rio Environment and Development Conference in Rio de Janeiro, 1,378 organizations were registered, most of them lacking formal accreditation to the UN. The summits provided an opportunity to break loose from heavy intergovernmental procedures in which only accredited INGOs could read prepared statements at the close of the debate, and to experiment with parallel forums, caucusing, happenings of all kinds. It was a decade of fantasy, innovation, idealism, but for many CSOs it closed in a climate of delusion. The Millennium Development Goals, negotiated in a closed-door UN committee, were felt to be a pallid reflection of the ardor of the summits. The neo-liberal policies that civil society contested

continued to reign and the threat of co-optation was strong. Many CSOs began to feel the UN system did not offer a meaningful space to pursue their objectives and turned to other more powerful targets, such as the international financial institutions and the World Trade Organization (WTO), and from dialogue to contestation (Pianta 2005).

Food/agriculture as a Fertile Terrain for Social Movement Engagement with the UN System

Engagement with the global food and agriculture agenda centred in Rome, however, was something of an exception to the general picture. The triumph of neo-liberalism, from structural adjustment policies imposed by the International Monetary Fund (IMF) and the World Bank to the liberalization of agricultural trade with the advent of the WTO, had particularly devastating impacts on rural people. The period from the beginning of the 1990s witnessed an astounding concentration of agrifood corporations in global food chains thanks to the rules that were put in place, such that the five largest traders in grains came to control 75% of international trade. Supermarket chains moved into the Global South aided by global policies that opened up these economies to unregulated foreign investment. The number of Walmarts in Mexico rose from 14 in 1994 in pre-NAFTSA to 1,724 in 2012 (Rojo and Perez-Roche 2013). In the multinational input industry the top three companies alone claim almost 50% of the global proprietary seed market that they have been allowed to patent under Intellectual Property Rights (IPRs) that reward corporations for the resources they invest in laboratory research but ignore the far more substantial efforts of millions of anonymous farmers in their fields and the need to guarantee their rights to use and exchange their own seeds.

The corporate-led food regime benefits from a global market organized in a way that favours its operations. Only approximately 15% of all food produced in the world transits through international supply chains, yet the impacts of the way the global market is organized and the speculation it permits are visited on the local food systems of countries whose exports are minimal. Organisation for Economic Co-operation and Development (OECD) countries have actually increased their subsidies to their farmers in absolute terms since the WTO Agreement on Agriculture went into effect (Clapp 2012, 72–73), allowing products to be put onto the market at prices that do not need to cover production costs, while governments in

the Global South are forbidden to protect their markets in order to defend their local producers against the resulting unfair competition.

Global food chains are intimately connected to an industrialized model of agricultural production because of their logic and scale and the economic interests that drive them. One result is that of expelling peasants from their land to make room for extensive monoculture plantations. Contract farming linked to corporate value chains is cited as a win-win alternative, but most often it isn't. Farmers are subjected to corporate control over what they plant, when and how and hence loose the autonomy which is the basis of their resilience. Corporate value chains reward everyone else more than the primary producer. Ninety per cent of the world's cocoa is grown by some 5.5 million small-scale farmers, who receive less than 5% of the total value of the average chocolate bar (OXFAM 2013). Yet the corporate narrative assumes that the future for small-scale family farmers lies in linking up with the industrial food chains—for the best-resourced men who can manage to do so—and becoming 'advanced farmers' while the rest will be obliged to move out of agriculture in the name of progress.

Those directly concerned by this narrative are by no means an insignificant minority. They represent some 3 billion family farmers, pastoralists, fisherfolk, indigenous peoples, agricultural workers, and others, producing most of the world's food. They have been organizing around the world, starting at local level and building up, in reaction to the impacts of neoliberal policies on their livelihoods and access to resources. The need to reach global level became increasingly evident the more national policy space shrank. The largest and best-known global peasant network, La Via Campesina, was born in 1993, just two years before the advent of the WTO (Desmarais 2007). The World Food Summits called by FAO in 1996 and 2002 and the civil society forums held in parallel provided a strong impetus for global networking by these movements. This was due in good part to a deliberate political choice on the part of the organizers to put rural social movements in the majority and in the decision-making role in formulating civil society positions, in contrast to other UN processes in which NGOs—particularly from the Global North—have dominated (McKeon 2009).

These social movements have progressively developed an alternative paradigm to green revolution technology and free trade. In 1996 the concept of food sovereignty was introduced to the civil society forum by La Via Campesina; by 2002 it was adopted as the assembly's platform. The social movements also established an autonomous network to carry forward their

engagement with global institutions: the International Planning Committee for Food Sovereignty (IPC). Since 2003 the IPC has opened up political space for rural movements in global FAO forums to which they previously had no access and has coached them in how to occupy it effectively.

Food sovereignty turns upside-down the logic of the corporate-led global food supply system and the neo-liberal policies on which it rests. It invokes the right of peoples to define their own healthy and sustainable food and agriculture systems. It prioritizes food production for domestic and local markets based on small-scale agro-ecological production systems supported by public policies and investments. It defends peoples' access to and control over productive resources, including seeds. It aims at ensuring remunerative prices for farmers by regulating and protecting markets. It values diversity, overcomes distancing between producers and consumers, and builds from the bottom up (Nyeleni 2007; Wittman et al. 2010).

This vision is not abstract; it is rooted in practice. In the Global North initiatives to reconnect consumers to sources of healthy food are proliferating. In the Global South the dominance of small-scale family farming and local food webs is overwhelming. African family farms represent 80% of all farms in the continent and meet up to 80% of the food needs of the population. World-wide the 'peasant food web' produces some 70% of the total food eaten by people, although the support they receive from the public sector support is minimal (ETC 2013). People in all regions are fighting to defend their access to and control over water, land, biodiversity, not just through protest but with concrete action, for example to save and multiply threatened native seed (La Via Campesina 2013). Agro-ecological models of production are gaining recognition to the point where the Director-General of FAO closed a major symposium on agroecology in September 2014 with the statement that 'Today a window was opened in what for 50 years has been the Cathedral of the Green Revolution' (La Via Campesina 2014). The domination of a single idea of The Market is being challenged. Instead, the world is full of markets that decentralize the encounter between food supply and demand and respond to criteria other than profit alone. Approaches to research and generation of knowledge that build on and enhance local knowledge are being developed. Alliances with local authorities are being built, for example in the form of local food policy councils in which citizens take decision-making on food provision back into their hands.

If one contrasts how the two contrasting food systems impact on major global challenges—such as maintaining dwindling biodiversity, protecting

human health, combatting food waste, addressing climate change—there is no doubt as to which approach to food provisioning scores best. If the prices of the corporate food regime products were obliged to reflect the cost of their negative environmental, social, and political externalities they would be decisively higher than those of the products of small-scale agro-ecological producers selling on local markets.

The fallback argument for supporters of the global corporate food system is that, whether we like it or not, only industrial agriculture can double food production by 2050 to feed the world's growing population. This thesis rests on several questionable assumptions. The first, that the world's population will inevitably soar beyond 9 billion by 2050, ignores the fact that the average family size worldwide has dropped by about half over the last four decades and will drop more the more women are empowered. The second assumption, that we do need to double food production, is contradicted by overwhelming evidence that the present food supply is more than adequate today and will be tomorrow. The problem is one of unequal and iniquitous access to food and its solution requires political will and not technical attention to productivity. Finally, the corporate narrative assumes that industrial, high tech agriculture is, indeed, significantly more productive than agro-ecological family farming, a false thesis of which a recent study published by a team of UC Berkeley researchers is just the latest rebuttal (Berkeley News 2014).

This rapid review is intended as a reminder that concrete action is under way around the world to build more equitable and sustainable territorially rooted food systems, so supportive changes in paradigms, regulations, and resource allocation at the global level could make a difference. An authoritative report published by the Committee on World Food Security's High Level Panel of Experts on Food Security and Nutrition in 2013 made the important point that the transformations in agriculture that are taking place around the world—generally adverse to smallholders and food security—are not inevitable. They are the result of explicit or implicit political choices, and appropriate policies cannot be expected without transparent political processes that involve smallholder organizations. (High Level Panel of Experts 2013, 14). So there's an issue of who decides.

And on what basis. Decision-makers like to consider that they can count on scientific information to provide them with 'objective' grounds for what is termed 'evidence-based policy'. But evidence is framed by the paradigms we adopt, which condition the assumptions we make. Like the

productivist paradigm that leaps out at us in in this excerpt from President Truman's famous Point 4 Inaugural Address: 'Greater production is the key to prosperity and peace. And the key to greater production is a wider and more vigorous application of modern scientific and technical knowledge' (Truman 1949). Seven decades later the productivist paradigm is still dominant, and underpins the discourse that supports the corporate food system. Productivism privileges Western science and technology, for example by adopting measures that glorify external inputs (yield per single plant) rather than ones that also emphasize a whole range of environmental and social benefits (total yield per diversified field in an agro-ecological optic). And it most often conveniently ignores the structural causes of hunger and malnutrition, as in Bill Gates recipe for vanquishing rural poverty. 'The great thing about agriculture is that once you get a bootstrap— once you get the right seeds and information—a lot of it can be left to the marketplace' (Gates 2013).

Evidence is framed also by the questions asked and the data available. A recent study on sustainable food systems in Africa undertaken by regional small-scale food producers' networks found that statistics only exist about the so-called 'modern' commercial commodity and export markets. No information is available about the informal markets which provide food for most people in the region (EAFF et al. 2013). The result of this gap in information collection is that these food markets are 'invisible' and are not taken into account in policy decision-making despite their importance for food security. This is one aspect of the significance of the reform of Committee on World Food Security that turned it into the first ever global food policy forum in which small-scale producers are at the table and their evidence has to be listened to.

The Reform of the Committee on World Food Security

The food price crisis that erupted in late 2007/2008 was highlighted by riots of the kind that make governments sit up and take notice. It opened up a window of political opportunity for change that the food sovereignty movement was ready to seize thanks to a decade of networking and capacity building. On the one hand it revealed the deficiencies of the dominant neoliberal policies, which had transformed Africa from a net food exporter into net food importer in space of a decade by pushing its governments

to export commodities and purchase 'cheap' food on the world market rather than producing it domestically. On the other, it unveiled a global governance vacuum. In the absence of an authoritative and democratic global food security forum, decisions in this fundamental area were being taken by default by institutions such as the WTO and World Bank whose remit is not food security, by donor government groups such as the G8, and—worse still—by economic actors such as corporations and financial speculators subject to no political oversight.

The international community was obliged to act. UN Secretary-General Ban Ki-Moon established a High Level Task Force for the Global Food Security Crisis (HLTF), grouping the secretariats of 23 UN family agencies, which aimed at improved coordination but with no political oversight. The HLTF was allied with a hazy, G8-promoted proposal for launching a Global Partnership for Agriculture and Food Security which highlighted the need for more investment in agriculture but with no discussion of what kind of investment in what models of agriculture. Among the reactions, the only one that sought policy-led solutions to the causes of the crisis was a proposal for the reform of the existing but ineffectual UN Committee on World Food Security (CFS) based in the FAO. Against all odds, this last option won thanks to an alliance among a number of G77 governments, FAO, and the food sovereignty movement.

The reform, negotiated during 2009, was an unprecedentedly inclusive and transparent process by UN standards. The IPC facilitated participation by rural movements, helping to block attempts by some governments to limit the political weight of the renewed forum. The outcome was worth the effort. The reformed CFS is recognized as the foremost inclusive global food forum and, as such, is entitled to promote policy coherence among the myriad institutions that impact on food security. It deliberates on food issues from a human rights perspective. Adequate food is acknowledged to be an unalienable right, not just a desirable outcome as in development discourse. Civil society organizations are recognized as full participants, not observers as elsewhere in the UN system. They intervene throughout the debate on the same footing as governments and accompany the CFS intergovernmental Bureau all year round helping to determine the agenda and frame the debate. The private sector is in the room as a separate constituency, not confounded with civil society as in the Major Groups or Non-State Actors configurations. Decision-making takes place in plenary sessions rather than closed-door drafting rooms. At the end of the debate it is the governments who decide and hence can be

held accountable. The High-Level Panel of Experts (HLPE) established to provide CFS with an autonomous analytic basis for deliberation on contentious issues acknowledges that expertise is vested in small-scale producers and practitioners as well as in academics and researchers. Finally, the reform document seeks to build bridges between global policy decisions and what actually happens on the ground and to encourage replication of inclusive policy processes at all levels.

Civil society's right to self-organization is recognized, overcoming the tendency of some governments to want to control the 'who' and the 'how' of the interface. The resulting autonomous Civil Society Mechanism (CSM) is open to all organizations at all levels that are involved in food security issues. It is not a representative structure but an inclusive space for dialogue and information-sharing. It seeks consensus on topics under debate in the CFS but recognizes that this outcome will not necessarily be achieved given the wide range of identities and orientations. Priority voice is assigned to constituencies representing those most affected by food insecurity: peasant farmers, artisanal fisherfolk, pastoralists, indigenous peoples, agricultural workers, landless, urban poor, consumers, rural women, and youth. NGOs are expected to play a supportive role.

On paper, there has never been a global policy forum like this. What difference does it make in practice? The issues of land tenure and investment in agriculture are a good test since they are at the heart of the contrast between corporate supply chains and food sovereignty approaches to food provisioning. From the outset civil society has been conducting a battle to obtain recognition that small-scale agro-ecological food production and local food systems are the most modern, effective, sustainable response to today's challenges, and to win policy support for them in the CFS. How are they faring?

When the phenomenon of land grabbing hit the headlines in 2008 there were essentially two opposing responses from the international community. The G8 asked the World Bank to develop Principles for Responsible Agricultural Investment (PRAI). When these were released in 2010 they were viewed by social movements and others essentially as a white-wash for land grabbing. They welcome large-scale investments—including land acquisitions—as a 'development opportunity'. They make no reference to human rights and state obligations and expect corporations to self-regulate. Process-wise, they were formulated by the secretariats of four international organizations without any kind of consultative process. The alternative proposal, the product of a decade of social movement advocacy

and interaction with FAO, was to conduct an international, intergovernmental negotiation aimed at adopting guidelines on governance of tenure of land and other natural resources.

The very first session of the reformed Committee on World Food Security in October 2010 had both options on the table. Following acrimonious debate in which civil society and social movement participation was determinant, the Committee agreed to undertake the negotiation of the tenure guidelines while it refused to adopt, and thus legitimate, the PRAI despite strong pressure from some G8 governments. It decided instead to launch a consultation in CFS on what principles would need to be put in place if the objective were to ensure that investment in agriculture supports food security.

The Tenure Guidelines (TGs), the subject of two years of intense negotiations, were adopted in May 2012. As always, civil society counted both wins and loses but the former predominated. These are the first ever globally agreed guidelines on the delicate issue of land tenure. They are based on principles of universal human rights and are hence legally relevant at global and national levels. They are strong on issues of importance to social movements, such as respect for customary tenure, gender concerns, community consultation, states' obligations to regulate their corporations. They provide important safeguards against large-scale land acquisitions although do not denounce them completely. These outcomes would not have been possible in a less inclusive political forum.

Land-grabbing is only the most highly visible aspect of a broader effort to orient investments in agriculture to promote the corporate food system, backed by well-funded campaigns presenting it as the solution to food insecurity. Thanks in good part to social movement engagement it has been possible to make significant progress in changing the terms of the debate in the CFS. It has been officially recognized in CFS policy recommendations that it is the small-scale producers—not governments or corporations—who are responsible for most of the investment that takes place in agriculture and for producing the food that meets the demand of most of world's population. It should be self-evident that the only conceivable winning strategy to promote food security is to support and defend small-scale producers' own investments and help them do an even better job of feeding the world.

Civil society actors hoped that this policy guidance could be strengthened through the subsequent negotiation of 'responsible agricultural investment principles' (rai), the CFS's response to the PRAI. However,

these negotiations proved to be exceeding strongly contested for several reasons. Corporations and private sector-friendly bilateral and multilateral programmes were set on obtaining an instrument that they could use to white-wash their operations by 'cherry-picking' a few relatively innocuous principles and claiming to be rai-compliant. At the same time, the big powers were more combative in the rai negotiations because of the mounting significance of the CFS as a policy space. Additionally, some governments that had been allies of civil society during the tenure guidelines negotiations on issues involving defending human rights (Europe) or smallholders (Africa) were far more divided and weak on investment because of the interests involved. Civil society did succeed in obtaining some positive elements. The rai contain precedent-setting references to agricultural workers' rights and acknowledge the need to assess potential negative impacts of investments with the option of blocking them. Another victory was the recognition that agricultural producers cannot be lumped together in an abstract category of 'farmers'. According to the size and the logic of their operations they are either small-scale family farmers or business enterprises, and the two categories have very different identities and needs.

Nonetheless, civil society non-negotiable 'red lines' were crossed on several occasions and the overall assessment was negative on important points. The rai are judged to contain insufficient emphasis on the human rights framework, particularly regarding trade, and on public sector support for peasant-based production and food systems. The section on the role of state regarding regulation is too weak and there is no recognition of the need to address power imbalances. On the contrary, the text does a 'balancing act' between the interests of small-scale producers and the corporate sector which covers up the significant differences between two opposing models for the future of agriculture. Not surprising, the provisions for monitoring the use and impacts of the rai in the field are notional at best. One year after the adoption of the rai the battle continues in the context of an effort to develop CFS policy guidelines on the contentious topic of 'linking smallholders to markets'.

Making Global Norms Work for the Vulnerable

The past seven years of experience with the reformed CFS demonstrate that it does offer a propitious environment for changing the terms of the debate to the benefit of the voiceless and for generating more progressive

normative guidance. However, there are big challenges. A major problem stems from the fact that its products are voluntary. They have to be translated into national legislation to be binding. Here we run up against the ambiguous role of states, currently among the worst offenders in terms of promoting narrow and shortsighted objectives and yet a basic building block for defence of the collective rights of today's and tomorrow's citizens.

Holding governments to account requires building stronger links between global norms adoption, serious monitoring of what is done with them, and social and political mobilization from below. This is what the social movements that participated in the negotiation of the CFS tenure guidelines are seeking to do now by putting the guidelines at the service of peoples' struggles in countries throughout the world. Taking concrete experience as the starting point, they are turning the dry text into a living support for peoples' struggles. Global policy gains need to be appropriated and used by the vulnerable to make a difference. The fact that social movements were so strongly engaged in the development of the TGs gives them a sense of ownership which contrasts strongly with their indifference to other global instruments such as the Sustainable Development Goals.

What are some of the other key issues that require attention in order to make global norms work for the vulnerable? High on the list is the need to acknowledge and address the existence of issues of power, a problem that apologists of the corporate food system try to ignore. As a former UN Special Rapporteur for the Right to Food notes,

> Power in food chains has long constituted a taboo. Indeed, the need to improve the governance of food systems in order to avoid instances of excessive domination by a small number of major agrifood companies is hardly ever referred to in international summits that seek to provide answers to the challenges of hunger and malnutrition. (De Schutter 2014)

The trend today, on the contrary, is towards vaporous multi-stakeholderism that lets everyone into the governance room on the same footing without distinctions, with the result that the more powerful—the corporations—rule the roost while government accountability evaporates. At the national level, would it not make sense for national actors only to be entitled to participate in deciding what's best for their society, or should foreign donors, multilaterals, corporations also have a say? Would it be reasonable to see the Chinese government sitting in the front row of the

New York City Council considering that Chinese investments in NYC real estate totalled some $6.5 billion in 2015 alone? Of course New Yorkers would not be amused. Yet, in Bangladesh when it's a question of deciding whether to promote nutrition through small-scale diversified agriculture and diets or corporation-manufactured supplements the funders and investors weigh in strongly through the powerful multi-stakeholder 'Scaling Up Nutrition (SUN)' platform of which they are members. There is a confusion of different actors and their roles and responsibilities.

At global level, the most audacious corporation-promoted proposal is the World Economic Forum's Global Redesign project, including a Global Food, Agriculture and Nutrition initiative. This approach aims at substituting multilateralism with multi-stakeholderism—described as 'coalitions of the willing and able'—in which governments and intergovernmental frameworks only one, and not necessarily most important, component (Samans et al. 2010). Here, as in other corporation-driven multi-stakeholder platforms, issues tend to be framed in such a way that market-based solutions are likely to be the 'best outcome', participation and transactions are anything but open and transparent, and corporations claim a protagonist role without assuming the obligations and liabilities that governments normally do (Gleckman 2013).

Principles underpinning the Global Redesign approach are being applied throughout the global governance system. A recent study of how multi-stakeholder platforms and corporate business and philanthropy are invading the UN concluded that 'the functioning of the UN and the effectiveness of global governance are slowly being changed through the trend to stakeholder-selected activities and financing rather than multilateral, inclusive, transparent and nationally accountable decision-making' (Adams and Luchsinger 2015). This trend risks crowding out the essential normative work of the UN. The proportion of the total budget of the World Health Organization (WHO) funded from such voluntary contributions to donor-selected activities rose to 77% in 2014–15.

Questions can be asked even of the reformed CFS, where confusion of roles is minimized by the fact that decision-making rests with governments and that private sector participation is managed through an autonomously designed private sector mechanism in which the dominance of multinational corporations, to the practical exclusion of small and medium businesses in the Global South, is visible to all. Yet even so, one can ask whether corporations ought to be involved in any form in negotiating guidelines that are intended to ensure that the right to food

prevails over shareholder profits. If they are in the room, is it not necessary to acknowledge and address potential conflicts of interest, as civil society organizations are pushing the WHO to do, unsuccessfully thus far? A common sense answer, too often ignored in governance circles, comes from Harvard University's Edmund J. Safra Center of Ethics: 'The commercial interests of multinational food companies inevitably diverge in fundamental ways from those of public sector agencies responsible for health, nutrition and food security… When public officials downplay the divergence, they imperil the integrity of their institution' (Marks 2014).

A related issue is the need to debunk public–private partnerships (PPP), a contemporary buzzword of today which has been elected as the primary modality for implementation of the new adopted Sustainable Development Goals. There is no sound evidence that such arrangements make a positive contribution to food security. On the contrary, a study commissioned by the Ministry of Foreign Affairs of the Netherlands, notoriously private sector-friendly, found that 'the empirical evidence on the effectiveness and efficiency of PPPs is notably scarce. PPP evaluations focus on resource sharing but pay little attention to the risk-sharing and revenue distribution dimension of partnerships' (Ministry of Foreign Affairs of The Netherlands 2013).

An FAO overview of PPPs in the field of agriculture listed a series of success conditions that, if applied scrupulously, would virtually exclude large-scale corporate investments. Partnerships should '(1) be carefully designed according to the principles for responsible investments, taking into careful consideration the degree of inclusiveness of the business model proposed; (2) ensure that the right legislative and policy frameworks are in place to avoid negative socio-environmental impacts on local economies (e.g. land expropriation, loss of livelihoods, depletion of natural resources); and (3) ensure compliance with international best practices should national frameworks not provide adequate safeguards'(Paglietti and Sabrie 2013). It has been estimated that only 12% of all small-scale producers, almost all men, can fulfil the conditions required by contract farming, the main modality for PPPs (Vorley et al. 2012, 6). Yet recipient governments are enjoined to establish 'enabling environments' for corporate investment and donor governments use public aid funds as 'patient capital' or 'leveraging grants' to cover up-front costs so corporations can start to make profits right away (FAO 2012, 336), rather than investing in infrastructure and services suited to supporting small-scale producers' own investments.

PPPs most often fail to define the obligations and regulate the behaviour of the private partners. This brings us to another prerequisite for putting global norms at the service of the vulnerable: the need for public sector regulation has to be recognized. There is a lot of talk about corporate social responsibility (CSR), but research demonstrates that the uptake of CSR involves a minimal part of corporate activities. It concerns essentially corporations with well-known brand names who care about their public image. Even these pick and choose which measures to apply at lowest cost and greatest visibility, applying the 'cherry-picking' modality that CSOs in the CFS denounced regarding the rai principles. As West African peasant leader Mamadou Cissokho has put it, 'We don't want 'responsible investors'. We want legislative frameworks that protect us effectively and investors who are obliged to respect the law' (Cissokho 2012).

Transnational corporations' rights are protected by hard laws with strong enforcement tools, while their obligations are backed only by soft laws and voluntary guidelines. How to correct this imbalance is perhaps the greatest challenge that needs to be addressed to promote defence of public goods and peoples' rights, and the task becomes more arduous the more corporations assume regulatory responsibility and enter into governance spaces. The international human rights (HR) framework, with its clear distinction between rights holders and duty bearers, is one good starting point for assigning political responsibility for corporations' behaviour. Governments are the prime duty bearers in the human rights framework and it is they who are expected to call corporations to account. The Maastricht Principles developed in 2012 detail the obligations of states to ensure that businesses based in their territories respect human rights standards when they operate abroad as well as at home. But here we encounter once again the dilemma of the questionable capacity of most states to play their role as defenders of the public good ... unless public pressure obliges them to do so.

Accountable food governance can be built from the bottom up when citizens mobilize. National governments are daring to challenge global rules on issues such as using public procurement and stocks for food security in India, taking on the WTO, or raising tariffs to protect local poultry production in Cameroon from dumped European frozen chicken parts. But this requires protecting citizen-led decision-making from abuses such as the latest generation of trade and investment partnerships. The Transatlantic Trade and Investment Partnership is being negotiated behind closed doors but in close consultation with corporate lobbies.

Some 72% of all of the meetings with external stakeholders conducted by the Trade Directorate of the European Commission have been with businesses (Friends of the Earth Europe 2014). A massive citizens' campaign in Europe is now turning a spotlight on these negotiations and may succeed in blocking them or at least taking the most damaging provisions, like such as the International Dispute Settlement Mechanism, off the table.

Law professor and human rights activist Richard Falk has succintly stated the dilemma with which the world is confronted today: What to do 'when what must be done for the sake of sustainability and survival exceeds what is possible politically?' His answer involves two main elements. On the one hand, wresting discursive legitimacy from those who are taking us on a collision course with the limits of the planet and investing it, instead, in those who are working to build equitable and sustainable alternatives. And, on the other, promoting what he calls 'a robust dialectic' between functional centralization to address global problems and a determined politics of decentralization and diffusion of power to spaces where citizens can engage effectively and diversity can thrive (Falk 2011 quoted in Gill and Cutler 2015, 19).

This is a pretty reasonably good description of the agenda the food sovereignty movement is pursuing. Will the movement be able to help fragment the global hegemony of the corporate food system in favour of a territorially rooted and governed approach to food provision? Can the reformed Committee on World Food Security fulfil its promise of serving as a global forum that actually supports, rather than squashing, initiatives from below? These are open questions, but there is no doubt that that the CFS is an innovative and politically significant experiment that merits the attention of scholars, policy-makers, practitioners, and activists.

BIBLIOGRAPHY

Adams, B., & Luchsinger, G. (2015). *Fit for whose purpose*? Social Watch and Global Policy Forum. Retrieved from https://www.globalpolicywatch.org/wp-content/uploads/2015/07/GPW8_2015_07_27.pdf

Berkeley News. (2014). *Can organic crops compete with industrial agriculture?* Retrieved from http://news.berkeley.edu/2014/12/09/organic-conventional-farming-yield-gap/

Cissokho, M. (2012). *Letter addressed to African regional civil society networks.*

Clapp, J. (2012). *Food.* Cambridge: Polity Press.

Desmarais, A. A. (2007). *La Via Campesina.* London: Pluto Press.

De Schutter, O. (2014). 'Introduction' to *Who's got the power*? Tackling imbalances in agricultural supply chains. *Fair Trade*. Retrieved from http://www.fairtrade-advocacy.org/ftao-publications/press-releases/press-release-2014/781-who-s-got-the-power-new-study-confirms-imbalances-in-agricultural-supply-chains

EAFF, PROPAC, & ROPPA. (2013). *Family farmers for sustainable food systems. A synthesis of reports by African farmers' regional networks on models of food production, consumption and markets*. Rome: EuropAfrica. Retrieved from http://www.europafrica.info/en/publications/family-farmers-for-sustainable-food-systems

ETC. (2013). *With climate chaos....Who will feed us? The industrial food chain or the peasant food web?* Retrieved from http://www.etcgroup.org/content/poster-who-will-feed-us-industrial-food-chain-or-peasant-food-webs

Falk, R. (2011). quoted in S. Gill and A. Claire Cutler, *New constitutionalism and world order*. Cambridge University Press, 2015.

FAO. (2012). *Trends and impacts of foreign investment in developing country agriculture*. Evidence from case studies. Rome: FAO.

Friends of the Earth Europe. (2014). *Who'd driving the EU-US trade talks?* Retrieved from http://www.foeeurope.org/whos-driving-eu-us-trade-talks-070714

Gates, B. (2013). Agricultural productivity is key to reducing world poverty. *Farmers Feeding the World*, 9 May 2013. Retrieved from http://www.agweb.com/farmersfeedingtheworld/article/bill_gates_agricultural_productivity_is_key_to_reducing_world_poverty/

Gleckman, H. 2013. *Reader's guide: Global redesign initiative*. University of Massachusetts Boston, Center for Governance and Sustainability. Retrieved from https://www.umb.edu/gri

High Level Panel of Experts. (2013). *Investing in smallholder agriculture for food security*. Rome: Committee on World Food Security. Retrieved from http://www.fao.org/3/a-i2953e.pdf

La Via Campesina. (2013). *Our seeds, our future*. Retrieved from http://viacampesina.org/downloads/pdf/en/EN-notebook6.pdf

La Via Campesina. (2014). *The international Symposium on Agroecology in FAO in Rome*. Retrieved from http://viacampesina.org/en/index.php/main-issues-mainmenu-27/food-sovereignty-and-trade-mainmenu-38/1671-international-symposium-on-agroecology-at-the-fao-in-rome

Marks, J. H. (2014). *Nutrition and global health policy: A critical moment*. The BMJ. Retrieved from http://www.bmj.com/content/349/bmj.g5457/rr/777767

McKeon, N. (2009). *The United Nations and civil society: Legitimating global governance-whose voice?* London: Zed.

McKeon, N. (2015). *Food security governance: Empowering communities, regulating corporations*. Abingdon: Routledge.

Ministry of Foreign Affairs of The Netherlands. (2013). *Public–private partnerships in developing countries*. A systematic literature review. Retrieved from https://www.government.nl/documents/reports/2013/06/13/iob-study-public-private-partnerships-in-developing-countries

Nyeleni. (2007). *Declaration of the forum for food sovereignty*. Retrieved from http://nyeleni.org/spip.php?article290

Paglietti, L., & Sabrie, R. (2013). *Review of smallholder linkages for inclusive agribusiness development*. FAO Investment Centre. Retrieved from http://www.fao.org/uploads/media/Ghana_16Sept.pdf

Pianta, M. (2005). *UN world summits and civil society: The state of the art*. Geneva: UNRISD.

OXFAM. (2013). *Women and the big business of chocolate*. Retrieved from http://www.oxfamamerica.org/static/media/files/oxfam-fact-sheet-women-and-cocoa-screen.pdf

Rojo, & Perez-Roche. (2013).

Samans, R., Schwab, K., & Malloch-Brown, M. (Eds.). (2010). Global redesign. *Strengthening international cooperation in a more interdependent world*. Geneva, World Economic Forum. Retrieved from http://www3.weforum.org/docs/WEF_GRI_StrengtheningInternationalCooperation_Book_2010.pdf

Truman, H. (1949). *Inaugural address*. Retrieved from http://www.trumanlibrary.org/whistlestop/50yr_archive/inagural20jan1949.htm

Vorley, B., de Pozo-Bergnes, E., & Barnett, A. (2012). *Small producer agency in the globalized market*. HIVOS, IIED, Mainumby Nakuratu. Retrieved from http://pubs.iied.org/pdfs/16521IIED.pdf?

Wittman, Hannah, Annette Desmarais, & Nettie Wiebe, (Eds.). (2010). *Food sovereignty: Reconnecting food, nature and community*. Halifax: Fernwood Publishing and FoodFirst Books.

Policy Engagement and Civil Society: The Case of IFAD

Lauren M. Phillips

Introduction

The majority of the world's poor live in rural areas and their primary occupation is farming, either of a subsistence nature, as part of integrated value chains in particular products and commodities, or both producing for their own consumption and selling some of their goods. Such farmers struggle to obtain the physical inputs necessary to produce sufficient quantity and quality to maintain their families and increase their assets, and they lack the know-how and financing to improve their production capacity. However, these difficulties do not arise solely or even principally from individual failings to prepare for the market, but, rather, from more systematic shortcomings, one of which is that farmers are often weakly organized, failing to form or participate in formal farmer organizations or cooperatives, remaining reliant on intermediaries and subject to wide price variation for their goods. The lack of organization into cooperatives, farmers' organiza-

L.M. Phillips, PhD (✉)
Policy and Technical Advisory Division, International Fund for Agricultural Development – IFAD, Rome, Italy

tions (FOs) or other types of rural people's organization (RPO) creates challenges related to bargaining power over the price of sale and the cost of inputs; access to and cost of training and know-how; and eventually participation in and the capacity to contribute to public policy debates.[1]

The final point is especially critical as public policy frameworks have historically failed to take into consideration the needs and experiences of rural people and farmers, and in more disadvantageous cases, public policy frameworks have prevented smallholder farmers from participating in policy negotiation, contributing to the creation of barriers to market access that (by design or by omission) shut out smaller participants from the marketplace. Organization into cooperatives, FOs, or RPOs, a particular subset of civil society organizations (CSOs) relevant to rural development, can have a significant impact on the productive capacity, financial viability, and livelihoods of such farmers, as well as a significant impact on the shape that the policy frameworks in those countries take and the extent to which they are adapted to the needs and knowledge of smallholder farmers.

When policies are supportive of the needs and interests of rural producers and the civil society organizations that they belong to they can help to provide the conditions for lifting people out of poverty.[2] The literature on the political economy of rural development and agriculture suggests that transformative shifts in agricultural productivity, and the related benefits that accrue to farmers, depend on the ample provision of public goods and on having a policy framework that takes into account the needs of the agricultural sector. However, for reasons including those related to interests, institutions, and ideas (that is to say, the distribution of power), these public goods have historically and frequently been inadequately provided by states in the developing world.[3] In fact, when developing country governments have focused on rural areas, it has often been to favour entities that were capable of generating significant foreign exchange through production of cash crops for export—large landholders or foreign corporations—rather than smallholders and the organizations that they belong to.

Recent changes to both the domestic and international political economy have improved the conditions for policy frameworks for rural development in many countries, which have grown to incorporate in a more holistic fashion the needs and interests of smallholder farmers and their organizations. International organizations and other members of the international development community have played a role in advancing this outcome, by assisting with the organization of rural producers into CSOs in order to facilitate their participation in public policies. This chapter

explores how the formation and strengthening of smallholder farmers into organized groups—cooperatives, FOs, or RPOs—can facilitate not only the improvement of the production capacity of farmers but also the rural policy framework. Specifically, it focuses on the way that the International Fund for Agricultural Development (IFAD) engages with FOs and RPOs to improve public policy frameworks in the countries in which it works, and the chapter provides some specific examples of recent practice from different regions. As section 5.3 describes, IFAD puts emphasis on a variety of ways of engaging in country-level policy across the policy cycle (identification, consultation, formulation, implementation, monitoring and evaluation) and has particular experience in facilitating spaces for RPOs/FOs to participate in public policy processes, a set of activities which work in tandem with IFAD's strong emphasis on strengthening and formulating FOs and RPOs as part of its larger work in agricultural and rural development.[4]

The chapter also explores the political economy in which smallholder farmers and their organizations operate, and then discusses, from a theoretical perspective, how public policy frameworks might be made more favourable to smallholder farmers and the CSOs they belong to, and therefore increase the opportunities for income generation among the rural poor. The core hypothesis is that the emergence of policies and policy frameworks favourable to smallholders requires that two features be in place. First, to ensure that the underlying policy framework enables achievement of the productive inclusion of smallholders and their access to markets, smallholders should be well organized into cooperatives or farmers' organizations/RPOs. Once smallholders are organized into the types of CSO relevant for agricultural and rural development, they can lobby for greater public spending to provide enabling public goods and for laws and regulations to be changed to facilitate their participation. They bring with them on the ground knowledge of the gap between policy intention and policy implementation, as well as significant experience of working with markets, which can benefit the government in the reform of its policies. Secondly, governments (whether at the national or subnational level) must count the rural poor among their core constituencies—that is, rural voters matter to their electoral success or are recognized as important for other political, economic or ideological reasons. This set of nested hypotheses is explained in greater depth in the Section 5.2.

The rest of the chapter is organized as follows. Section 5.2 describes the political economy of public policies oriented towards smallholder rural development, focusing specifically on the importance of the formation and

strengthening of CSOs by farmers and the ways that such groups can enhance the quality of public policies. Section 5.3 discusses IFAD's model of country level policy engagement, focusing in particular on modalities related to enhancing the participation of FOs and RPOs in the domestic political process, and creating spaces for exchanges of ideas and information between government actors, the private sector and FOs/RPOs. Section 5.4 provides some specific examples of IFAD's recent experience in country level policy engagement focused on FOs/RPOs. Section 5.5 briefly concludes.

Barriers to and Necessary Conditions for Creating Enabling Policy Frameworks

This section looks at the kinds of condition that need to be in place to encourage the evolution of pro-poor rural development frameworks, and, more specifically, it examines a set of policies that could encourage the active and meaningful participation of smallholders in markets. Before doing so, it provides a brief historical overview of the reasons that the rural poor and smallholder interests have tended to be ignored.

The post-Second World War model of political economy in developing countries, which drew on dependency theory and theories influenced by the independence movement in post-colonial countries to inform its policy orientation, encouraged a strong state presence in regulating and creating markets and protecting domestic industries from international competition so that these could grow and develop. In countries in which exports had traditionally been strongly focused on agricultural commodities, agriculture was particularly dominated by vested interests and the allocation of rents to the sector, which in Latin America, for example, reflected the long-standing unequal distribution of land and income throughout many of the countries in the region and, therefore, the power of large landholders in the polity to capture state resources.[5]

The movement towards neo-liberal economic paradigms of the 1980s and 1990s, in tandem with a policy shift at the international level which was transmitted to developing countries (e.g. through the World Bank supported Structural Adjustment Programmes), saw the reduction of the state's role in the economy and also encouraged the reduction of state participation in agriculture, although reduction of the state in this sector lagged behind other reforms such as those liberalizing trade and financial systems. Again to take the example of Latin America, between 1980

and 2000, following the general trend towards more balanced budgets and lower state participation in the economy, the average level of public investment in agriculture fell from 8% to 2% of gross domestic product (GDP), consistent with the decreasing weight of agriculture in national economies.[6]

The long-standing failure of policy frameworks to adequately consider the interests of the rural poor/smallholders over various phases of economic development is explicable by looking at the political power of various actors within an economy. The classic finding in the political economy of rural development explains that an urban bias persists in most government policy-making, particularly in the developing world.[7] While urban interests are easy to organize for reasons of proximity, and can act as a real threat to governments/leaders located in urban areas, rural interests are more geographically dispersed, which makes them harder to organize and diffuses their threat. As a result, urban interests, especially capital-holding interests, are more likely to dominate national policy-making frameworks, resulting in a disproportionate allocation of funding to urban needs.[8] Historically, when rural interests were prioritized, they were the interests of powerful elites with concentrated economic assets, such as land, who represented a significant source of income and power in the given political economy. Later writing on the same topic, such as the World Development Report of 2008 titled *Agriculture for Development*, also emphasized the difficult political trade-offs in creating policy frameworks in which the priority was mobilizing agriculture for development.[9]

In fact, neither the statist development models of the post-war era nor the liberalized regimes of the 1980s and 1990s adequately or fully addressed the needs of the rural poor in facilitating conditions for smallholders to access markets to sell their products. Despite some recent changes to policy frameworks to make them more pro-poor (e.g. in Latin America where there has been a renewed interest in family farming as opposed to large scale agro-industry for reasons related to food security and poverty reduction),[10] or in some African countries where smallholder farming is seen as a key driver of economic growth and poverty reduction,[11] smallholders continue to face a series of disadvantages in pursuing their interests. As is clear from the literature briefly mentioned above, rural interests tend to represent a more diffused threat, and they also comprise a minority of the electorate. In addition, smallholders also face significant problems of coordination. According to classic theories of collective action, the protection of a group's interests requires the group to be small,

to have concentrated interests, and to face high costs from changes in policy. The larger the group and the more diffuse the costs and benefits of policy frameworks, the less likely its members are to organize and advocate for their interests.[12] The logic of collective action, when applied to rural smallholders makes for even more discouraging predictions: smallholders are numerous and face diffused costs/benefits from policies, in addition to the geographical/political problems already cited.

Thus, it is unsurprising that the interests of the rural poor have not traditionally been considered in policy making, whether in democratic systems or otherwise.[13] As highlighted in the introduction, the argument advanced here is that two features need to be in place to overcome the significant problems that smallholders face in ensuring that urban politicians respond to their needs and in organizing to express these needs. The first of these conditions is that the government needs to have an incentive to pay attention to the needs of the rural poor and—particularly—smallholders. Given the traditional urban biases described above, what is required is that the government see these actors as key constituents (voters in democratic systems, or core elements of support in any system) in supporting its political power or posing a potential threat to it.

Potential forms of government interested in such electorates would be governments dominated by parties drawn from groups that have historically been organized around rural/agricultural revolutions; governments in which leftist politics have come to encompass rural as well as urban workers, through prior organization of rural interests (landless movements, ethnic groups etc.); governments of the right that are seeking to eliminate the threat posed by violence in rural areas (see Booth's review of literature on cases in Africa)[14]; and governments seeking to incorporate rural interests to expand their reliable rural voting bases for other reasons, for example ones related to multi-party democracy and the rising importance of rural majorities. The purpose of these classifications is not to create an exhaustive list, but rather to suggest that policies in favour of family farming and market access for smallholders are more likely to occur when the government has an intrinsic political motivation for promoting the interests of smallholders; these examples serve as archetypes of which rural interests are likely to be considered important.

There are reasons outside of the democratic process too that might encourage governments to consider smallholders are core constituents. The first would be based on economic necessity—as is the case with the development and growth plans of some African economies at present,

small island economies isolated from tourism—when the economies fastest growing sector is agriculture and GDP remains dominated by the sector. An additional reason, though one which theories of political economy would suggest are less likely to be durable and successful,[15] may be international pressure. If aid budgets are determined by the extent to which the rural agricultural poor are beneficiaries of and represented within policy frameworks, governments in aid dependent countries in particular will have an (additional) external reason to prioritize the inclusion of smallholders. Thus, the array of types of government that might be willing to adopt constructive policy conditions for smallholders is broadened to those that see smallholder farmers as key to their electoral or economic success.

The second required condition, and one that is core to the interest of this book, is that farmers themselves must organize in order to better facilitate their chance of participating in politics and public policy at the sub-national and national level, and advancing their needs and interests in the policy framework. The way in which this organization takes places—whether through self-motivation for economic reasons, through international support or some mix of both—is likely to have some impact on the success and longevity of such groups, and this organization of course increases the likelihood that FOs/RPOs become relevant elements of electoral coalitions or sources of support for democratic regimes, so there is an iterative effect.

These two conditions are necessary to ensure that public policy frameworks become more accommodating to the needs of smallholder farmers, and the organizations that they belong to. The 2 × 2 matrix shown in Table 5.1 represents the possible mixes of variables that can emerge. In the most favourable scenario, represented in the upper-left corner, governments have an incentive to focus on rural interests, and smallholders are sufficiently organized into relevant CSOs to advocate for the set of enabling policies required to turn these policy objectives into development outcomes. In contrast, the lower-right corner—in which governments do not count the rural poor among their core constituencies, and smallholders are not sufficiently organized to agitate for their interests—is characterized by the traditional status quo in which government frameworks are not oriented towards smallholder/rural interests.

The other two corners represent more mixed outcomes. In the lower-left corner, the situation is one in which the government is interested in rural constituencies, and may even begin providing significant levels of

Table 5.1 Accounting for the emergence of favourable policy frameworks for smallholders

Sources of political support for government

Includes rural poor	*Excludes rural poor*
Level of organization of smallholders *High*	
Policy frameworks *oriented* towards smallholder farmers and farmers organizations shape the policy objectives and implementation (BEST OUTCOME)	Policy frameworks *not oriented* towards smallholder farmers Pressure from FOs to shape policy objectives and implementation (HIGH POTENTIAL FOR CHANGE)
Low	
Policy frameworks *oriented* towards smallholder farmers. Pressure from smallholders absent as organizations are absent (MISMATCH BETWEEN OBJECTIVES AND POLICY OUTCOMES)	Policy frameworks *not oriented* towards smallholder farmers Pressure from smallholders absent as organizations are absent (TRADITIONAL STATUS QUO)

public investment, but smallholder farmers are weakly organized. In this case, the result may be a lack of translation of policy objectives into outcomes because recipients do not provide sufficient input to ensure policies respond to needs on the ground. The upper-right corner, in contrast, is a less common situation in which the government is not interested in rural constituencies, but these constituencies are organized. This is a situation in which the potential for transformation is high—the underlying organization of rural interests is likely to lead to an increase in their political power and, therefore, a change to the policy orientation over the medium term, depending on the underlying political institutions and regime type.[16]

The matrix clearly ignores a number of highly salient variables. For example, the schematic completely ignores the availability of assets such as land and other inputs, which clearly matters for transforming a positive policy environment into outcomes. In addition, it ignores the conditions and structure of the private sector.

The political reality is also much more complex, and a number of intervening factors not captured in the schematic are worth elaborating on. First, the interests and role of large landholders/agricultural industry may be in direct conflict with the organized interests of smallholders, making the achievement of change more difficult. Secondly, agricultural policies

and government strategy for agricultural growth may focus on larger than average smallholders who are perceived to be more likely to be effective market players. Third, while national governments might have an interest in promoting the interests of smallholders and their organizations, local/provincial governments may work counter to these goals either purposefully or due to weak capacity to implement and interpret national policies (alternatively, the positive interest and attention of subnational governments may run against national government policy and barriers). The government's interest may also appear to be strong, but not be backed up by the financing of public goods (a mismatch between intention and action), or the public goods destined for smallholders and their organizations may be misallocated/lost to corruption. It is also possible that rather than relying on public policy frameworks oriented towards smallholders, organized farmers may be able to have what are normally considered to be public goods (infrastructure, education) provided privately or by other types of non-governmental actors (either NGOs or agribusinesses), therefore overcoming the government's lack of interest in their needs. Nonetheless, the framework illustrated in Table 5.1 helps to explain core political conditions related to the emergence of public policies and their accompanying frameworks oriented towards ensuring policy frameworks work in the favour of RPOs and positive development outcomes.

IFAD's Model of Country Level Policy Engagement[17]

IFAD considers country level policy engagement (CLPE) to be one of its core non-lending tools; policy objectives are also increasingly being mainstreamed into loan projects, enabling a significant portion of IFAD loans to directly address policy issues during the course of their implementation. Nonetheless, there is wide variation in the extent to which policy engagement is utilized, the method selected to engage in policy, the instrument used to facilitate policy engagement and the ways in which policy engagement is incorporated in lending, or treated as a stand-alone topic.

CLPE can be seen as a process to collaborate, directly and indirectly, with its partner governments and other country level stakeholders, to influence policy priorities or the design, implementation and assessment of formal policies that shape the opportunities for large numbers of rural people to move out of poverty. The range of policies IFAD is interested in

is determined by its mandate and strategic framework. They thus include policies around smallholder agriculture, climate change adaptation, gender equality and rural women's empowerment, rural employment creation, rural finance etc. These may be within the agricultural/rural development sector (e.g. policies on the regulation and access to seeds, or the regulatory framework for water user associations), or at the level of the sector (e.g. national policy for rural development, national agricultural strategy).

IFAD does not push a normative or universal policy framework (for example, a set of best practices on irrigation), nor does it use policy as conditions for its lending and non-lending activities. Additionally, IFAD is not a think tank or research institution, and does not as yet produce a large quantity of academic research on policies and their impact in house. As such, IFAD's form of policy engagement is neither focused on advocacy nor conditionality. Instead, IFAD's approach to policy engagement is based on supporting (rather than confronting) national governments, and it is characterized by informing, facilitating and building national capacities for, dialogue, and the design, implementation, and assessment of policies.

There are nearly as many ways for projects to engage in country level policy processes as there are IFAD member states with projects, but interventions can be grouped into three broad areas: (a) policy identification and/or formulation; (b) policy implementation; and (c) fostering policy dialogue and participation. The different types of intervention overlap, frequently they complement each other, and they cover the entire policy cycle—from the initial identification of policy gaps or needs, to the evaluation of long-standing policies. Not all may be relevant or appropriate in the political and institutional contexts of all countries; nevertheless, they show the breadth of activities that can legitimately be thought of as contributing to strengthening national policies for smallholder agriculture and rural development.

IFAD can facilitate the emergence of an enabling policy framework for smallholder farmers and their organizations in two primary ways. First, it can support governments to adopt policies oriented broadly towards smallholders, as some of the examples in Section IV illustrate, by building capacity, bringing evidence, creating space for dialogue among actors. One of IFAD'S roles in these cases is to help generate forums where stakeholders can meet and discuss direct project experience and other types of evidence. In addition, to contribute to the debate, IFAD can fund policy studies or support other types of technical assistance that augment the evi-

dence base. Encouraging governments to consider shifting their policies to favour smallholders requires significant dedication to policy engagement over a relatively long period of time.

The second potential way for IFAD to engage is to encourage—through project financing or grants—the organization and empowerment of FOs and RPOs. The organization of farmers is an important impetus for translating policy frameworks into sets of operationalized policies, laws, norms and regulations that facilitate market access for smallholders. Farmers with higher levels of organization can lobby for greater levels and quality of public spending—e.g. on infrastructure, training and extension services—and changes to regulations that block their access to markets. Organized farmers are also more likely to become aware of policies that affect them, and have the means to bring their claims to the government. The creation of forums for exchange between such groups and policymakers is crucial, as is more basic capacity training and institutional strengthening.

Some Examples of Policy Engagement to Support Farmers' Organizations'

IFAD's engagement in country level policy is undertaken in all five of the macro-regions it works in (East and Southern Africa, West and Central Africa, Latin America and the Caribbean, Near East, North Africa, Europe and Central Asia, and the Asia and Pacific), and examples abound of how IFAD works on policy not only through CSOs, but also directly with CSOs to empower their membership to advocate for policy frameworks suited to their members' needs. The following provides three brief examples from three of the regions in which IFAD works.[18]

East African Community

Co-operatives play a significant role in the economies of the five countries of the East African Community (EAC). There are more than 30,000 registered co-operatives in the region and the movement employs directly or indirectly more than 15 million people. About half of the cooperatives are agriculture-related. Savings and credit co-operatives are also becoming increasingly popular in the region.

There are considerable differences in the legal frameworks for cooperatives in the different countries however, and some of them contain legal

provisions that constrain the development of the cooperative movement. In response to concern from its member organizations on the challenges facing the co-operative movement in the region, since 2009 the Eastern Africa Farmers' Federation (EAFF) has been lobbying for EAC-wide legislation for co-operatives. In that year it commissioned a comparative study of the co-operative laws in the region, the findings of which informed EAFF's push for a regional law. Between 2010 and 2013, it convened meetings with experts in cooperatives and stakeholders to discuss the contents of the proposed legislation. In April 2013, an EAFF team met the Speaker of the East African Legislative Assembly (EALA) and its Committee of Agriculture, Tourism and Natural Resources, one of whose members agreed to move the Bill as a Private Members' Bill.

In January 2014 the EAC Co-operatives Societies Bill 2014 was read for the first time in the EALA. The Speaker then forwarded the Bill to the Committee for further consultations.

The next step was for the EALA Committee, in collaboration with the EAFF and its membership, to convene public hearings on the Bill in all five countries. These events would serve both to raise awareness of the Bill in the member countries, and to collect and consolidate views on it from stakeholders in and outside the co-operative movement.

Building on a longer partnership between EAFF and IFAD under the Support to Farmers' Organization in Africa Programme (SFOAP), funding from IFAD enabled EAFF to sponsor the Public Hearings in two of the countries, Kenya and Uganda. The hearings, which were held in September 2014, were attended by 65–70 people, including representatives from the cooperative movements of the two countries, government ministries, parliaments, the private sector and the media. At both, reports from stakeholders in the national cooperative movements were presented, and comments on the draft Bill were offered by participants. Support for media engagement was also provided through the funding, and this resulted in substantial media outputs in the two countries and growing public interest in the Bill.

As an Act of the Assembly it now awaits assent by the Heads of State of the five EAC countries. Once ratified, it will become law and take precedence over existing national laws; which means that the national laws will need to be amended wherever necessary to conform to this law.

Thereafter, EAFF, in collaboration with her member organizations, intends to conduct an awareness effort in all the EAC partner states. The Act also establishes the East African Co-operative Agency, and one of the

first tasks of the Agency will be to develop the Rules and Regulations of the Act.

Tajikistan

Tajikistan is the poorest of the former Soviet republics, and 77% of its population lives in rural areas. Rural livelihoods typically depend on subsistence farming, livestock and remittances, with livestock ownership being a key component in income generation and diversification for smallholder farmers. In poor and remote agro-ecological regions the production of angora (which is processed into mohair) and cashgora goats often represents the only source of livelihood, particularly for poorer households. However, since the collapse of the Soviet Union, the sector has been constrained by the lack of goat breeding programmes, the limited harvesting and processing skills of small producers, and the lack of access to high-value markets. These factors have had direct impacts on the incomes of poor rural women in Tajikistan. IFAD has a history of working in this sector, in coordination with a series of partners.

Through its grants programme, IFAD has a long-standing involvement in the quality fibres sector. Two grant projects with the International Centre for Agricultural Research in the Dry Areas (ICARDA) have been supporting rural women in producing, adding value to and exporting mohair; a third grant, with the Aga Khan Foundation, aims to develop the women-led small business model and cashgora production. An additional US$16 million Livestock and Pasture Development Project was approved in 2011. An international NGO, the Agency for Technical Cooperation and Development (ACTED), has been an important partner in these projects, and ACTED and IFAD have drawn on this experience to identify the following problems in Tajikistan's smallholder agriculture sector: an underdeveloped civil society; limited awareness among rural people, especially women, of relevant legislation and their own legal rights; lack of confidence to address major issues; and lack of connections and access to government and policymakers.

Following on from this work, ACTED implemented a policy-focused micro-project aimed at addressing the challenges identified and enabling rural people to influence the policy environment and contribute to the sustainable development of the livestock sector in Tajikistan. The initiative was also expected to shape the IFAD country programme by helping to ensure sustainability of results for grant-financed projects and starting

dialogue with the government on building an enabling environment for small business creation, which could feed into the ongoing Livestock and Pasture Development Project and the design process of the project's proposed scaling-up. Through these activities, the project aimed to provide a platform for continued and ongoing policy dialogue in this key sector for rural poverty eradication.

Latin America

In Latin America and the Caribbean, a region where the majority of countries have achieved middle-income status and significant public budgets are allocated to poverty reduction, demand for IFAD services is no longer limited to the loans it offers. In this context, policy engagement is a key element for scaling up development models matured over time by IFAD-supported projects, as well as enhancing the sustainability of project-supported development initiatives by aligning investment projects with poverty reduction policies. In fact, IFAD has been promoting public policy engagement in Latin America, and particularly supporting policy dialogue on issues related to family farming and rural development in partnership with various civil society organizations, for at least 15 years.

Since 2000, IFAD has supported the creation and strengthening of the regional FIDA-MERCOSUR programme that promotes dialogue between organizations representing family farmers and beneficiaries of IFAD projects with government officials in the Common Market of the South (MERCOSUR) countries. This allowed the actors to identify, agree on and articulate public policies for family farming and resulted in the creation in 2004 of the Commission on Family Farming (REAF) and MERCOSUR's Fund for Family Farming (FAF), now both entirely funded by MERCOSUR governments.

Another major initiative has been undertaken with the support of the International Development Research Center (IDRC) and run by Latin America Centre for Rural Development (RIMISP), which aims at raising the profile of policies aimed at rural development and family farming in the region under the grant entitled "Knowledge for Change in Rural Poverty and Development". The project's main objective was to establish a mechanism for policy dialogue that would contribute to improve strategies, policies and national and subnational investment targeting rural poverty in Mexico, El Salvador, Colombia and Ecuador in order to highlight

rural poverty and development analysis and proposals in the national political agenda of these countries.

Conclusions

This chapter has examined the necessary conditions under which smallholder farmers organize into CSOs in order to influence the policy framework in the countries in which they are based, and the role that multinational agencies like IFAD can play in supporting them. After highlighting the theoretical rationale under which FOs form and influence the policy framework, IFAD's conception of country level policy engagement, and the specific ways that they encourage CSOs were highlighted. This was followed by an examination of IFAD's work with CSOs on policy issues in three different regions.

While traditional policy frameworks in the post-war twentieth century were not accommodating to smallholders, more recently there has been positive change towards considering the needs and interests of smallholder/family farmers in achieving access to markets and participating in economic activities. The chapter seeks to account for how these conditions emerge by positing a simple framework suggesting that two factors are necessary: governments' interest in representing the rural poor as a key part of their political constituencies; and the organization of smallholders to identify and ask for changes to micro-level barriers in their access to markets. This framework helps to explain why some governments experience a lag between the development of headline policies oriented towards the rural poor and outcomes, and why not all governments are forthcoming in protecting the interests of smallholders. It is not meant to be an exhaustive framework, but one that helps explain the particular cases in this set of studies.

The examples of IFAD's work presented in the text provide some insight into how international actors can facilitate the emergence of the conditions set forth in the framework, enabling better organization and participation of smallholders, and more attention from governments to the interests and needs of such actors. This in turn can have a positive impact on the policy framework in which smallholder farmers and their organizations operate. IFAD's approach shows there can be a role for external players in supporting such processes.

Notes

1. The definition utilized by IFAD for Farmers Organizations, which has support from the Farmers Forum (http://www.ifad.org/farmer/) states: "Farmer organizations are membership-based organizations of smallholders, family farmers and rural producers—including pastoralists, artisanal fishers, landless people and indigenous people—that are structured beyond the grass-roots or community levels, to local, national, regional and global levels."
2. See IFAD (2014).
3. See Booth (2014).
4. See IFAD publications: "Strengthening smallholder institutions and organizations" which overviews the approach and "Lessons Learned: Strengthening smallholder institutions and organizations" which provides more details. Available online at: http://www.ifad.org/knotes/institution/teaser.pdf and http://www.ifad.org/knotes/institution/lessons_learnt.pdf.
5. See for example the discussion on Latin American patterns of landholding, inequality and the political economy of agricultural support in Jenkins (1991).
6. See Boggs and Thale (2013).
7. It is worth noting that this theory was originally formulated from Asian cases, in which the distributions of populations and land were different from those of Latin America.
8. See Lipton (1977). See also Bezember and Heady (2008) and Stasavage (2005).
9. See World Bank (2008).
10. See for example discussion on family farming and public policy in Latin America in Fernandez et al. (2011).
11. See for example Kydd et al. (2004).
12. See Olson (1965).
13. Some theories of political economy would predict that as democracies emerge in developing countries, policies should shift to represent the "median voter": the voter whose position ensures that a politician wins 51% (the majority) of the vote. In developing countries, this median voter is likely to be poor (although whether she/he represents the urban or rural poor will depend on the country/region). However, in many developing countries, elections are not fought on pure policy platforms, but instead are representations of other types of interest, whether geographical, ethnic or other. In addition, not all Latin American democracies work on majoritarian principles—in many cases, coalitions across parties are needed to govern.
14. See Booth (2015).

15. See for example the literature on the low rates of compliance, and limited positive effects, of conditionality on lending programmes from international financial institutions. A useful summary is contained in Dreher (2006). Additionally, there is a rich literature debating whether country-led poverty reduction strategy papers (PRSPs) improved performance, and to what extent they were independent of multilateral influence. For a summary of experience and evaluations see Driscoll and Evans (2005).
16. It is worth noting that a broad range of literature in political science and neo-institutional economics would suggest that there is path dependency in institutional frameworks, and that the increased institutionalization of policy frameworks makes them more durable, or sticky. See for example Boettke et al. (2008)
17. This section draws heavily from a recent IFAD publication. See IFAD (2016).
18. These cases draw heavily on several recent IFAD publications. See IFAD (2015a, b); and on Latin America, the aforementioned Fernandez, Berdegue and Rosada (2011) paper on policy dialogue in Latin America.

Can Human Rights NGOs Be Trusted in the Corridors of the United Nations and International Criminal Justice Institutions?

Lyal S. Sunga

THE GOVERNMENT BACKLASH AGAINST HUMAN RIGHTS NGOS

Governments around the world have been shortening the leash on human rights non-governmental organization (NGO) watchdogs.

Algeria,[1] Egypt,[2] Bahrain,[3] Israel,[4] and many other countries in the Middle East and North Africa have made it more difficult for NGOs to become established and to operate, squeezing the freedoms of assembly, association, speech, thought, opinion, and expression at the same time.[5] Angola, Burundi, Democratic Republic of Congo, Ethiopia, Mozambique, Nigeria, Sierra Leone, Uganda, Zambia, and Zimbabwe enforce onerous mandatory NGO registration requirements and give government officials overly broad discretionary powers to decide upon applications. Senegal and Uganda require NGOs to apply for permits to carry out many of their

L.S. Sunga (✉)
Visiting Professor, Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund, Sweden
e-mail: lyal.sunga@rwi.lu.se

normal functions. Others, such as Angola, Equatorial Guinea, Sudan, and Tanzania, severely restrict or even prohibit international NGOs from operating in their territories or bar local NGOs from receiving foreign support.[6]

Government restrictions on NGOs have become more common on other continents too. Notwithstanding the Russian Federation's constitutional human rights guarantees, in June 2012 President Vladimir Putin ushered through Parliament a new law that branded certain NGOs from engaging in political activity and receiving funding from abroad as 'foreign agents.'[7] By the end of 2015, Russia had used the law to list Memorial—a group that documents Soviet-era abuses—along with 100 other human rights NGOs, as foreign agents.[8] In January 2016, the Supreme Court rejected the Kremlin's application to shut Memorial down entirely,[9] but the government continued to interfere in its activities and in those of hundreds of other Russian-based human rights NGOs.[10] In Belarus, in March 2015, the government moved to shut down the Mahiliou Human Rights Center, the only registered regional human rights organization in the country,[11] on flimsy technical grounds relating to its office address. After concerns were raised by Miklós Haraszti, UN Human Rights Council's Special Rapporteur on the human rights situation in Belarus,[12] and Human Rights House Network, a coalition of more than 100 NGOs active in 13 countries,[13] the government dropped its lawsuit the following month.[14]

Many Asian governments have also increased their control over NGOs over the last few years. Central Asian governments targeted human rights, democracy, and development NGOs, as Article 19, a leading NGO that champions freedom of the press, highlighted in its June 2015 statement to the UN Human Rights Council.[15] India's government, led by Prime Minister Narendra Modi, shut down some 13,000 human rights and environmental NGOs in two months in June 2015, including Amnesty International, ActionAid, Ford Foundation and Greenpeace.[16] The People's Republic of China, which has long restricted the establishment of NGOs while allowing some to operate in a legal grey zone,[17] launched fresh campaigns against NGOs in 2015, calling many of them threats to national security.[18]

A 2015 Carnegie Endowment for International Peace report titled 'Closing Space: Democracy and Human Rights Support under Fire' uncovered a clear worldwide trend of government restrictions on human rights and democracy NGOs, particularly in countries with weak democratic traditions and authoritarian tendencies:

more than 50 countries have engaged in some form of pushback against external democracy and rights support. Nor is pushback leveled against only a select number of high-profile US democracy groups. It is affecting an ever widening range of US, European, and multilateral organizations involved in various types of politically related as well as developmental assistance. And nor is it the work of only authoritarian or semi authoritarian regimes. A growing number of democratic governments are restricting space for externally sponsored democracy and rights activities.[19]

Carnegie's report linked this trend to US President George W. Bush Administration's regime change policies in Iraq and the War on Terror which tried to coopt human rights and democracy work by NGOs into US military and counter-insurgency strategy.[20] Conflation of US military objectives with international human rights and humanitarian NGO activity prompted many people around the world, especially those opposing the illegal invasion of Iraq in the first place, increasingly to view the NGO sector as an arm of American interventionism in their internal affairs.[21]

Reports from the International Center for Non-Profit Law, which publishes the online journal *Global Trends in NGO Law*,[22] certain influential human rights NGOs such as Amnesty International,[23] Human Rights Watch,[24] International Commission of Jurists,[25] intergovernmental organizations including the United Nations, Council of Europe, European Union and others,[26] as well as academics,[27] document how governments around the world have been clamping down on civil society and human rights NGOs and the chilling impact this has had on good governance, the rule of law and human rights.

In April 2012, Ms Navi Pillay, the then UN High Commissioner for Human Rights, warned that governments were placing far-reaching restrictions on human rights NGOs. She underlined that civil society, including NGOs, trade unions, human rights defenders, academics, journalists, bloggers, and others were essential to ensure that governments implemented their human rights obligations. She underlined their role in checking the power of government and serving as bridges between government and their people,[28] citing Egypt, Zimbabwe, Cambodia, Algeria, Ethiopia, Belarus, Israel, Venezuela, and most of the countries in the Middle East and North Africa, as places where government severely curtailed NGO activity in one way or another.

Certain governments see NGOs working in the field of human rights, and more recently, those working to fight impunity for serious violations, as Trojan Horses for foreign intervention in their internal affairs, as if

human rights were something that fell exclusively within domestic juris-diction, which it does not. With regard to international criminal justice, over the last few years, some governments have joined a chorus denounc-ing the International Criminal Court (ICC) as a tool of Western neo-colonial domination.[29]

Do NGOs dictate UN human rights and international criminal jus-tice policy, force a Western agenda on countries of the Global South and undermine their national security and sovereignty? Have NGOs become too numerous and too powerful? Are they accountable to anyone?

To consider these kinds of question, it is important to explore beyond rhetoric and reaction. It is useful first to trace how and why human rights NGOs came to acquire the influence they currently wield and to place this development into historical perspective. Second, it is valuable to note how the UN accreditation process for human rights NGOs works and the kinds of issue that have given rise to serious disagreement among states over NGO applications to gain UN consultative status. Third, it is essential to recall the many ways in which NGOs interact with the UN human rights system and international criminal justice institutions. Finally, the question as to whether human rights NGOs should be trusted in the corridors of the UN and international criminal justice institutions is considered.

What Role Do Human Rights NGOs Play in UN and International Criminal Justice Institutions?

What are NGOs and How Many of Them Are There?

Logically, the term non-governmental organization (NGO) can denote any kind of organization that is not part of the state apparatus. Such a broad definition, however, sweeps in businesses, voluntary associations, religious institutions not supported by the state, professional associations, social clubs, and any other private or public sort of association not formed by or deriving from state authority. More useful is the US State Department's definition of an NGO that includes independent public policy research organizations, advocacy organizations, organizations that defend human rights and promote democracy, humanitarian organizations, private foun-dations and funds, charitable trusts, in societies, associations and non-profit corporations, but not political parties.[30] Using that definition, the US Government estimated there were some 1.5 million NGOs in the USA alone. In 2015, India's Central Bureau of Investigation estimated there

were more than 3 million NGOs operating throughout India.[31] *China Daily*, a state-run newspaper based in the People's Republic of China, reported in 2012 that the number of NGOs in China had grown to almost 500,000.[32]

For the present discussion, NGOs that have received UN Economic and Social Council (ECOSOC) accreditation are most pertinent because NGOs need to have that consultative status before they can participate in UN meetings, as discussed in Section 2.2.[33]

When and How Did NGOs Become Involved in the UN Human Rights System and in International Criminal Justice Institutions and How Are They Accredited?

NGOs enjoyed a certain level of engagement with the League of Nations, predecessor to the United Nations Organization, insofar as they could attend various committees and were recognized as assessors (advisory members).[34] In this capacity, NGOs could initiate discussions, submit reports and propose amendments to draft resolutions, but they could not make oral presentations. This changed in 1932 when NGOs were allowed also to present speeches to a plenary meeting of the Disarmament Conference and to circulate petitions—a landmark development at the time.[35]

Significantly, the United States Government invited 42 NGOs to place consultants within its delegation to the San Francisco Conference, convened from 25 April to 26 June 1945, to draft the UN Charter. The United States considered that involving NGOs could help gain public support for the Charter of the United Nations and the establishment of the United Nations Organization itself. At the San Francisco Conference, NGO representatives assisted informally with the drafting of some UN Charter provisions related to human rights.[36]

The Charter of the United Nations assigns ECOSOC the authority to call, in accordance with the rules prescribed by the UN, international conferences on matters falling within its competence.[37] Article 71 of the UN Charter provides that ECOSOC may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the member of the United Nations concerned.

In 1996, ECOSOC adopted resolution 31 on Consultative Relationship between the UN and NGOs to provide the Committee on NGOs with guiding criteria to decide on NGO applications for consultative status.[38] The Committee has 19 member states, 5 from Africa, 4 from Asia, 2 from Eastern Europe, 4 from Latin America and the Caribbean, and 4 from Western European and other states.[39]

To acquire consultative status, NGO applicants have to be concerned with issues within ECOSOCs competence (i.e. economic and social affairs), have aims and purposes that conform to the spirit, purposes and principles of the Charter of the United Nations and undertake to support the UNs work. Resolution 1996/31 also stipulates that an organization established by government or international agreement does not qualify as non-governmental. NGOs have to show that their operations are transparent, democratic, and representative of their members, that they have been established for at least two years, and that they have a headquarters and an executive officer with authority to speak for its members. Moreover, an applicant NGO has to rely mainly on contributions from national affiliates or individual members and must be prepared to disclose or explain to the Committee all sources of voluntary contributions. Thus, to gain consultative status, applicant NGOs have to show that their activities line up with the principles and purposes of the UN and that they are democratic, transparent and representative of their members. In 1946, ECOSOC granted consultative status to 41 NGOs, and by 1992, to more than 700.[40] By February 2016, 4,360 NGOs enjoyed ECOSOC consultative status.[41]

The accreditation process helps ensure that NGOs interacting with UN and international criminal justice institutions do not function as puppets of particular governments or hidden interests. Members of the UN Committee on NGOs can and do raise objections over particular NGO accreditation applications, as discussed next.

Perusal of some of the Committee's recent proceedings reveals both the kinds of contentious issues that have arisen over NGO accreditation and the tenor of the debates. In 2015, the Committee turned down Freedom Now's application. The US representative stated that Freedom Now was a reputable organization, pointed out that Reverend Desmond Tutu served as its honorary chair, and that it worked on individual political prisoner cases. Furthermore, the Committee had refused its applications for the previous five years even though it had answered some 60 questions raised by Committee members. Representatives of the Russian Federation, Cuba, South Africa, and Sudan countered with technical and procedural objec-

tions and requested more time to consult their capital. China's representative declared outright his delegation's intention to vote against Freedom Now on grounds that its website levelled accusations against UN member states, its words and actions were politically motivated, and therefore, that it could not possibly make any contribution to Human Rights Council work.[42] When it was time to vote on Freedom Now's application, Greece, Israel, and Uruguay joined the USA in support of the NGO's application, but Azerbaijan, Burundi, China, Cuba, Iran, Nicaragua, Pakistan, Russian Federation, South Africa, Sudan, and Venezuela all voted against. India abstained, while Guinea, Mauritania and Turkey were absent. Freedom Now's application for accreditation failed for a sixth time.

During the same June 2015 Committee session, Vietnam strongly objected to an application from Khmer's Kampuchea-Krom Federation on grounds it was agitating for Khmer territorial secession from Vietnamese territory in violation of UN Charter principles. The US representative noted that in a previous session that the Federation had already been approved by the Committee but had missed out on accreditation at ECOSOC by a single vote.

In June 2014, the Committee split over Allied Rainbow Communities International's application. Morocco asked the NGO whether it believed international human rights law guaranteed sexual orientation and gender identity as universal rights. Russia raised a procedural objection to stall further debate, but the NGO barely garnered sufficient support, with seven votes in favour (Belgium, Bulgaria, Israel, Peru, Turkey, United States, and Venezuela), six against (China, Morocco, Mozambique, Russia, Senegal, and Sudan) with India abstaining and Burundi, Cuba, Kyrgyzstan, Nicaragua, and Pakistan absent. At the same session, Morocco vehemently opposed the application of Bureau international pour le respect des droits de l'homme au Sahara on grounds that it attacked Morocco's sovereignty and territorial integrity. Algeria countered that the Moroccan representative's statements were politicizing the Committee's work. The US representative added that her country's support for civil society and the NGO's application did not imply any particular position on the Western Sahara question. In that case, the Committee deferred further consideration on the application.

Another application under consideration in 2014 came from the Congrès national des arméniens occidentaux, another NGO. Turkey objected that the NGO's website raised a doubt as to whether it respected national sovereignty and territorial integrity. Given this observation, the Committee

decided to defer consideration until a later session. On the application of Youth Coalition for Sexual and Reproductive Rights, Morocco, Pakistan, and Sudan raised procedural objections, while Belgium and Canada offered support for the NGO's bid. The application of Centro para la Apertura y el Desarrollo de América Latina was rejected after Cuba denounced the NGO as a subversive organization led by terrorists and assassins, and only Bulgaria, Israel and the USA ended up voting in favour of accrediting the NGO on that occasion.[43] In June 2012, the US opposed the application of the Islamic African Relief Agency, which it said had provided hundreds of thousands of dollars to Osama bin Laden, Al Qaeda, and certain other terrorist groups. Sudan instead strongly supported this NGO and, once the votes were tallied, the Committee's decision was to take no action either way at that particular session.[44]

Many other examples could be cited to show the Committee's thoroughly political nature. State representatives often raise substantive, technical, or procedural objections to applications from NGOs which they consider to disrespect national sovereignty, advocate particular political or ideological views they disagree with, or because they feel particular NGOs are too critical or too biased for their liking.

To appreciate why governments exercise such vigilance over consultative status, it is necessary to understand how NGOs influence UN human rights and international criminal justice policy making: this is discussed in Section 2.3.

How Have NGOs Influenced the Development of the UN Human Rights System and Establishment of the ICC?

Since the adoption of the Charter of the United Nations in 1945, NGOs have surfed the international human rights tidal wave, a movement that began slowly at first but ended up altering the world's political landscape. Today, human rights NGOs exert considerable influence in political and judicial decision-making at global, regional, national, and local levels, for several reasons.

First, international human rights law has grown tremendously in breadth and depth since the UN Charter designated respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion among the UN's principles and purposes (Article 1(3)) in 1945. Articles 55 and 56 oblige all UN member states to take joint and separate action in cooperation with the organization to promote

human rights, which imposes a legal obligation upon member states and the organization itself to take positive measures to develop human rights law at the international level. The Universal Declaration of Human Rights, which the General Assembly adopted on 10 December 1948 as a non-binding resolution, set a common standard of achievement for human rights promotion and protection and paved the way for the subsequent elaboration of multilateral human rights conventions, monitoring mechanisms discussed in more detail below, as well as the development of regional human rights systems in Africa, Europe, Latin America, and Asia. The incorporation of human rights guarantees in national constitutions, statutes, and policy, together with the establishment of national human rights commissions, link international human rights law to the domestic implementation of human rights guarantees at local level to improve the daily lives of people in all countries.

Second, NGOs have played important roles in major diplomatic conferences on human rights and international criminal justice. At the World Conference on Human Rights held in Vienna in 1993, some 3,700 NGO representatives from more than 800 NGOs with UN consultative status plus another invited 1,000 human rights NGOs, advocated for the establishment of the Office of the UN High Commissioner for Human Rights and for strengthening human rights throughout the whole UN system.[45] NGOs were also influential in elaborating the 1995 Beijing Conference on Women's Declaration and Platform for Action,[46] and in the deliberations of the Ottawa Conference on Landmines (1997), the Kyoto World Conference on Climate Change (1997),[47] the Durban World Conference on Racism (2001), and in many other conferences with technical expertise and practical perspectives that contributed to more effective international policy and action. At the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, NGOs were remarkably well organized in pushing for a strong Statute of the International Criminal Court (ICC). The Coalition for the International Criminal Court (CICC) comprised of more than 2,000 human rights NGOs from around the world proposed many drafting suggestions that helped the Conference draft a strong and progressive ICC Statute.[48]

Third, NGOs with consultative status can participate in the proceedings of the UN Human Rights Council,[49] a subsidiary body of the General Assembly, including the Universal Periodic Review,[50] as well as in ECOSOC's subsidiary bodies including the Expert Mechanism on

the Rights of Indigenous Peoples,[51] the Forum on Minority Issues,[52] the Social Forum,[53] and the Forum on Business and Human Rights.[54] The UN Human Rights Council, consisting of 47 UN member states, is the world's most important intergovernmental forum addressing the full range of human rights issues in all countries and relating to any human rights theme. The Council's Universal Periodic Review examines, on a rolling basis, the human rights situation of each and every of the 193 UN member state every four years. NGOs can submit information as part of the stakeholders' report to be taken into account during the review and any state participating in the interactive discussion can refer to these reports. NGOs can also attend the Universal Periodic Review Working Group sessions and make statements at the Council's regular session. The Universal Periodic Review also affects national policy, law and implementation because it deliberately focuses on the actual human rights situation as viewed by an array of entities including other governments, UN agencies, bodies and programmes, national human rights institutions, professional bodies and associations, and NGOs, and not only on the government's official pronouncements.

Fourth, NGOs have successfully lobbied UN member states to adopt a number of major multilateral human rights conventions. These multilateral conventions constitute a major pillar of the UN human rights system by requiring the parties to them to submit periodic reports on the measures they have taken to implement their legal obligations under the convention and to identify challenges towards further improvement. Currently, there are ten UN human rights treaty bodies in operation.[55] Each state party to the particular convention has to report to the corresponding Committee, for example, a state party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment submits a periodic report to the UN Committee against Torture, and this Committee considers the reports and responds with analysis and non-binding recommendations to guide the state on how to improve its compliance with the convention. In this process, NGOs can submit shadow reports. These attract considerable attention from the international community because they provide their often highly critical and unvarnished perspective on the human rights situation in the state party concerned independent from the government's portrayal. Were it not for NGO shadow reports that identify areas of progress and remaining challenges, UN human rights treaty body proceedings would be little more than polite diplomatic exercises between governments and the UN,

itself made up of member states. Instead, the involvement of NGOs has transformed the UN human rights system into a vibrant and critical process capable of focusing on the plight of victims and potential victims of human rights violations and it can respond quickly to serious situations that arise despite the fact that it remains an intergovernmental forum. The multilateral UN human rights treaties provide every state party with the option to recognize the committee's competence to receive communications from individuals, under the state party's jurisdiction, alleging a violation of the convention. These individual communications procedures allow an NGO to lodge a complaint either where it claims to have been a victim of a violation of the convention itself, or where an alleged victim or victims have explicitly authorized the NGO to act on their behalf.[56]

Finally, NGOs play an important role in UN Human Rights Council's special procedures and investigative mechanisms which involve the appointment of an independent expert, special rapporteur, special representative, or working group, with a mandate to study and report on the human rights situation in a particular country, such as Belarus or Afghanistan, or according to a particular theme, such as the right not to be tortured or the right to food. NGOs are often well placed to provide up-to-date information to Human Rights Council rapporteurs before, during, and following their investigative missions, and even to assist the UN in convening workshops and meetings with a view to hearing from a wide range of stakeholders. NGOs thus remain a crucial component by which UN human rights special procedures can arrive at a more objective, accurate, and balanced panorama of the current situation than if the government concerned was in a position to control completely the theme, colour, and brushstrokes of the picture.

How Do NGOs Influence Human Rights Policy at Regional and National Levels?

NGOs are also active at the regional level, which is significant because the European, inter-American, and African human rights systems influence considerably member state behaviour on human rights matters.

The European Court of Human Rights can receive petitions addressed to the Secretary-General of the Council of Europe from any person,[57] non-governmental organization, or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the European Convention on Human Rights.[58] The

Committee of Ministers of the Council of Europe adopted the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations which established the legal status of NGOs throughout the Council of Europe.[59]

In the inter-American system, NGOs legally recognized in one or more member state enjoy procedural capacity to appear before the Inter-American Commission on Human Rights as petitioner on behalf of the victim of an alleged violation of the American Declaration or the American Convention on Human Rights.[60] This capacity has been particularly important in cases of enforced or involuntary disappearances where victims' families have not felt secure enough themselves to bring a complaint or be seen to try to trace the whereabouts of family members.

Under the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples Rights, individuals, NGOs, state parties, the African Commission, as well as intergovernmental organizations, can access the court directly.[61]

The Association of Southeast Asian Nations (ASEAN) Declaration of Human Rights affirms certain basic human rights guarantees, and in paragraph 39,[62] commits member states to promote and protect human rights 'through, inter alia, cooperation with one another as well as with relevant national, regional and international institutions/organizations, in accordance with ASEAN Charter', which arguably recognizes the right of NGOs to carry out their activities.

NGOs operating at the national level also remain very much involved in the UN human rights system and international criminal justice institutions through their interaction with government, national human rights institutions, and in stimulating policy debate and action through media, workshops, seminars, and public campaigns, in addition advocacy for victims of human rights violations.

NGO Involvement in International Criminal Justice Institutions

NGOs not only monitor and report on human rights violations and provide an essential counterbalancing role to government narratives, but they contribute to the effective enforcement of international criminal justice in several important ways.

First, human rights NGOs have been closely involved with the establishment of the International Criminal Tribunal for the former Yugoslavia,

International Criminal Tribunal for Rwanda, other internationalized criminal tribunals, and as discussed above the ICC, that have been set up to prosecute high level perpetrators for such international crimes as genocide, war crimes, and crimes against humanity. Commissions of inquiry established either under Security Council or Human Rights Council authority (or the latter's predecessor body, the UN Commission on Human Rights) were extensively serviced by the UN Office of the High Commissioner for Human Rights. They applied human rights investigative methodology and relied considerably upon information from human rights and humanitarian NGOs to establish the scale, character, and responsibility for atrocities. Information from NGOs helped investigators to understand the social, political, and legal context in which serious violations were perpetrated, existing patterns of violations, to develop lines of enquiry, and follow situations closely, which proved critical for triggering international action to establish these bodies.[63]

Second, with regard to ICC process, it should be recalled that the prosecutor can initiate investigations on his/her own motion and gather information from any reliable source.[64] Information from human rights NGOs figure significantly at several stages of international criminal prosecution. The Office of the Prosecutor cannot be everywhere at once and has limited resources itself to gather information in the many countries around the globe experiencing serious violence where there is a likelihood that atrocities are being committed. Not only that, but where there are incidents of serious violations, human rights NGOs are usually among the first to bear witness to the events or their aftermath. International criminal investigators may take months or years to appear at the scene, or may not ever be authorized to do so for a variety of political, jurisdictional, or logistical reasons. Human rights NGOs have proven themselves to be essential in gathering background information that could assist international criminal justice efforts, particularly where police, armed forces, other state agencies, or militia or rebel forces directly implicated in Rome Statute crimes cannot be trusted to gather potential evidence and transmit it to competent prosecuting authorities, or because law enforcement or the judiciary no longer functions, which is commonly the case in armed conflict situations.

Finally, to carry out its mandate, the ICC has to scan the world for situations that warrant preliminary investigation on account of their scale and gravity, and that in turn requires the ICC Prosecutor to keep abreast of information coming from UN human rights thematic and country special

procedures much of which comes from international and locally based NGOs. By providing timely and independent monitoring, investigation and reporting on current human rights situations and on the status of the judiciary and domestic political institutions to address crimes under international law, NGOs remain essential to the world's effort to combat impunity.

CAN HUMAN RIGHTS NGOS BE TRUSTED IN THE CORRIDORS OF THE UN AND INTERNATIONAL CRIMINAL JUSTICE INSTITUTIONS?

Answering the question as to whether or not human rights NGOs can be trusted in the corridors of the UN and international criminal justice institutions necessarily involves other background questions: NGOs trusted by whom, to do what, why, and how?

The UN system and international criminal justice institutions without human rights NGOs would be like human bodies drained of blood. Fully and organically structured these systems could be, but without red corpuscles to oxygenate the system with people's ideas, hope, aspirations, and energetic efforts to strengthen human rights, and without white corpuscles that fight against State corruption and abuse, they could not live and function for long.

NGOs play indispensable roles in human rights promotion and protection and in international criminal justice institutions by bringing imminent or actual violations to the attention of governments, national human rights institutions, media, regional intergovernmental organizations, and various UN system components including the Security Council, General Assembly and Human Rights Council, as well as international tribunals and the ICC. Human rights NGOs remain critical in monitoring, investigating, and reporting on human rights situations the world over and in working constructively with governments and other stakeholders to identify challenges and develop solutions for improvement. They focus not only on immediate or urgent violations but also on issues that require continual structural improvement over the longer term, such as the rights to education, health, food, adequate standard of living, and other economic, social, and cultural rights. Human rights NGOs transform anaemic intergovernmental structures into vibrant, active, and responsive tools for alleviating human distress through full engagement in the UN human rights treaty bodies, the Universal Periodic Review, UN human rights special

procedures, Human Rights Council and Security Council commissions of inquiry, and through assistance to international criminal prosecutions.

Can individual victims, or potential victims of human rights abuse (which includes any of us) trust human rights NGOs? No one suffering from or threatened with torture would argue against a significant role for human rights NGOs in the UN system or the ICC, simply because governments cannot be trusted to stamp out torture, and in fact, have not done so, let alone even admit their responsibility for it in many instances. Anyone conscious of the value of human rights promotion and protection cannot coherently argue against accommodating NGO voices in the UN and international criminal justice institutions, because the NGO role remains critical to the essence of international human rights promotion and protection which is about empowering ordinary people to limit the overwhelming power of government in people's lives and to hold basic rights and freedoms sacrosanct against undue state interference. Decades of human rights activism in all countries since the UN was founded in 1945 proves that not only do individuals and groups trust human rights NGOs in the UN system and international criminal justice institutions, they demand this role for them, knowing that governments cannot be trusted to be the sole and exclusive guardians of humanity's precious dignity and security. Human rights NGOs provide a pulse for the body politic so that attentive decision-makers can listen to and understand the needs, will, and aspirations of ordinary people, rather than to dictate what they shall think and do. The undeniable and essential value of NGOs for democratizing governance makes the paranoid claims of certain governments that NGOs threaten national security generally laughable, until we recall the thousands of human rights defenders who have been tortured or killed at the hands of state officials over the years.

People who dare demand respect for their human rights, and have the courage to organize with others to resist the state's power, will always unnerve governments which habitually fail to serve their people, rule mainly by force and use law to stifle dissent and subjugate citizens. Limiting NGO activity is just one more way authoritarian governments use to divide civil society, intimidate the general public, and marginalize the political opposition.

This is not to deny or ignore the fact that some NGOs, just like some people, have ulterior motives, are dishonest, may really be GONGOs instead (i.e. fronts for governments, sardonically termed government-organized non-government organizations or GONGOs for short),[65] or

engage in criminal, terrorist or subversive activities. However, just as the answer to wayward individual behaviour is not to lock everybody up, but rather to expose and sanction individual offenders that exceptionally arise, neither is it defensible for governments to launch broad campaigns against NGOs because a few here or there may not be genuinely non-governmental, or because they pursue highly political agendas or even commit crimes. The international community is fully capable of distinguishing human rights NGOs that can be trusted to work for victims and potential victims of human rights abuse in line with the principles and purposes of the UN, from NGOs that have baser aims at heart. Practically speaking, the UN accreditation system provides more than ample opportunity for UN member states to express their views on the trustworthiness of particular NGOs, and to suspend or cancel their accreditation if a majority feels the same way.

Fear of the freedom of NGOs boils down to government preoccupation to control discourse and stamp out criticism, and to some governments imagining foreign-instigated conspiracy where it does not exist. Why else would some governments go so far as to set up their own GONGOs? Such dishonest entities pose as independent, objective, non-governmental voices, while clandestinely pushing hidden state-sponsored agenda, pretending to represent citizens, and working instead to keep real NGOs from carrying out their activities and expressing themselves freely and independently.

Ultimately, human rights NGOs have responsibilities to represent facts and advocate positions accurately, fairly and in a balanced manner, and these are the same responsibilities citizens, governments and inter-governmental organizations share. A world where NGOs are controlled, or subject to unnecessary restrictions translates into a world where dull government monologue is the norm, intellectual thought and debate are stifled and repressed, and the body politic suffers from chronic anaemia. NGOs are no more perfect or imperfect than the people who run them, and in a marketplace of ideas, ordinary people rather than governments have to exercise their own judgement which NGOs are the more credible and reliable, rather than to rely on official narratives and dictates. That remains a vital part of democratic governance, human rights and the rule of law.

*****

Notes

1. Algerian churches, NGOs wary as restrictive law comes into force *WorldWatch Monitor*, 10 January 2014, available at https://www.world-watchmonitor.org/2014/01/2944114/.

2. Akshan de Alwis, Egypts Democratic Gains Strangled by NGO Law, *Diplomatic Courier*, 19 February 2015, available at http://www.diplo-maticourier.com/2015/02/19/egypt-s-democratic-gains-strangled-by-ngo-law/.

3. See Joint Statement of 33 States delivered to the UN Human Rights Councils 30th session on 14 September 2015 by Switzerland on behalf of Andorra, Australia, Austria, Belgium, Botswana, Bulgaria, Chile, Costa Rica, Czech Republic, Denmark, Estonia, France, Germany, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxemburg, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Sweden, Switzerland, The Former Yugoslav Republic of Macedonia, UK, USA, and Uruguay, which states that: 'We are concerned about reports of harassment and imprisonment of persons exercising their rights to freedom of opinion and expression and of peaceful assembly and association, including human rights defenders; about the lack of sufficient guarantees of fair trial; by the detention of minors due to their participation in demonstrations and urge the government to look at alternatives to detention.' Available at https://www.indexoncensorship.org/wp-content/uploads/2015/09/Joint-statement-on-Bahrain_13.09_with-list-of-states.pdf.

4. Critics decry NGO bill as blow to Israeli democracy, *Israel Times*, 27 December 2015, available at http://www.timesofisrael.com/critics-decry-ngo-bill-as-blow-to-israeli-democracy/.

5. The March 2010 issue of *Global Trends in NGO Law* reported that: 'The NGO laws of most Middle East / North Africa (MENA) countries remain extremely restrictive. With very few exceptions most prominently, Lebanon, Morocco, Palestine, and with the passage of new legislation in 2010, Iraq most Arab governments have adopted NGO laws that constrain the formation and operation of NGOs and afford significant discretion to government officials in their oversight of them, thereby preventing NGOs from playing a role as full partners for social and economic development.' Global Trends in NGO Law Volume 1, Issue 4, March 2010, available at http://www.icnl.org/research/trends/trends1-4.pdf.

6. See NGOs in Sub-Saharan Africa, Vol 3(3) Global Trends in NGO Law, June 2011, available at http://www.icnl.org/research/trends/trends3-3.pdf.

7. See International Commission of Jurists Opinion on the Russian Federation Amendments to the NGO Law on Foreign Agents, 22 January 2014,

available at http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/01/Russian-NGO-law-final-formatted-ENG1.pdf which concluded that: the Amendments to the NGO Law as they are currently elaborated impose excessive and illegitimate restrictions on rights protected in international human rights law instruments which are binding on the Russian Federation, including the ECHR and ICCPR.

8. Russia censures Memorial rights group as 'foreign agent', *BBC*, 9 November 2015, available at http://www.bbc.com/news/world-europe-34767014.

9. Russian court slams Kremlin bid to close Memorial human rights group, *Deutsche Welle*, 28 January 2015, available at http://www.dw.com/en/russian-court-slams-kremlin-bid-to-close-memorial-human-rights-group/a-18220969.

10. Russian Federation: Freedom under threat: the clampdown against freedoms of expression, assembly and association in Russia, *Amnesty International*, 24 April 2013, available at https://www.amnesty.org/en/documents/EUR46/011/2013/en/.

11. Belarus: the only registered regional human rights organisation under threat of dissolution, *International Federation for Human Rights*, 17 March 2015, available at https://www.fidh.org/en/region/europe-central-asia/belarus/belarus-the-only-registered-regional-human-rights-organisation-under.

12. See Report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti; A/HRC/29/43 of 29 April 2015 at para. 95.

13. See the website of Human Rights House Network at http://humanrightshouse.org/.

14. Belarus: Lawsuit dropped against Mahiliou Human Rights Center, *International Federation for Human Rights*, 3 April 2015, available at https://www.fidh.org/en/region/europe-central-asia/belarus/belarus-lawsuit-dropped-against-mahiliou-human-rights-center.

15. UN HRC: Civic Space Restrictions in Central Asia and Eastern Europe must be addressed, *Article 19*, 22 June 2015 statement to the UN Human Rights Council, available at https://www.article19.org/resources.php/resource/38010/en/un-hrc:-civic-space-restrictions-in-central-asia-and-eastern-europe-must-be-addressed.

16. On his UK visit, Narendra Modi must be held accountable for his record on human rights in India, *The Guardian*, 11 November 2015, available at http://www.theguardian.com/world/2015/nov/11/on-his-uk-visit-narendra-modi-must-be-held-accountable-for-his-record-on-human-rights-in-india. *See also* G. Pramod Kumar, 13,000 in 2 months: NGO crackdown unleashed by the Modi government will create a human rights crisis, *Firstpost*, 13 June 2015, available at http://www.firstpost.com/

politics/13000-in-2-months-ngo-crackdown-unleashed-by-the-modi-govt-will-create-a-human-rights-crisis-2294140.html.

17. See Li (2011).

18. See Chin (2015).

19. See Carothers and Brechenmacher (2014).

20. Ibid. at 2.

21. See Sunga (2007).

22. Global Trends in NGO Law, produced by the International Center for Non-Profit Law, Washington D.C., 2009, available at http://www.icnl.org.

23. See e.g. Freedom under Threat: Clampdown on Freedoms of Expression, Assembly and Association in Russia, Amnesty International, 2013, available at http://www.amnestyusa.org/sites/default/files/eur460112013en.pdf.

24. See e.g. Uganda: Stranglehold on Independent Groups: Parliament Should Reject Bill's Repressive Measures, Criminal Sanctions, Human Rights Watch, 2015, available at https://www.hrw.org/nl/node/278815.

25. See e.g. International Commission of Jurists Opinion on the Russian Federation Amendments to the NGO Law on Foreign Agents, International Commission of Jurists, available at http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/01/Russian-NGO-law-final-formatted-ENG1.pdf. 2014.

26. See e.g. the report of Mr. Yves Cruchten to the Council of Europes Committee on Legal Affairs and Human Rights on How to Prevent Inappropriate Restrictions on NGO Activities in Europe, AS/Jur (2014) 18 Rev 26 September 2014; ajdoc18 Rev 2014, available at http://www.assembly.coe.int/CommitteeDocs/2014/ajdoc18-2014.pdf.

27. See e.g. Kai Koddenbrock, *The practice of humanitarian intervention: aid workers, agencies and institutions in the Democratic Republic of the Congo*. New York: Routledge (2016); Reza Hasmath and Jennifer Y.J. Hsu, eds. *NGO governance and management in China*. Oxon: Routledge (2016); Susumu Nejima, ed., *NGOs in the Muslim world: faith and social services*. Oxon: Routledge (2015); Gregory Mann, *From empires to NGOs in the West African Sahel: the road to nongovernmentality*. New York: Cambridge University Press (2015); Jennifer C. Rubenstein, Between Samaritans and states: the political ethics of humanitarian INGOs. Oxford: Oxford University Press (2015); Alex de Waal et al., eds., *Advocacy in conflict: critical perspectives on transnational activism*. London: Zed Books (2015); Jennifer Mize Smith and Michael W. Kramer, eds., *Case studies of nonprofit organizations and volunteers*. New York: Peter Lang (2015); Helen Yanacopulos, NGO activism, engagement and advocacy. New York: Palgrave Macmillan (2015); Molly A. Ruhlman, *Who participates in global governance: states, bureaucracies, and NGOs in the United Nations*. Abingdon, Oxon: Routledge (2014). One could mention dozens of other

books, articles, and book sections produced on the role of NGOs over the last few years.

28. New restrictions on NGOs are undermining human rights: Pillay, News Release of 25 April 2012, available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12081.

29. See Sunga (2015).

30. See Fact Sheet: Non-Governmental Organizations (NGOs) in the United States; US Department of State; 1 December 2012, available at http://www.humanrights.gov/wp-content/uploads/2012/01/factsheet-ngosintheus.pdf.

31. Dhananjay Mahapatra, Two NGOs per policeman in India: CBI tells SC, *Times of India*, 19 September 2015, available at http://timesofindia.india-times.com/india/Two-NGOs-per-policeman-in-India-CBI-tells-SC/arti-cleshow/49019832.cms. See also Dhananjay Mahapatra, India witnessing NGO boom, there is 1 for every 600 people, *Times of India*, http://time-sofindia.indiatimes.com/india/India-witnessing-NGO-boom-there-is-1-for-every-600-people/articleshow/30871406.cms.

32. Number of NGOs in China grows to nearly 500,000", *China Daily*, 20 March 2012, available at http://www.chinadaily.com.cn/china/2012-03/20/content_14875389.htm.

33. The Economic and Social Council is made up of 54 member states which the General Assembly elects for overlapping three-year terms based on the following geographical representation: Africa (14 seats), Asian States (11 seats), Eastern European states (6 seats), Latin American and Caribbean States (10 seats), and Western European, and other states (13 seats).

34. Chiang, Pei-heng. *Non-Governmental Organizations at the United Nations: Identity, Role and Function*. New York: Praeger (1981) at 35.

35. Ibid.

36. Op. cit. Chiang at 250–251.

37. Article 62(4) of the Charter of the United Nations on the Functions and Powers of ECOSOC.

38. Economic and Social Council resolution 1996/31 entitled Consultative Relationship between the United Nations and Non-Governmental Organizations, *adopted* on 25 July 1996 at ECOSOCs 49th plenary meeting, updated ECOSOC resolution 1296 (XLIV) of 23 May 1968 to guide which NGOs could participate in UN conferences and how.

39. At the time of writing, the Committees membership from 2015 until 2019 comprised Azerbaijan, Burundi, China, Cuba, Greece, Guinea, India, Iran, Israel, Mauritania, Nicaragua, Pakistan, Russian Federation, South Africa, Sudan, Turkey, United States, Uruguay, and Venezuela. The Committee make recommendations in the form of draft decisions to ECOSOC on whether or not to grant consultative status, suspend or withdraw a particular NGO. NGOs applying for consultative status have the right to respond

to any objections the Committee raises before it makes its recommendations to ECOSOC. In its June 2015 session, the Committee considered 388 applications before it, some of which had been deferred from earlier sessions, recommending 160 for consultative status, deferring another 200 for later consideration, and closing consideration without prejudice of 27 others. See Report of the Committee on Non-Governmental Organizations on its 2015 resumed session (New York, 26 May–3 June and 12 June 2015); E/2015/32 (Part II) of 17 June 2015, available at http://www.un.org/ga/search/view_doc.asp?symbol=E/2015/32%28PartII%29.

40. Working with ECOSOC: An NGOs Guide to Consultative Status, United Nations, New York (2011) at 2, available at http://www.un-ngls.org/IMG/pdf/ATTCPCS7.pdf.

41. The full list can be easily found on the UNs website. *See* https://esango.un.org/civilsociety/getByAllHavingStatus.do?method=getByAllHavingStatus&searchType=csSearch.

42. See Report of the Committee on Non-Governmental Organizations on its 2015 resumed session (New York, 26 May–3 June and 12 June 2015); E/2015/32 (Part II) of 17 June 2015 at paras. 23–29.

43. Report of the Committee on Non-Governmental Organizations on its 2014 resumed session; E/2014/32 (Part II) of 12 June 2014.

44. Report of the Committee on Non-Governmental Organizations on its 2014 resumed session; E/2014/32 (Part II) of 12 June 2014 at paras. 7–16.

45. See William Korey, NGOs and the Universal Declaration of Human Rights: A Curious Grapevine (1998) at 288.

46. *Adopted* by the Fourth World Conference on Women (Report of the Fourth World Conference on Women), Beijing, 4–15 September 1995; UN Sales No. E.96.IV.13.

47. Tamlyn Hunt, 'People or Power: A Comparison of Realist and Social Constructivist Approaches to Climate Change Remediation Negotiations', 6 (Spring/Summer) *UCLA Journal of International Law and Foreign Affairs* (2001) 265. Already in 1984, Weissbrodt noted the activities of NGOs at the Stockholm Conference on the environment: The Stockholm environmental conference is often viewed as a watershed of NGO involvement. There were 113 governments and at least 225 accredited NGOs. NGOs were permitted to make a formal statement to the conference. NGOs also distributed a daily newspaper, a practice regularized at subsequent global conferences. See David Weissbrodt, 'The Contribution of International Nongovernmental Organizations to the Protection of Human Rights', in *2 Human Rights in International Law: Legal and Policy Issues*, ed. Meron (1984), at 403.

48. See Pace adn Thieroff (1999).

49. See Sunga (2009).

50. Established by General Assembly resolution A/RES/60/251 of 3 April 2006.
51. Established under Human Rights Council resolution 6/36 of 14 December 2007 as a subsidiary body of the Council.
52. Established by General Assembly resolution A/HRC/RES/19/23 of 10 April 2012.
53. Established by Human Rights Council resolution 6/13 of 28 September 2007.
54. Established by Human Rights Council resolution A/HRC/RES/17/4 of 6 July 2011.
55. These are the: Committee on the Elimination of Racial Discrimination (CERD) monitoring implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Human Rights Committee (CCPR) monitoring implementation of the International Covenant on Civil and Political Rights (1966) and its optional protocols; Committee on Economic, Social and Cultural Rights (CESCR) monitoring implementation of the International Covenant on Economic, Social and Cultural Rights (1966); Committee on the Elimination of Discrimination against Women (CEDAW) monitoring implementation of the Convention on the Elimination of All Forms of Discrimination against Women (1979) and its optional protocol (1999); Committee against Torture (CAT) monitoring implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984); Committee on the Rights of the Child (CRC) monitoring implementation of the Convention on the Rights of the Child (1989) and its optional protocols (2000); Committee on Migrant Workers (CMW) monitoring implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); Committee on the Rights of Persons with Disabilities (CRPD) monitoring implementation of the International Convention on the Rights of Persons with Disabilities (2006); Committee on Enforced Disappearances (CED) monitoring implementation of the International Convention for the Protection of All Persons from Enforced Disappearance (2006); and the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) established under the Optional Protocol of the Convention against Torture (OPCAT) (2002) visits places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.
56. In any case, a communication concerning a violation of one of the rights set out in the relevant convention can be brought only where all the admissibility requirements have been fulfilled, namely, that all domestic remedies have been exhausted, the communication is not anonymous, the commu-

nication itself does not constitute an abuse of process, and it is not the subject of another international procedure. See e.g., Article 5 of Optional Protocol 1 to the International Covenant on Civil and Political Rights, *adopted* 16 December 1966; *entered into force* 23 March 1976; U.N.T.S. No. 14668, vol 999 (1976) at 171.

57. A new European Court of Human Rights system came into operation on 1 November 1998 with the entry into force of Protocol No. 11 which terminated the European Commission of Human Rights on 31 October 1999. Protocol 11 establishes that NGOs enjoy *locus standi* directly before the Court.

58. As per Article 25 of the European Convention on Human Rights European Convention on Human Rights, *adopted* 4 November 1950 in Rome, *entered into force* 3 September 1953 as revised.

59. *Adopted* on 24 April 1986, *entered into force* on 1 January 1991. The Convention had been ratified by 9 States as of 2 November 2003.

60. See generally Mayer (2011).

61. Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human Rights and Peoples Rights, *adopted* 9 June 1998, *entered into force*, 25 January 2004.

62. ASEAN has the following members: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

63. See Sunga (2011).

64. Article 15(2) of the Rome Statute explicitly provides that the Prosecutor can seek information from NGOs: The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the UN, intergovernmental, or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court. Finally, Article 44(4) of the Rome Statute provides that: 'The Court may, in exceptional circumstances, employ the expertise of gratis personnel offered by States Parties, intergovernmental organizations or non-governmental organizations to assist with the work of any of the organs of the Court'.

65. See Naim 2009.

Civil Society and the UN Security Council: Advocacy on the Rwandan Genocide

Kseniya Oksamytna

The literature on the relationship between civil society and international institutions is rich and fast-growing. It has explored patterns of conflict and cooperation between civil society and international organizations (Steffek 2013), civil society's access to international institutions (Charnovitz 2000; Tallberg et al. 2013), and politicization and contestation of international organizations' activities (Binder 2008; Zürn et al. 2012; Rixen and Zangl 2013). Civil society actors play diverse roles vis-à-vis international institutions by being sources of advocacy and pressure, partners in service delivery, liaisons with grassroot organizations, and monitors of international institutions' performance. This chapter focuses on civil society advocacy and analyses how non-governmental organizations (NGOs) campaigned for a stronger United Nations (UN) response to the 1994 Rwandan genocide. It first provides an overview of the history and the current state of the relationship between civil society and the UN Security Council and then investigates how NGOs have influenced the Security Council's response to the genocide in Rwanda. It concludes by assessing the role that civil society played during the events and outlines directions for further research.

K. Oksamytna (✉)
University of Warwick, Warwick, UK

Civil Society and the UN Security Council

This chapter begins by examining the relationship between civil society actors and the UN Security Council (UNSC, sometimes also referred to as SC) in terms of their access to Security Council diplomats, strategies with which they target the Council, and influence they have on Council decision-making. The Council has five permanent members, who are referred to as the P-5, and ten elected members serving two-year terms. Historically, many members, including the permanent ones, have been wary about engaging with non-state actors such as NGOs. Recently, however, there has been a 'substantial incorporation of prominent humanitarian, human rights, and development NGOs into Council activities' (Graubart 2008, p. 159). As the Council began addressing not only interstate but also internal conflicts in the early 1990s, it 'entered an arena where the expertise and action of NGOs was especially critical' (Paul 2004b, p. 375). Therefore, during the 1990s, 'Council members increasingly met with NGOs on their own and in groups, not only to brief them on recent developments ... but also to seek their input' (Malone 2000, p. 33). The trend continued in the early 2000s, when the Council started considering a host of 'soft security' issues, such as children in armed conflict, HIV/AIDS, and even climate change. Today civil society actors actively 'seek to gain some leverage against SC policy' because they 'have become aware of the increased role of SC and its expansion into the area of "human security" issues' (Binder 2008, p. 7). Have they been successful in gaining access to the Security Council and influencing its deliberations, and through what strategies?

Access

In 1995, the NGO Working Group on the Security Council was created, initially to campaign for UN reform. In 1997, it changed focus to the facilitation of civil society dialogue with the Council. Members of the Working Group recognize that they have a large stake in the work of the Council given that the latter's decisions now 'directly affect the core programs of many NGOs' (NGO Working Group on the Security Council 2010). Furthermore, the members realize that they possess 'important information, expertise and experience that they want to offer the Council, to influence its thinking on policy matters' (NGO Working Group on the Security Council 2010). It is especially true of human rights and humanitarian

NGOs that are in the field during conflicts and emergencies: in such situations, 'international humanitarian NGOs are important information sources, and in some mass atrocity cases where other key information actors are absent, they may exclusively hold information that makes them especially influential with policy makers in advocating policy preferences' (Labonte 2013, p. 8). Some observers argue that the Working Group 'has become an influential forum at the UN level and it has astonishingly close access to high-ranking UN officials and government delegates' (Martens 2004, p. 1066). They believe that it wields 'considerable influence over Security Council deliberations, particularly on human rights and humanitarian matters' (Mertus 2005, p. 136). On the other hand, others offer a more modest assessment by noting that the Group at the very least 'facilitates a flow of information' between the Security Council and NGOs (True-Frost 2007, p. 136).

Another mechanism for engaging with the Council is the so-called Arria formula format. It is an informal briefing by an expert held outside the Council chambers. The formula was invented in 1992 when Venezuelan Ambassador Diego Arria invited Council members to gather over coffee in the Delegates Lounge to hear the story of a Bosnian Croat priest who came to New York in the hope of meeting with individual ambassadors to discuss the Yugoslav crisis. In the mid-1990s, the format was predominantly used to organize briefings by officials from member states and intergovernmental organizations. In 1996 some elected members tried to broaden the use of the Arria formula to invite civil society actors, but met with resistance from the permanent members, notably the UK and Russia. For example, the September 1997 briefing by the Secretary-General of Amnesty International was upon the insistence of the P-5 not called an Arria formula meeting but an 'ad hoc' event (Paul 2003). In the autumn of 1999, the sentiment shifted among some of the P-5: in the UK a new ambassador and new government were more open to consultations with NGOs. In April 2000, the Canadian and Dutch ambassadors organized an Arria formula meeting with CARE, Oxfam and Médecins sans frontières (MSF) on the issue of the protection of civilians in armed conflict. Two more Arria formula briefings by NGOs followed that year, which 'indicated that the procedure had finally gained a firm foothold in the Council's repertoire' (Von Riekhoff 2002, p. 82).

Today the situation is quite different from that in the mid-1990s: NGO participation in Arria formula meetings is relatively common, while it is rarely used to invite the type of officials who gave briefings in this format

two decades ago (Sievers and Daws 2014, p. 92). For example, from January to November 2015, 16 Arria formula meetings were held and eight of them included representatives of civil society, defined broadly as NGOs, policy research institutes, and individual activists but excluding political actors (Security Council Report 2015). Most member states are positive about the Arria formula. During the November 2011 debate on the Council working methods, European countries, Australia, and Egypt speaking on behalf of the Non-Aligned Movement commended the Arria formula as useful outreach tool. A representative of Luxembourg called upon the Council to 'make more regular use of "Arria-formula" meetings in order to strengthen interaction between the Council and civil society and non-governmental organizations, whose analyses and experience on the ground may have particular relevance for the Council's deliberations' (as cited in Sievers and Daws 2014, p. 77). At the same time, criticism of the Arria formula is 'increasingly common' because the meetings are seen as being 'not nearly as effective as they used to be': they are often attended only by junior diplomats and the discussion are 'very limited' (Security Council Report 2007). This is echoed by some NGO representatives: according to Paul Mikov of World Vision, 'the Arria-Formula meetings have become completely useless and inconsequential and have become a tool for them to say they have taken care of the NGOs' (as cited in Niemetz 2015, p. 149). Since the meetings are confidential, it is difficult to assess the depth and usefulness of the discussions taking place during such briefings.

Overall, nowadays 'the relative ease of access NGOs have to the Secretariat and diplomats (of some countries) stationed at UN headquarters means that the more active and credible NGOs have little trouble making their voices heard' (Johnstone 2003, p. 462). Indeed, several organizations, such as Amnesty International, Human Rights Watch, Oxfam, Save the Children, World Vision, CARE, and MSF 'actively lobby the Council and meet with individual missions on a continuous basis' (Global Policy Forum 2013).

Strategies

Civil society actors, unlike states or even international organizations (IOs), 'have only discursive resources: expertise, arguments, and publicity' (Deitelhoff 2009, p. 44; see also Keck and Sikkink 1998, p. 16; Labonte 2013, p. 54). Civil society actors 'rely foremost upon their reputation as

committed upholders of principled norms' and 'their expertise, their connections to a network of actors, including local activists and influential policy-makers, and their public support' (Graubart 2008, p. 160). Civil society actors targeting the Council usually employ several tactics at once: '[a]s NGOs gained experience in Council advocacy, many concluded that the most effective strategy combined diplomacy in New York with worldwide public advocacy campaigns' (Paul 2004a).

New York advocacy focuses on establishing links with UN Secretariat officials and member state diplomats. The ten elected Council members are assumed to be NGOs' 'more natural partners' (Paul 2004b, 379). As these members struggled to cope with the growing decision-making burden associated with the expansion of the Council's responsibilities in the 1990s and 2000s, they discovered that 'NGOs can provide exceedingly valuable field information from their contacts in crisis areas, helping to improve their delegations' awareness of the issues' (NGO Working Group on the Security Council 2010). They welcomed 'information, expertise and policy ideas from NGOs that could help them fulfil their responsibilities in the Council and act as a counter-weight to the large mission staffs and vast intelligence capabilities of the Council's P-5' (Paul 2004a). However, as the discussion in this chapter will demonstrate, civil society actors work with both elected and permanent Security Council members.

Influence

Determining the degree of influence that civil society has on Security Council deliberations is a notoriously difficult undertaking. While Binder (2008, p. 16) argues that 'the impact of SC-NGO interaction on a number of issues is fairly apparent', he also acknowledges that 'more detailed case studies will be required in order to trace the influence of NGOs in the Security Council decision-making process'. Overall, the NGO community has 'successfully established regular consultations with the members of the SC and in some cases it has even authored Council resolutions' (Niemetz 2015, p. 147). An example that is often cited in the literature is the role of NGOs in the promotion of the agenda on women, peace, and security, which culminated in the adoption of Resolution 1325 in 2000 (Carey 2001; Hill et al. 2003; Ancil et al. 2004; True-Frost 2007; Shepherd 2008; Tryggestad 2009; Otto 2010). For observers it was clear that Resolution 1325 'had come from the NGO side' (Paul 2010). In comparison with the issue of women, peace, and security, the influence of

civil society in other cases seems to be less apparent. This chapter aims to address this gap by looking at the role of NGOs in advocating a stronger UN response to the Rwandan genocide.

CIVIL SOCIETY ADVOCACY DURING THE RWANDAN GENOCIDE

NGOs have played a significant role in shaping the Council's response to the Rwandan genocide by approaching permanent and non-permanent members of the Council and running a mass publicity campaign. Although the response was too little and too late, without NGO advocacy it might have been absent altogether. The failure of the UN to take a timely and decisive action in Rwanda has prompted a series of important reforms, such as discussions on the strengthening of the organization's early warning capacities, the creation of the Office of the Special Adviser on the Prevention of Genocide, and the placing of the issue of the protection of civilians in armed conflict on the Council's agenda.

The Context

In October 1993, the UN deployed a mission to Rwanda, UNAMIR, to oversee a power-sharing agreement between the Hutu government and Tutsi Rwandan Patriotic Front, which was supposed to end the Rwandan Civil War. When Hutu extremists began a killing campaign against Tutsis in early April 1994, UNAMIR, despite its limited mandate and resources, managed 'to protect tens of thousands of foreign and Rwandan civilians who sought protection in hotels, hospitals and the Amahoro stadium' (Findlay 2002, p. 278). After ten Belgian peacekeepers were brutally murdered, Belgium, the largest troop contributor to UNAMIR, recalled its contingent and began advocating a complete withdrawal of the mission. A perception developed that UNAMIR would not be able to protect civilians, although it 'was actively engaged in such protection exercises, sometimes with as few as a handful of soldiers guarding thousands of individuals' (Barnett and Finnemore 2004, p. 152).

Many powerful Security Council members, including the USA, initially supported the idea of a withdrawal. New Zealand, which held the rotating Council presidency in April 1994, opposed it, together with other small and middle powers on the Council, such as Argentina, the Czech

Republic, and Spain (Kovanda 2010, p. 200). On 21 April, the Council voted to reduce UNAMIR's strength from 2,548 to 270 troops. Short of a complete pullout, it made it impossible for UNAMIR to continue its protection activities. The coalition of small and middle powers began a campaign for the mission's reinforcement (Des Forges 1999, p. 968). On 17 May, the Council authorized a reinforced UNAMIR with a strength of 5,500 troops and mandate to contribute 'to the security and protection of displaced persons, refugees and civilians at risk in Rwanda' and 'take action in self-defence against persons or groups who threaten protected sites and populations' (UNSC 1994, p. 3). The reinforcements took months to arrive. The genocide ended in mid-July with a military victory for the Rwandan Patriotic Front.

NGOs and Small and Middle Powers

In the first weeks of the genocide, there was a severe dearth of information about what was going on in Rwanda. Small and middle powers, who did not have an extensive network of diplomatic missions in Africa, found it especially difficult to develop a correct appraisal of the situation. They therefore relied on the information supplied by NGOs: New Zealand and its allies were 'deeply affected by independent information from non-governmental organizations about the ethnic character of the killings' (Walling 2013, p. 132). Czech Ambassador Karel Kovanda recalls how 'he had learned more about what was really happening in Rwanda from human rights groups in New York than from sitting in the secret Security Council meetings' (Melvern 2002). Kovanda started to develop an understanding of the events in Rwanda after reading a *New York Times* article by a member of an NGO Africa Watch. The ambassador was not familiar with Africa Watch, but it belonged to the Helsinki Watch network, which Kovanda knew well for their work on Czechoslovak dissidents during the Communist era.[1] Kovanda recalls that he had 'an a priori reason to trust the Africa Watch folks'; in addition, the article 'had an internal logic', which helped him realize the nature of the domestic and foreign interests involved in the Rwandan conflict (Kovanda 2010, p. 201). Therefore, both the reputation and expertise of Africa Watch has played a role in attracting Czech diplomat's attention.

Interested to learn more, Kovanda contacted Africa Watch and befriended Alison Des Forges, a leading specialist on Rwanda, who 'became the source of accurate, dependable information about the situation in the

country' (Kovanda 2010, p. 201). On 18 April, he invited her to brief the ten elected Council members. It was 'a very unusual meeting during which "small countries", nonpermanent UNSC members, had an opportunity to learn from reliable and extremely well informed, albeit informal, sources about the causes, origins, and course of the Rwanda catastrophe' (Kovanda 2010, p. 202). As for Alison Des Forges, the meeting was also 'a quite extraordinary opportunity for her as an NGO representative to communicate directly with diplomats working on the UNSC' (Kovanda 2010, p. 202). In 1994, the relationship between civil society and Security Council diplomats was still at a nascent stage.

On 19 April, two days before the Council's vote to reduce UNAMIR to a token presence, the executive director of Human Rights Watch wrote to New Zealand Ambassador Colin Keating that 'the Rwanda military authorities are engaged in a systematic campaign to eliminate the Tutsi' (Melvern 2000, p. 169). Keating also sought information from NGOs on his own initiative. Since the Secretariat did not communicate clearly what was going on in Rwanda, Keating started having personal meetings, sometimes two or three times a day, with representatives of the International Committee of the Red Cross (ICRC) and MSF. He then conveyed the information to other diplomats on the Council (Keating 2004, p. 506). On 26 April, the UK Ambassador reported back to the Foreign Office the information that Keating had received from MSF about the murder of doctors and patients in one of the hospitals run by the relief organization, which was described by MSF Director-General as 'the worst atrocity seen by MSF since it was established' (UK Mission to the UN 1994, p. 2). The information provided to Keating by NGOs was reaching other Security Council diplomats and subsequently foreign ministries in their respective countries.

On 28 April, a draft statement by the President of the Security Council, a non-binding but politically consequential document, was circulated by the Czech delegation, referring to the events in Rwanda as genocide. The draft also contained the following phrase: 'In addition to information available from the Secretary-General, the Security Council has considered information available from well-respected NGOs' (as cited in Kovanda 2010, p. 218). It was 'unheard of' but reflected the reality in which the 'most valuable and most trustworthy information originated with Africa Watch, Amnesty International, the ICRC, and MSF, whereas the UN Secretariat did not furnish much of value' (Kovanda 2010, p. 205).

Following long negotiations, the term 'genocide' was dropped but the ethnic character of the killings was recognized.

Besides, 'not a word remained about the work of and information from NGOs that the Czech delegation had stressed in our original draft' because 'China and Oman were particularly loath to allow for a precedent of the Security Council's reacting to information from NGOs' (Kovanda 2010, p. 207). While many small and middle powers were eager to acknowledge the role of civil society in shaping their perceptions of the conflict (which was also an implicit criticism of the Secretariat's inability or unwillingness to provide accurate information), some major powers like China were anxious to preserve the state-centric nature of Council politics. In general, as Cora Weiss of the Hague Appeal for Peace observes, 'the willingness to listen certainly depends on the member state and the flexibility of thinking of the ambassador': while some 'are really grateful to get information' from NGOs, there are also 'countries that feel treated by civil society' (as cited in Niemetz 2015, p. 47).

NGOs and UNSC Permanent Members

In addition to keeping contact with diplomats from non-permanent UNSC members, NGOs targeted powerful member states, most notably the USA. When a complete withdrawal of UNAMIR was discussed, Alison des Forges and a representative of Rwandan NGO, the Association for the Defense of Human Rights and Public Liberties (known by its French acronym ADL), contacted US Ambassador Madeleine Albright. She 'gave them a sympathetic hearing' and directed them to the US National Security Council, which agreed to keep a small number of UN troops in Rwanda. '[L]obbying by human rights and humanitarian organizations' is believed to have played a role (Des Forges 2004, p. 35).

Representatives of another humanitarian NGO, InterAction, attempted several times to meet with Madeleine Albright, but she declined. At the same time, international humanitarian NGOs spoke to other key US officials, such as Richard Clarke, the focal point for humanitarian policy, Anthony Lake, National Security Advisor, and other State Department officials from the interagency task force on Rwanda. In early May, Alison des Forges and an ADL representative met with the US Deputy Assistant Secretary of State for African Affairs 'and urged US support for an expanded UN force with a robust civilian protection mandate' (Labonte 2013, p. 109).

NGOs targeted officials from other P-5 countries as well. After Oxfam had telephoned David Clark, shadow Secretary of State for Defence, the Labour Party put pressure on the UK Government to provide diplomatic and logistical support to the UN operation (Melvern 2000, p. 232). The support failed to materialize, despite promises. The belated and inadequate action by Security Council members is one of the reasons why some NGO representatives are quite pessimistic about their role during the genocide: the president of the US branch of Save the Children believes that 'he did not succeed in changing a single US policy maker's opinion about intervening in Rwanda' (as cited in Labonte 2013, p. 119). While the UN failed to intervene forcefully to stop the genocide, a small presence was kept on the ground to observe the events and attempts were made to reinforce the mission.

NGOs and Public Opinion

In parallel to the efforts to pressure the Security Council, civil society continued to call public attention to the events in Rwanda. Both before and after UNAMIR's downsizing, '[n]ewspaper editorials and opinion pieces ("op-eds") by human rights workers or aid agency officials advocated UN intervention to stop the killing' (Hilsum 2007, p. 173). The overseas director of Oxfam wrote in *The Guardian* on 16 April that while the Council focused on protecting civilians in Bosnia, under-resourced UNAMIR troops 'have to look away while people are hacked to death'. On 20 April, the executive director of Human Rights Watch called for a stronger UN response to the violence in Rwanda in a letter to *The New York Times.* On 1 May, the executive director of Amnesty International condemned the fact that while Bosnia was in the spotlight, 'the massacres of tens of thousands in an African country is met with a collective denial of responsibility and a hasty retreat' (all cited in Melvern 2007, p. 208). The mass publicity campaign continued after the decision to reinforce UNAMIR. On 23 May, the Secretary-General of MSF argued in a *New York Times* article that since a reinforced UNAMIR was not given a 'clear mandate' to protect civilians and without a prompt deployment of a sufficient number of troops, UNAMIR soldiers could 'end up being mere observers of the cold-blooded massacres of defenseless women and children, allowed to take action only in "self-defense"' (Destexhe 1994). Therefore, civil society actors not only targeted Security Council diplomats but also ran a campaign in the press to attract public attention to the genocide.

Conclusion

Over the years, the relationship between civil society and the UN Security Council strengthened and became more institutionalized. The NGO Working Group on the Security Council is a useful vehicle for keeping in touch with Council diplomats. Arria formula briefings are another mechanism for engaging with the Council, despite the recent doubts about its efficiency. However, during the genocide in Rwanda, it was highly unusual for Security Council diplomats to consult with NGOs. Civil society advocacy for a stronger UN response to the genocide was therefore ground-breaking.

Assessments of the civil society's role during the events differ in the literature. James Paul (2004b, p. 381) believes that 'Rwanda firmly established NGOs as indispensable information sources'. Similarly, according to the Security Council Report (2007), the Rwandan genocide was '[t]he first systematic process for incorporation of input from NGOs [which] had the widest presence in the field and were best able to report the true dimensions of what was actually unfolding throughout the countryside'. On the contrary, Melissa Labonte (2013, p. 100) argues that compared to the 1992–1993 crisis in Somalia, NGOs were less influential because they had a limited field presence during the initial weeks of the genocide and therefore 'avoided lobbying policy makers on the matter'. As this chapter demonstrates, although NGOs mobilized only in mid- to late April 1994, they influenced officials and diplomats from permanent and non-permanent Security Council members as well as public opinion. While non-permanent Security Council members are expected to be more inclined to work with NGOs, as was indeed the case with the ambassadors of New Zealand and the Czech Republic, some officials from permanent member states were also open to civil society.

The growth of civil society's engagement with the UN Security Council and other international organizations calls for further research on the issue. Depending on the investigator's theoretical perspective, two sets of questions can be interesting. Researchers who focus on international organizations might ask: What factors affect the receptivity of international organizations to civil society's appeals? What models of engagement with civil society provide for the most fruitful exchanges? Researchers who focus on civil society, on the other hand, might ask: How do civil society actors choose strategies for targeting international organizations? What strategies are effective and under what conditions? A more nuanced

understanding of the relationship between civil society and international institutions can enrich our understanding of international politics and help elaborate suggestions for making this relationship more effective and mutually beneficial.

Note

1. The Helsinki Watch was created in 1978 as an umbrella organization for citizens' groups throughout the Soviet bloc monitoring the compliance with the 1975 Helsinki Accords. In 1981, Americas Watch was formed. Asia Watch (1985), Africa Watch (1988) and Middle East Watch (1989) followed. In 1988, these organizations adopted the name Human Rights Watch. See Human Rights Watch, 'Our History', 2015, available from http://www.hrw.org/node/75134, accessed 23 March 2015. Kovanda refers to Africa Watch and Human Rights Watch interchangeably.

References

Ancil, A.-P., Clements, K., Piza-Lopez, E., & Johnston, N. (2004). Legitimizing the role of women in peacebuilding at the United Nations: A campaign approach. In M. Fitzduff & C. Church (Eds.), *NGOs at the table: Strategies for influencing policies in areas of conflict*. Lanham: Rowman and Littlefield.

Barnett, M., & Finnemore, M. (2004). *Rules for the world: International organizations in global politics*. Ithaca, NY: Cornell University Press.

Binder, M. (2008, August). *The politicization of international security institutions: The UN security council and NGOs*. Paper presented at the Annual Conference of the American Political Science Association, Boston, MA.

Carey, H. F. (2001). "Women and peace and security": The politics of implementing gender sensitivity norms in peacekeeping. *International Peacekeeping, 8*(2), 49–68.

Charnovitz, S. (2000). Opening the WTO to nongovernmental interests. *Fordham International Law Journal, 24*(1–2), 173–216.

Deitelhoff, N. (2009). The discursive process of legalization: Charting islands of persuasion in the ICC Case. *International Organization, 63*(1), 33–65.

Des Forges, A. (1999). *Leave none to tell the story: Genocide in Rwanda*. New York: Human Rights Watch.

Des Forges, A. (2004). Learning from disaster: U.S. human rights policy in Rwanda. In D. Liang-Fenton (Ed.), *Implementing U.S. human rights policy: Agendas, policies, and practices*. Washington, DC: US Institute of Peace.

Destexhe, A. (1994). Rwandans die while the U.N. procrastinates. *New York Times*, Retrieved August 13, 2013, from http://www.nytimes.com/1994/05/23/opinion/l-rwandans-die-while-the-un-procrastinates-167290.html

Findlay, T. (2002). *The use of force in UN peace operations*. New York: Oxford University Press.

Global Policy Forum. (2013). Arria formula and other UN Proceedings. Retrieved May 14, 2013, from http://www.globalpolicy.org/security-council/ngos-and-the-council/arria-formula-and-other-un-proceedings.html

Graubart, J. (2008). NGOs and the security council: Authority all around but for whose benefit? In B. Cronin & I. Hurd (Eds.), *The UN security council and the politics of international authority*. London: Routledge.

Hill, F., Aboitiz, M., & Poehlman-Doumbouya, S. (2003). Nongovernmental organizations' role in the buildup and implementation of security council resolution 1325. *Signs: Journal of Women in Culture and Society, 28*(4), 1255–1269.

Hilsum, L. (2007). Reporting Rwanda: The media and the aid agencies. In A. Thompson (Ed.), *The media and the Rwanda genocide*. London: Pluto.

Johnstone, I. (2003). The role of the UN secretary-general: The power of persuasion based on law. *Global Governance, 9*(4), 441–458.

Keating, C. (2004). Rwanda: An insider's account. In D. Malone (Ed.), *The UN security council: From the cold war to the 21st century*. Boulder, CO: Lynne Rienner.

Keck, M., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics*. Ithaca, NY: Cornell University Press.

Kovanda, K. (2010). The Czech Republic on the UN security council: The Rwandan genocide. *Genocide Studies and Prevention, 5*(2), 192–218.

Labonte, M. (2013). *Human rights and humanitarian norms, strategic framing, and intervention: Lessons for the responsibility to protect*. Oxon: Routledge.

Malone, D. (2000). The security council in the 1990s: Inconsistent, improvisational, indispensable? In R. Thakur & E. Newman (Eds.), *New millennium, new perspectives: The United Nations security and governance*. New York: UN University Press.

Martens, K. (2004). An appraisal of amnesty international's work at the United Nations: Established areas of activities and shifting priorities since the 1990s. *Human Rights Quarterly, 26*(4), 1050–1070.

Melvern, L. (2000). *A people betrayed: The role of the west in Rwanda's genocide*. London: Zed Books.

Melvern, L. (2002). *Briefing before the committee on conscience of the United States holocaust memorial museum*. Retrieved October 12, 2014, from http://www.ushmm.org/confront-genocide/speakers-and-events/all-speakers-and-events/briefing-by-linda-melvern

Melvern, L. (2007). Missing the story: The media and the Rwanda genocide. In A. Thompson (Ed.), *The media and the Rwanda genocide*. London: Pluto.

Mertus, J. (2005). *The United Nations and human rights: A guide for a new era*. Abingdon: Routledge.

NGO Working Group on the Security Council. (2010). *Information Statement*. Retrieved March 27, 2015, from http://www.ngowgsc.org/content/information-statement

Niemetz, M. D. (2015). *Reforming UN decision-making procedures: Promoting a deliberative system for global peace and security*. Abingdon: Routledge.

Otto, D. (2010). Power and danger: Feminist engagement with international law through the UN security council. *Australian Feminist Law Journal, 32*(1), 97–121.

Paul, J. A. (2003). *The Arria formula*. Retrieved December 13, 2015, from http://www.globalpolicy.org/component/content/article/185/40088.html

Paul, J. A. (2004a). *NGOs and the security council*. Retrieved April 13, 2015, from https://www.globalpolicy.org/security-council/40406-ngos-and-the-security-council.html

Paul, J. A. (2004b). Working with nongovernmental organizations. In D. Malone (Ed.), *The UN security council: From the cold war to the 21st century*. Boulder, CO: Lynne Rienner.

Paul, J. A. (2010). *A short history of the NGO working group*. Retrieved March 27, 2015, from http://www.ngowgsc.org/content/short-history-ngo-working-group

Rixen, T., & Zangl, B. (2013). The politicization of international economic institutions in us public debates. *The Review of International Organizations, 8*(3), 363–387.

Security Council Report. (2007). Special Research Report No. 3: Security Council Transparency, Legitimacy and Effectiveness, Retrieved July 6, 2016, from http://www.securitycouncilreport.org

Security Council Report. (2015). *Arria-Formula Meetings, 1992–2015*, Retrieved December 14, 2015, from http://www.securitycouncilreport.org

Shepherd, L. J. (2008). Power and authority in the production of United Nations security council resolution 1325. *International Studies Quarterly, 52*(2), 383–404.

Sievers, L., & Daws, S. (2014). *The procedure of the UN security council* (4th ed.). Oxford: Oxford University Press.

Steffek, J. (2013). Explaining cooperation between IGOs and NGOs—Push factors, pull factors, and the policy cycle. *Review of International Studies, 39*(4), 993–1013.

Tallberg, J., Sommerer, T., Squatrito, T., & Jönsson, C. (2013). *The opening up of international organizations: Transnational access in global governance*. New York: Cambridge University Press.

True-Frost, C. (2007). The security council and norm consumption. *New York University Journal of Legislation and Public Policy, 40*, 115–217.

Tryggestad, T. L. (2009). Trick or treat? The UN and implementation of security council resolution 1325 on women, peace, and security. *Global Governance, 15*(4), 539–557.

UK Mission to the UN. (1994). *Memo on Rwanda*. Retrieved December 12, 2015, from http://nsarchive.gwu.edu/NSAEBB/NSAEBB472/pdf/uk1481.pdf

UN Security Council. (1994). Resolution *925*. Retrieved December 13, 2015, from http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/925

Von Riekhoff, H. (2002). Canada and the United Nations security council, 1999–2000—A reassessment. *Canadian Foreign Policy Journal, 10*(1), 71–106.

Walling, C. B. (2013). *All necessary measures: The United Nations and humanitarian intervention*. Philadelphia: University of Pennsylvania Press.

Zürn, M., Binder, M., & Ecker-Ehrhardt, M. (2012). International authority and its politicization. *International Theory, 4*(1), 69–106.

EU

Asymmetric Patterns in the Civil Society's Access to the European Commission: The Cases of DG FISMA and DG TRADE

Giuseppe Montalbano

How does the European Commission's participatory regime shapes the patterns of EU–civil society partnership throughout the initiating stage of the legislative processes at EU level? This chapter investigates a crucial aspect underlying this question, which has hitherto received relatively little attention in the literature: that is, the various factors that enable competing corporate and non-corporate organized interests to gain access to the European Commission's policy-definition venues. The hypothesis presented can be summarized as follows: if the lobbying resources (see below) ensure privileged access for business representatives in general, and in particular for the large European associations and firms, non-corporate organized groups improve their chances of access when the policy issues they address—together with the objectives they strive for—gain a sufficient degree of public and political salience. Such a salience opens up new strategic opportunities for key societal entrepreneurs and organized groups, favouring the building up of large alliances with relevant policy-makers and pressuring to reconfigure the balance of corporate and non-corporate access to Commission policy-makers. In order

G. Montalbano (✉)
Department of Political Science, LUISS, Rome, Italy

to test such a hypothesis, I focus on three main participatory instruments: (1) expert groups, (2) stakeholders' consultations and (3) grant programmes allocated to civil society organizations. I conduct an in-depth analysis of these access channels in the DGs Fisma and Trade, addressing two policy areas that came to the fore between 2008 and 2015, namely European financial services regulation and international trade negotiations.

In Section 1, I briefly review the relevant literature on interest groups' access and participatory democracy as relevant to the Commission. In Part 2, I present the main hypothesis regarding the institutional, economic, and political/contextual variables considered, operationalizing them in relation to the three participatory channels I focus on. In Part 3, I test these hypotheses against the participatory regimes embedded in the Commission DGs Fisma and Trade. In the final section (Section 4) I draw some general conclusions from the empirical analysis.

Research Question

Power asymmetries between corporate and non-corporate interests represent a crucial factor for any model of participatory democracy that aims to enhance the legitimacy of the EU polity through the inclusion of civil society into the policy-making process (Kohler-Koch and Finke 2007; Kohler-Koch 2007, 2013; Saurugger 2008).[1] Whatever the particular model, Dahl's admonishment on the serious risks to democratic legitimacy in a regime that privileges certain societal interests against others (Dahl 1989, pp. 83–96, 322–326) remains a starting point for the normative foundation of associative democracy (Hirst 1994, Cohen and Rogers 1995). As a supranational institution holding the highest legal authority in policy initiation and executive powers, the European Commission has been historically both a major target and the proactive builder of a European system of interest intermediation (Mazey and Richardson 2001; Christiansen 2006; Bouwen 2009), in order to facilitate EU democratization. Yet the Commission's participatory system largely took shape around its first true Europeanized societal constituency and lobbying agency—that is the large national and transnational firms, together with their representative associations and forums (Greenwood 2011, pp. 65–93; Coen 1998, 2009, 2011; Cowles 1998). From their different theoretical positions, both neo-functionalist, inter-governmental and critical approaches recognize a primary role to the large business interests in building up of the European integration, in as much as capitalist agents endowed with structural economic power and overwhelming lobbying

resources in respect to non-corporate organized interests (van Apeldoorn 2002: 36–41). The latter faced the crisis of established national intermediation regimes and the opening up of a 'transnational pluralist space' (Streeck and Schmitter 1991) at the European level, which amplified the basic hindrances in collective-action for labour and Civil society organized interests (Olson 1965; Offe and Wiesenthal 1980) in front of far inferior lobbying capabilities. However, alongside the deepening of the integration process and in response to the perceived lack of legitimacy, the EU governing institutions—and the Commission in particular—gradually opened up the channels for a broader and more inclusive participation of the different civil society groups. From publication of the *White Paper on Governance* to the *European Transparency Initiative*, the Commission and the EU institutions increasingly enhanced consultative and participatory instruments to foster a wider civil society inclusion in the European policy-making (Quittkat and Kohler-Koch 2013). The Commission thus strove to develop a dialogue with as wide a sector of European civil society as possible, on the basis of a pluralist framework of stakeholders consultations and external expertise in the policy-definition stages, together with more proactive instruments to empower relevant interest groups with a European scope, such as funding programmes for NGOs and other public interest organizations.

A broadly adopted and fruitful way to explain such a relationship has been to focus on the access conditions, determining the extent to which different organized interests are included and heard in specific venues designated to gather and deliver external non-governmental inputs to the Commission. As a preliminary and necessary—but indeed not sufficient—factor in assessing the influence of societal actors on Commission policy-makers, interest groups' access has been mainly conceptualized in the literature according to a resource-interdependence model. Focusing exclusively on business interests, the most rigorous formalizations of such an approach identified a crucial factor to explain the different lobbying capabilities (with a focus on the business interests) has been identified by leading scholars in the provision of both expertise and legitimacy inputs demanded by the Commission in exchange for access channels (Bouwen 2002, 2004; Eising 2007; Mahoney 2007; Beyers 2002; Broscheid and Coen 2003). Yet these approaches underestimate the implications resulting from the inner links between expertise and interests: the selection of external expert entails a choice of *which* societal interests to include. The non-neutral expertise *from* specific socio-economic interests is actually needed to the Commission both for reasons of technocratic efficiency and

to build up consensus on its policy proposals from the designated relevant constituencies. Therefore, such a model tells us nothing about the formation and changes of the Commission's *demands* for legitimacy and expertise inputs from *different* economic and societal actors.

Variables and Hypotheses

In order to revise such a resource-interdependence model, we identify two main set of variables from which to derive corresponding working hypotheses. The first dimension I consider refers to *structural* and *organizational* lobbying capabilities. Given the intertwining of expertise and interests, we can suppose that (H.1) *the European and national organizations of large member states—as representative of the constituencies targeted by the Commission—together with the subjects with a transnational reach* (like the large cross-border banks and firms), *will have better chances of access*. We also have to take into account the means concretely deployed to advance civil society inputs into policy-making in respect to other organized interests, such as *lobbying expenditures* and *personnel*. Therefore we can expect that (H.2) *the more the lobbying expenditures and personnel deployed by civil society groups, the greater their chances of access.*

Yet any simplistic narrative on business 'capture' fails to properly understand Commission policy-making in terms of complex mediations involving broader political conflicts and societal concerns (Hartlapp et al. 2014; van Schendelen 2010). As showed by Culpepper, however, market regulatory issues are often characterized by their *low saliency* in public and political debate because of their complex and technical nature, the uncertain consequences for the population as a whole, collective action problems in mobilizing societal actors not immediately affected by those policies, and the unlikelihood of their featuring as a major topic in media coverage (Culpepper 2011, chapter 1). Such a situation of 'quiet politics' represent the ideal environment where the business interests could influence the policy-making process. Yet whenever an usually neglected policy issue arouses public attention, it can trigger broad public debate and open a window of opportunity for societal entrepreneurs to build consensus around new societal demands. In relation to our case, we can hypothesize that (H.3) the higher the public and political salience of the issues debated, the more will be the Commission demands for non-corporate groups' expertise and legitimacy inputs, so fostering their access opportunities.

I will take into account three major participatory instruments: expert groups, stakeholders' consultations and funding programmes. Following Mazey and Richardson (2001, p. 87), we can define open consultations as a typical 'thin' institutional channel of inclusion, formally allowing every interest group or single citizen to participate, but representing a weak degree of access (Quittkat 2013, p. 110). On the opposite side we find a 'thick' participatory potential in expert groups, characterized by narrow participation and the direct designation of the expert groups' members by the competent Directorate Generals (DGs), supposedly involving a higher impact on policy definition (Saurugger 2002). Finally, we will consider funding programmes as the most proactive Commission instrument to support weaker and diffuse interests (Mahoney and Beckstrand 2011), being a proxy for the enhanced access conditions of the group at stake.

Relying on the approaches focusing on the stakeholders' conditions of access to the expert groups (Chalmers 2014; Gornitzka and Sverdrup 2011, 2015), we can thus hypothesize that *the large European business groups and firms will have a majoritarian presence in the experts groups relating to low salience policies and in more technical regulatory issues*, while *non-business interests will gain improved position in the Commission expert and advisory groups in periods and for issues of high political and public salience*. Among the conditions possibly enhancing non-corporate interests access, we have also to consider the political attention towards the biased composition of the expert groups: an issue arisen from 2008 thanks to both a campaign conducted by ALTER-EU (2008, 2009, 2010), and different interventions of the European Parliament (European Parliament 2008), bringing the Commission to revise its rules in 2010 with an informal commitment to 'ensur[e] a balanced representation of relevant areas of expertise and areas of interest' (Commission 2010, p. 3).

On the other hand, we might expect open consultations to be dominated by business interests endowed with large lobbying populations and resources, and non-business groups to improve their participation for issues of high salience. Finally, on the funding programmes, we could expect to address mainly non-business interests with a European scope (Mahoney and Beckstrand 2011) whose policy objectives enjoyed a high saliency in the years taken into account.

I will take into account the above-mentioned participatory channels, as deployed by the Commission DGs Fisma (Financial Stability, Financial Services and Capital Markets Union) and Trade, dealing with

their respective issue areas. The financial crisis of 2007/08, with the emergence of new regulatory demands for the financial system, and the opening of new international trade negotiations involving the EU, could be deemed to have changed the political environment underlying the Commission's participatory venues and instruments.

Operationalization and Sources

I define business interests as being represented primarily by trade associations, individual firms, and single experts with corporate affiliations, but also encompassing consultancy, law and public affair firms hired to serve their interests. The category 'non-corporate interests' covers mainly trade unions, consumer organizations, and NGOs. Other interests to consider—even if secondary in our study—are researchers, the think tanks, single citizens, SMEs, and alternative corporates (such as social-business groups). The lobbying resources will be assessed through data on the lobbying population, expenditures, and personnel available in the *European Transparency Register* (ETI) and compared with those furnished by relevant studies (CEO 2014). The analysis of the *representativeness* of the organizations has been assessed through a breakdown assessment of their *scope*, as international, European, and national levels, and the number of members. For the expert groups, the peculiar professional profile of the single experts will be assessed by checking their relevant affiliations. Regarding the dimension of issue saliency, I will refer to trends in general media coverage through *Factiva* (Young 2013, p. 3), together with the assessment of relevant public debates, concerning the issues at stake.

DG FISMA and the Financial Services' Policy-Issues

Comparing the data available from the *European Transparency Register* with those gathered by the Corporate Europe Observatory,[2] it is clear that the total lobbying population effectively engaged in financial services issues amounts to 1,370. This breaks down into 696 business organizations and individual firms, 27 professional consultancies and self-employed consultants, 18 law firms and associations, 43 trade unions, 44 consumer representatives, 56 NGOs and 75 think tanks and academies. Indeed, the lobbying expenditures and personnel of the financial industry and business interests largely outnumber those of the non-business ones. The estimated expenditure of corporate-related interests amounts to more
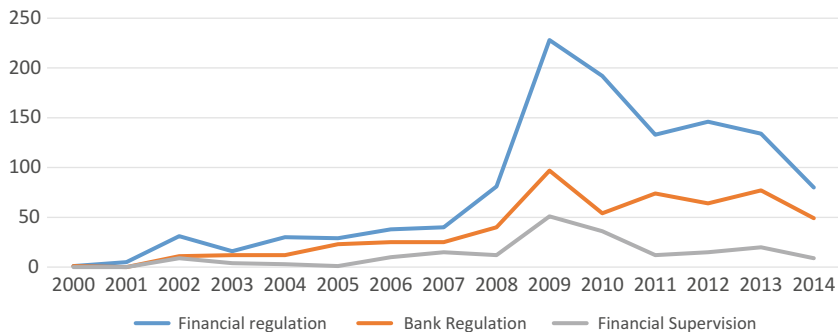
Fig. 8.1 Salience of financial services' main issues.
Source: Factiva database (key concepts searched: "financial regulation", "banking regulation"; sources: "general/political news"; region: European Union. Last accessed: 4 December 2015).

than 220 million euros (more than 90% of which are those of the trade associations and firms), while the sum of non-corporate and other groups amounts to about 5 million euros. The former have 861 lobbyists, while the latter just 225. Therefore, as expected, the lobbying population and resources in the financial issue area see the overwhelming dominance by the business-related interests' representatives.

If we look at the main issues relating to the financial services in the aftermath of the 2007/08 crisis, we notice increased media coverage reflecting the wide debate at the European level on the need to reform the financial regulatory framework (Fig. 8.1).

Expert Groups

The Commission register reveals DG Fisma's recourse to external non-governmental expertise and high-level stakeholders, especially in the years of the reform process following the financial crisis. Of 57 total expert groups and similar entities reported in the Commission directory (excluding the Committees of regulators and supervisors), 31 are external experts and stakeholder representatives.[3] To these we have to add two more groups which, although not being under the DG Fisma, pertain to the financial services' domain: the *High Level expert group on financial supervision in the EU*, directly created by the Commission presidency to advise on financial reform in the EU; and the *Expert Group on a debt redemption fund and eurobills*, providing advice on the feasibility of a European

burden-sharing mechanism to sustain the most indebted Eurozone countries. What about the participation of non-corporate groups in the issue-oriented expert groups? If we look at the selection criteria adopted for the first two categories of expert groups we see how DG Fisma tended to privilege the degree of market expertise and knowledge as main requirement, better if linked to 'practical experience', so as to consequently allow for a majoritarian presence of business-related interests. The selection procedures adopted (whenever disclosed[4]) revealed a slight majority of 13 expert groups designated though specific calls for nomination (seven of which created by Commission decisions as formal groups), against 12 groups directly designated by the Commission and three others following different procedures. The criteria adopted for these calls in all cases address market or legal expertise, so as to actually privilege market actors and individual experts in respect to other societal organized interests. If just for some groups the DG Fisma indicated as selection criteria the need to ensure a balanced geographical and gender representation, no one of them clearly indicated as selection criterion the 'balanced participation' among different stakeholders, with the sole exception of the Groupe d'experts sur l'éducation financière, referring both to consumers and other stakeholders having the requested expertise (and so showing a balanced participation).

If we look at the membership of all the expert groups and high-level forums closed, on hold, and still active, we obtain a very telling image. The various representatives of corporate interest amount to 46% of the total number of members, with the firms outnumbering the officials from national and international institutions, against 11% of non-business interests (Users, Trade Unions and NGOs) and 11% of researchers and individual experts (Fig. 8.2).

According to H.2, corporate-related interests retain a majoritarian presence in the expert groups related to financial services issues, due to the larger financial, organizational, and expertise resources to deploy in exchange of access venues. An examination of their composition across time reveals a variegated distribution of stakeholder participation in expert groups. Corporate interests outnumber the others with an interesting overall majoritarian presence of business-related interests in 7 out of 12 years and in 19 out of 29 groups created between 2008 and 2011 (Fig. 8.3).

Looking at the composition breakdown of the corporate and non-corporate groups we see confirmation of our hypothesis on the predominance of European-wide business organizations, followed by those from the larger member states. As expected, among the trade associations,
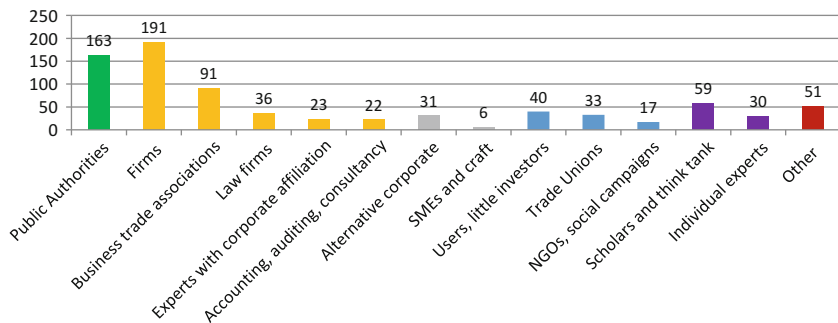
Fig. 8.2 Composition of the expert groups related to financial services issues. *Source*: Commission register of expert groups and other similar entities (accessed, 29 December 2015).
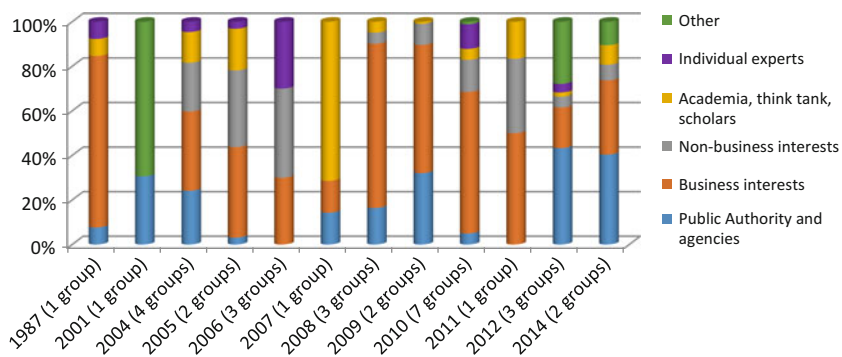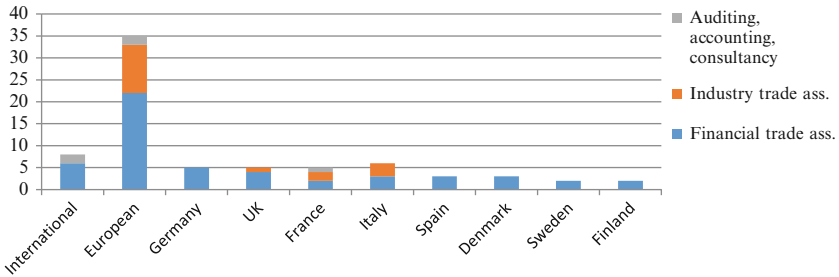

Fig. 8.3 DG Fisma mixed expert groups' composition distribution per year of creation.
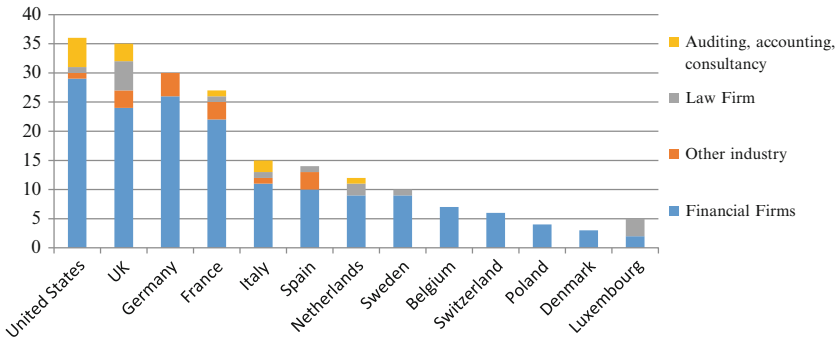*Source*: Commission register of expert groups and other similar entities (accessed, 29 December 2015).

those representative of the financial sector are a broad majority and concentrated mainly at the EU level (Fig. 8.4).

Looking at the individual firms, we notice how the large banks and financial institutions headquartered in the USA and UK—as the major Western financial centres—have a majoritarian presence in the DG Fisma expert groups, followed by those from Germany and France—as larger European continental centres. The representatives of the large players in the European financial markets thus enjoy an overwhelming voice in providing external expertise to the Commission (Fig. 8.5).

Fig. 8.4 Business trade associations and federations.
Source: Commission register of expert groups and other similar entities (accessed, 29 December 2015).

Fig. 8.5 Composition of firms.
Source: Commission register of expert groups and other similar entities (accessed, 29 December 2015).

Similarly, we found a prevalence of European-level unions, user associations, and NGOs, followed by organizations from the major EU countries, as shown in the following (Fig. 8.6):

As expected, within the interest representatives with more presence in the expert groups considered, we find an overwhelming majority of financial trade associations and firms, with just a consumer organization. Appearing in eight different groups, the European Banking Federation has the highest presence, followed by two of the largest transnational European banks, BNP Paribas (seven times) and Deutsche Bank (six times). Other European associations and private organizations appear five times (e.g. the Federation
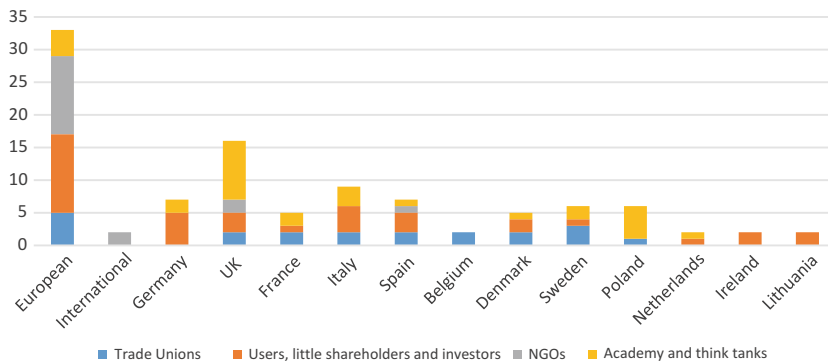
Fig. 8.6 Breakdown composition of non-business interests.
Source: Commission register of expert groups and other similar entities (accessed, 29 December 2015).

of European Securities' exchanges and the Deutsche Börse Group) and four times (e.g. the European Savings Banks Group and the European Central Securities Depositors), just like some other larger financial groups (like Intesa San Paolo), with a significant presence of US-based firms (e.g. JP Morgan, Citi Group, Goldman Sachs, and the smaller BNY Mellon). Among the non-corporate group, the only one appearing in such a top-list is the European Consumer Organization (BEUC), with six participations in expert groups and stakeholder forums. Taking into account the high saliency of the issues at stake, we see our hypothesis disproved. The large majority of expert groups advising the Commission on issues relating to financial reform are composed mainly by experts with corporate affiliations, lasting less than a year, with just two groups still active in 2015 (seven out of ten groups), with the exceptions of the Liikanen group, whose total non-business representatives (including researchers), outnumber the corporate ones, and of two special consultative forums for consumers and trade Unions—the Groupe de contacts avec les organisations syndicales communautaires (UNI Europa Group) and the Financial Services Users' Group (FSUG)—replacing in 2010 the former forum of user experts in the area of financial services (FIN-USE) and the Financial Services Consumer Group (FSCG). The UNI Europa Group has 27 members and holds meetings twice a year (at least from 2010, when it reported the first meeting) and serves as forum for discussion between Commission officials and UNI Europa, the most representative union of employees in the European financial sector. The FSUG has fewer members

(20 organizations), but meets more frequently than UNI Europa, eight times a year, so supposedly ensuring more continuing and on-time access for consumers' representatives to the Commission's draft-legislative stages, thus in principle serving as forum for the timely provision of expertise.

Consultations

As expected, the frequency of Commission open consultations parallelled the intense reform activity after the outburst of the financial crisis, preceding the majority of the legislative proposals on the regulation of the financial markets in the EU, reaching a peak between 2009 and 2012, while rapidly returning to pre-crisis level after 2013 (Fig. 8.7).

A full comparison between the pattern of stakeholder responses in the pre- and post-crisis period is hampered by the unavailability of most consultation responses prior to 2008, which were not reported in the Commission web directory. Yet, by focusing on the years 2008 to 2014, which signalled a peak in the number of consultations launched, we may be able to single out relevant patterns in civil society participation.

Taking into account the 'target' (indicated by the consultation form), nearly all the consultations address all the stakeholders, but clarifying that 'contributes are particularly welcomed' by the financial industry. Considering the duration of the single consultations to be a relevant for its accessibility, we observe a noticeable number of consultations lasting less than eight weeks, differently from what established in the minimum standards for consultations (Commission 2002, p. 21), which disadvantages those interests groups with scarce lobbying resources and personnel. Some

Fig. 8.7   Number of Commission consultations on financial services' issues. *Source*: Commission, open consultations, "Your Voice".
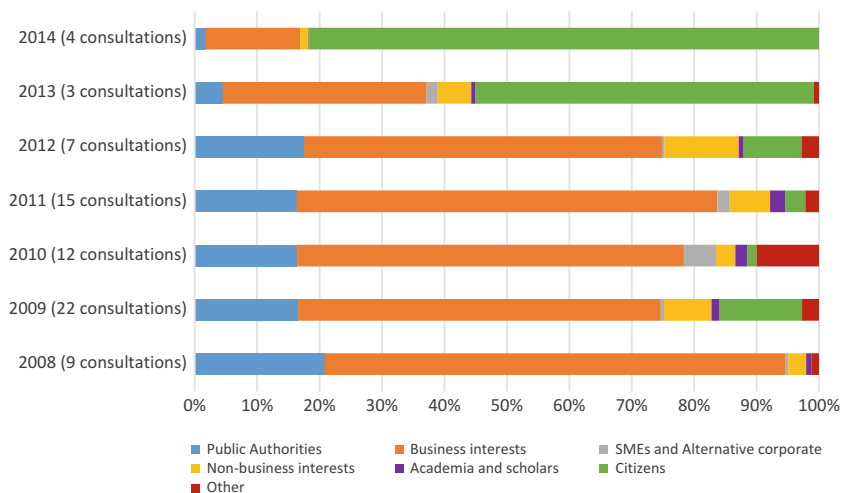
Fig. 8.8 Responses to the consultations on financial services' issues (2008–2014). *Source*: Commission, open consultations, "Your Voice".

27 out of 69 consultations lasted less than two months, corresponding to 39% of the total: of these, four consultations were open for less than four weeks, some of them concerning relevant issues of the post-crisis reform agenda (on the revision of the Market Abuse directive, the derivatives market infrastructures, and short-selling). We can also observe how corporate organized interests issued the highest number of responses (Fig. 8.8).

We will now take into account ten consultations covering policy measures relevant to the EU financial regulation reform process, so as to have a representative sample of participation patterns in relation to salient policy issues (Fig. 8.9).

In eight out of ten cases, the respondents had business interests, being either trade associations or individual firms, while non-corporate civil society organizations were a minority. Altogether, seven out of ten consultations lasted less than two months.[5] Yet it is interesting to note that the short duration of the consultations seems not to have affected the participation of non-corporate interests in regard to hedge fund regulation, banking structural reform, or credit institution resolution, all of which issues evinced extraordinary participation from individuals. In the case of banking structural reform, the numbers are product of an
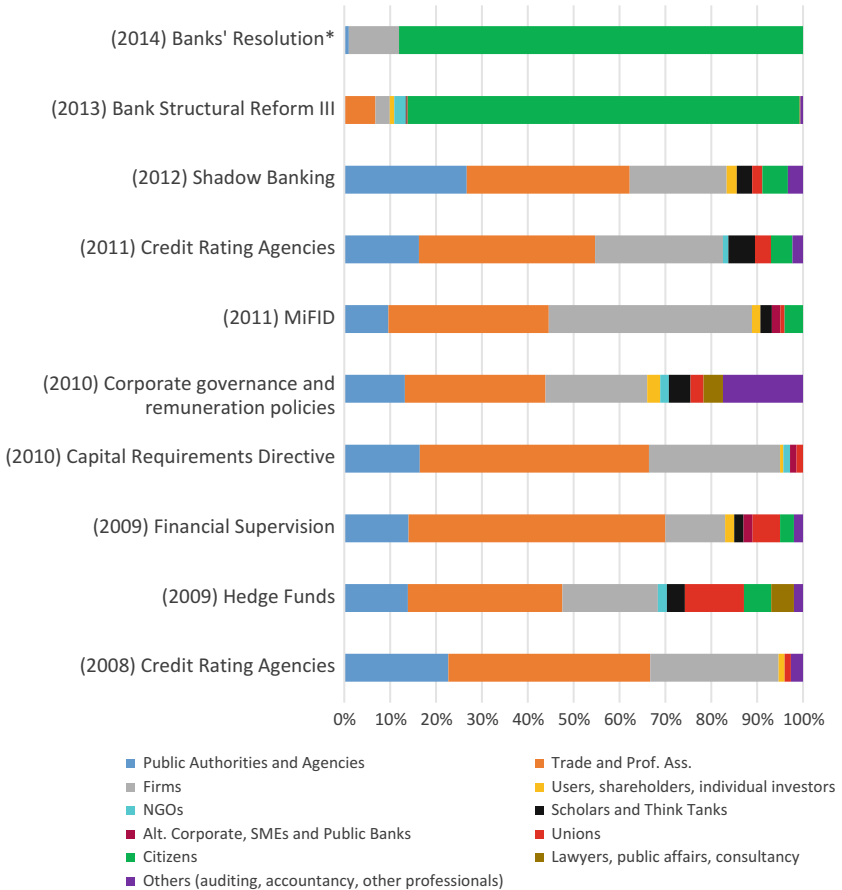
Fig. 8.9 Stakeholders' Participation in selected Commission Consultations. *Source*: Commission, open consultations, "Your Voice".

initiative launched by *Finance Watch* (2013). Profiting from the favourable context, the high salience of the issues and an easily accessible web platform with pre-prepared responses, Finance Watch mobilized hundreds of people by making the open consultation a channel to pressurize the Commission.

Commission Funding

From 2012, the DG Internal Market (now DG Fisma) launched a grant program to empower non-business interest groups on the issues related to the financial services.[6] Such a grant program, still active at the time of writing, could thus be deemed to represent the greatest turn in the Commission participatory framework in the aftermath of the crisis. Checking the data available from the Financial Transparency System (FTS) website, we see that the amount has increased from 1,250,000 euros in 2012 to 1,750,000 euros in 2014. There have been just two beneficiaries of the grant programme, both in 2012 and 2013: Finance Watch, the NGO/ think tank specializing in financial policies, and the Group of European Financial Users (EuroFinuse, which recently changed its name to Better Finance). The former has been the principal beneficiary, with 1,025,000 euros in 2012 and 1,213,000 euros in 2013. In its first 18 months of activity, from June 2011 to December 2012, Finance Watch mainly relied on funding provided by donors (1,020,783 euros) and membership fees (57,233 euros), while the first EU grant amounted to 881,566 euros. The proportion reversed in 2013, when the EU funding amounted to 61% of its budget. This trend continued in 2014, with the Commission grant to Finance Watch increased up to 1,354,000 euors (+24% compared with 2012), while EuroFinuse rose from 225,000 euors in 2012 to 396,000 euros (+43 %). The same pattern applied to other non-business organizations, which mostly engaged with financial issues and were funded by the Commission (Fig. 8.10).
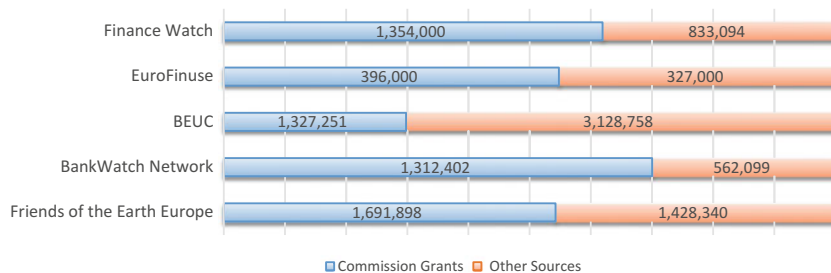

Fig. 8.10 Commission Grants for NGOs and Users' ass. Engaged with financial issues (2014).
Source: Commission, European Transparency System.

On the DG Trade

Gathering and analysing data from the ETI referring to organizations with an interest in trade-related issues, we found a majoritarian presence of business interests: a total of 1,626 firms and business association against 193 unions and other professional association, 379 NGOs, consumers, and other non-corporate associations, and 154 think tanks and researchers. Consequently, the business groups' lobbying expenditure and personnel largely outnumber those of the other categories: about 378 million euros and 22,926 lobbyists, against about 18 million euros from trade unions and professional associations (1,295 lobbyists), 35 million euros from NGOs, consumers, and other organizations (12,348 lobbyists), 50 million euros for think tanks, Academy and research institutions (8,720 'persons involved').[7] Thus, even if the gap is narrower than in the case of the financial services issues, we can expect that business interests have an overwhelming lobbying capability. Yet, if we consider the major trade agreements negotiated (e.g. CETA) or still under negotiation (e.g. TTIP and TiSA), we observe an outstanding media coverage in the EU especially regarding the TTIP from 2013 to 2015 (Fig. 8.11).

Such a high degree of press attention mirrors the impressive wave of mobilization across Europe around the EU–US trade negotiations, mainly
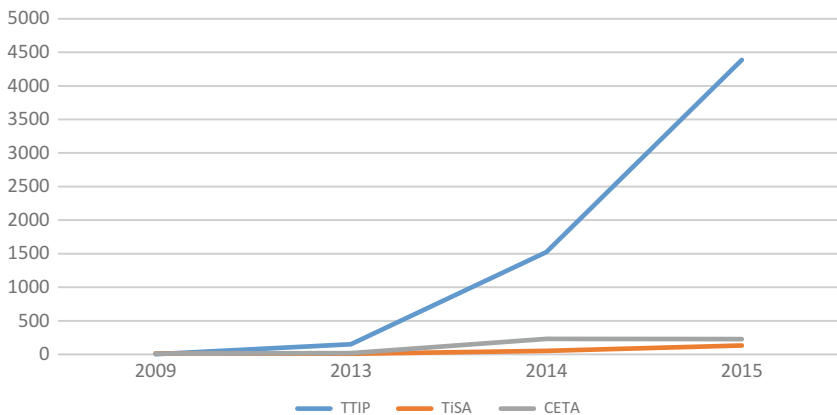
Fig. 8.11   TTIP, TiSA and CETA media coverage.
Source: Factiva database (last January 4th, 2016).

through the initiatives of the STOP-TTIP network. The extraordinary trans-European mobilization on the TTIP incentivized the Commission to open participatory channels for civil society organizations and individuals as a means to regain contested legitimacy and the democratic nature of the trade negotiation. For the first time, a dedicated website was created by the DG Trade offering updated information on the open consultations and dialogue meetings, but even giving innovative permanent channels for citizens to influence the Commission negotiators, for example via a free phone-line (within the EU member states), via a mail address, and by signing up to regular civil society meetings with the TTIP's negotiating team and contacting Members of the European Parliament.[8]

Expert Groups

In comparison with the DG Fisma, the DG Trade made less use of expert groups and almost exclusively involved representatives of public authorities and agencies. Out of 12 expert groups between 2005 and 2014, just one was composed of civil society experts, created in the wake of the mobilization on the TTIP: that is the ongoing Transatlantic Trade and Investment Partnership Stakeholder Advisory Group. This group was established in January 2014 to provide 'views on the issues at stake, examining difficulties and specific questions which may arise, and providing insight into the challenges and recent developments in specific areas which may require particular attention'.[9] Chaired by the EU's chief TTIP negotiator, the group meets approximately once every two months, in between negotiating rounds, while its members were appointed by the Commission 'to represent a common interest shared by stakeholders in a particular area', so that the group could 'reflect the interests of the major segments of society' (Fig. 8.12).

At the time of writing, the advisory group held 23 meetings between January 2014 and November 2015, on the average one a month, and so more than originally anticipated. Participants mostly include European-wide associations with business interests, representing five different industrial sectors involved in the EU–US trade agreement, namely the European Automobile Manufacturers' Associations, FoodDrink Europe (for the food and beverage industry), the European Services Forum, Business Europe (the largest European industrial confederation) and the umbrella organizations of European farmers and agri-cooperatives, Copa-Cogeca. Interestingly, the only two representatives from national business associations both come from Germany—the German Chambers of Commerce
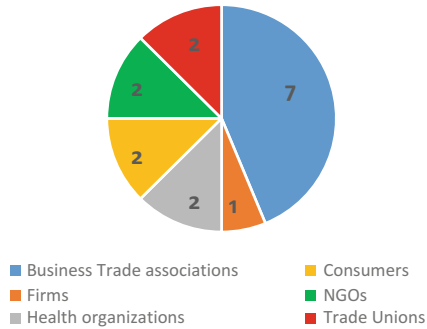
Fig. 8.12 Transatlantic Trade and Investment Partnership Stakeholder Advisory Group.
Source: Commission register of expert groups and other similar entities (accessed, 29 December 2015).

and Industry and the German Association of Chemical Industry—while the only firm represented is a transnational London bank (the Standard Chartered Group): so, again, German business and a universal bank representative of the City of London actually enjoy a privileged channel to lobby the DG Trade in the TTIP negotiations. Non-business interest experts, on the other hand, all came from European associations, with two environmental NGOs (Transport and Environment and the European Environmental Bureau), two organizations for the Public Health (the European Public Health Alliance and the European Hearth Network), the European Consumer organization (BEUC), the steering Committee of the Transatlantic Consumer Dialogue, and the two most representative European Trade Unions (the ETUC and IndustriALL Europe, established in May 2012 and representing nearly 7 million workers in manufacturing, mining, and energy sectors).

CONSULTATIONS

Here I present an overview of the respondents in the open consultations issued by the DG Trade between 2010 and 2015.[10] Rresponses from the corporate sector are the large majority, with two exceptions: the 2011 consultation 'on a new Trade and Development Communication' and, most significantly, that on the investor protection and the Investor-to-State Dispute Settlement (ISDS) under the TTIP (Fig. 8.13).
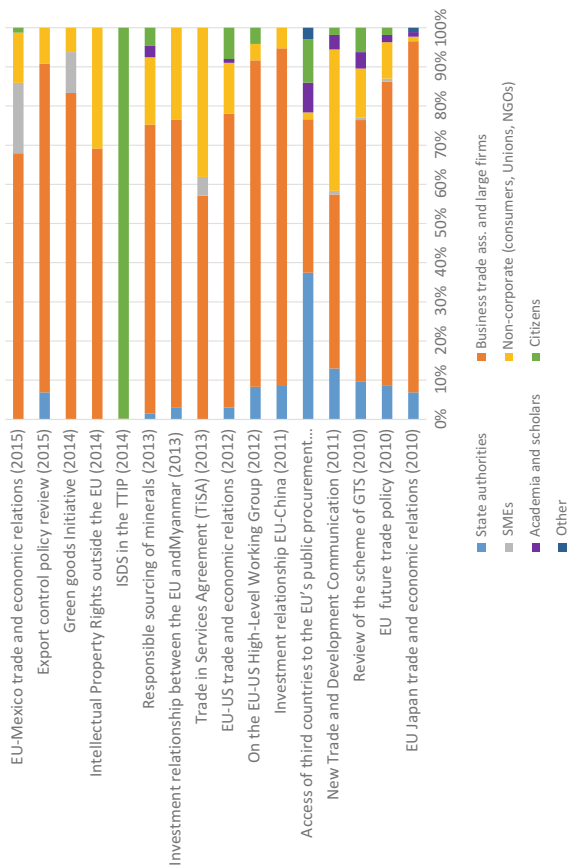
Fig. 8.13 DG Trade stakeholders' consultations: responses (2010–2015).
Source: Commission, Open Consultations, "Your Voice".

Targeting one of the most contentious and criticized issues in the TTIP negotiations, the consultation on the ISDS drew the attention of civil society groups and citizens 'to unprecedented levels for public consultations organized by the Commission' (Commission 2015, p. 9), with nearly 150,000 responses, most of which came from individuals (99.6%) and non-corporate interests (49% of contributions, as against 26% from corporate interests and 24% from other groups). As with consultations on the banking structural reform and the bank resolution schemes, such an impressive numbers of individual responses was made possible through the European anti-TTIP network of NGOs: the Commission report ascertained that around 145,000 replies (97% of the total responses) were submitted as pre-prepared answers through dedicated web platforms. Indeed, all these replies focused on the request to exclude the chapter on the ISDS and investor protection from the TTIP, and so to aim at dismantling the whole proposed trade agreement: 75,000 of the responses did not answer to the specific points issued by the consultation paper, but just stated an overall opposition to the ISDS proposal as such. So for the very first time the Commission consultation channel was deployed by civil society as a mean of exerting societal pressure on a policy proposal.

Conclusion

The case studies analysed in this chapter compel us to revise our initial hypothesis on the enhancement of different access conditions for non-corporate interests in areas of policy seen as central public concerns. The chapter explored the inputs and lobbying resources deployed by business groups to ensure their dominance of access to consultative channels in the DGs. Expert groups in the DG Fisma were largely dominated by business trade associations and firms, both before and after the financial crisis, as well as the large majority of responses in the stakeholder consultations for the two DGs analysed. Yet issue topicality and relevance seemed to play a role in improving access for non-corporate interests in some cases. For example, in the case of the banking structural reform both the dedicated expert group and the open consultation revealed a balanced composition and an unexpected amount of individual participation. Issue saliency and the opening of consultation channels were largely made possible thanks to the work of Finance Watch, the NGO which has been supported through a special grant programme, with the purpose of enhancing the non-corporate voice in providing expertise and legitimacy inputs to DG Fisma. Thus, the

political context forced the Commission to actively promote the position of non-corporate and end-user interests, while the role of special organizations acting as societal entrepreneurs allowed the use of the open consultations as a pressure channel. We found a similar case for the consultation on the ISDS, where the anti-TTIP movement voiced broad opposition to the negotiations. Moreover, in the case of the DG Trade, the establishment of a balanced advisory group on the TTIP and the introduction of innovative participatory channels could be interpreted as instruments for the Commission to enhance the legitimacy of the negotiation under the pressures of a high issue salience and societal opposition. Indeed, it is worth remembering that the opening of new access channels *does not imply* a stronger effective *influence* gained by non-corporate actors. Yet the enlarged and enhanced chances for broader societal interests to voice their concerns and opinions could be deemed, at a least, as one of the preliminary conditions to empower the non-business interests' influence to the Commission, so contributing to the participatory democratization of the EU. Therefore, investigating the impact of heightened public interests on the participatory instruments deployed by the Commission promises to be an interesting research programme to develop.

Notes

1. Here I define 'Civil Society' as the complex of 'nongovernmental, not-for-profit, and voluntary associations which peacefully and publicly operate for implementation of their goals and do not run for office' (Kohler-Koch 2013, p. 5).
2. I am grateful to Kenneth Haar and the whole CEO for having kindly shared their database prepared for the report *The Fire Power of the Financial Lobby* (CEO 2014).
3. Among the remaining groups, 20 are exclusively composed by national authorities and agencies, while 6 groups have no members reported in the Commission register.
4. For 6 groups I haven't found no information on the selection procedures adopted.
5. They were those on Credit Rating Agencies (2008), Hedge Fund (2009), Financial Supervision (2009), Capital Requirements Directive (2010); MiFID (2011); Bank structural reform III (2013); banks resolution (2014).
6. *Capacity building of end-users and other non-industry stakeholders for Union policy-making in the area of financial services*: see http://ec.europa.eu/dgs/internal_market/grants/work_programme_2012_en.htm.

7. Yet, the data reported in the ETI in several cases supposedly includes the total budget of University institutions, so to be estimated in large excess.

8. http://ec.europa.eu/trade/policy/in-focus/ttip/have-your-say/.

9. http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2988&NewSearch=1&NewSearch=1.

10. Data before 2010 are not disclosed. I have not been able to find data on the responses referred to the online consultation 'on the Handbook for Sustainability Impact Assessment of EU trade negotiations' (closed in August 2015).

References

ALTER-EU. (2008). *Secrecy and corporate dominance.* A study on the composition and transparency of European Commission Expert Groups, Brussels.

ALTER-EU. (2009, July 31). *Letter to the Secretariat-General of the European Commission on Expert Groups.*

ALTER-EU. (2010). *Complaint about Maladministration.* Brussels. European Ombudsman 2010. Retrieved July 07, 2010, from http://alter-eu.org/sites/default/files/documents/ombudsman_to_commission_20.10.10.pdf

Beyers, J. (2002). Gaining and seeking access: The European adaptation of domestic interest associations. *European Journal of Political Research, 41*, 585–612.

Bouwen, P. (2002). Corporate lobbying in the European Union: The logic of access. *Journal of European Public Policy, 9*(3), 365–390.

Bouwen, P. (2004). Exchanging access goods for access. A comparative study of business lobbying in the European Union institutions. *European Journal of Political Research, 43*(3), 337–369.

Bouwen, P. (2009). The European Commission. In D. Coen & J. Richardson (Eds.), *Lobbying the European Union: Institutions, actors, and issues* (pp. 19–38). Oxford: Oxford University Press.

Broscheid, A., & Coen, D. (2003). Insider and outsider lobbying of the European Commission. An informational model of forum politics. *European Union Politics, 4*(2), 165–189.

Chalmers, A. W. (2014). Getting a seat at the table: Capital, capture and expert groups in the European Union. *West European Politics, 37*(5), 976–992.

Christiansen, T. (2006). The European Commission: The European executive between continuity and change. In J. Richardson (Ed.), *European Union: Power and policy-making* (pp. 96–117). Abingdon: Routledge.

Coen, D. (1998). The European business interests and the nation state: Large-firm lobbying in the European Union and member states. *Journal of Public Policy, 18*(1), 75–100.

Coen, D. (2009). Business lobbying in the European Union. In D. Coen & J. Richardson (Eds.), *Lobbying the European Union: Institutions, actors, and issues* (pp. 145–168). Oxford: Oxford University Press.

Coen, D. (2011). The evolution of the large firm as a political actor in the European Union. *Journal of European Public Policy, 4*(1), 91–108.

Cohen, J., & Rogers, J. (1995). Secondary association and democratic governance. In J. Cohen, J. Rogers, & E. Olin Wright (Eds.), *Associations and democracy. The real utopias project* (pp. 7–98). London: Verso.

Commission. (2002). *Communication from the commission*: *Towards a reinforced culture of consultation and dialogue—General principles and minimum standards for consultation of interested parties by the Commission*. COM(2002) 704 final.

Commission. (2010). *Communication from the President to the Commission. Framework for commission expert groups*: *Horizontal rules and public register*. C(2010) 7649 final.

Commission. (2015). *Report. Online public consultation on investment protection and investor-to-state dispute settlement* (*ISDS*) *in the Transatlantic Trade and Investment Partnership Agreement* (*TTIP*), Brussels, 13.01.2015, SWD (2015) 3 final.

Corporate Europe Observatory (CEO). (2014). *The fire power of the financial lobby*, Report, Brussels.

Cowles, G. M. (1998). The changing architecture of big business. In J. Greenwood & M. Aspinwall (Eds.), *Collective action in the European Union: Interests and the new politics of associability* (pp. 108–125). Abingdon: Routledge.

Culpepper, P. D. (2011). *Quiet politics and business power. Corporate control in Europe and Japan*. Cambridge: Cambridge University Press.

Dahl, R. A. (1989). *Democracy and its critics*. New Haven: Yale University Press.

Eising, R. (2007). The access of business interests to EU institutions: Toward Élite Pluralism? *Journal of European Public Policy, 14*(3), 384–403.

European Parliament. (2008). *EP resolution of 19 February 2008 on transparency in financial matters* [2007/2141(INI)]. Retrieved from www.europarl.europa. eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0051&language=EN &ring=A6-2008-0010

Finance Watch. (2013). EU citizens want to see a clear separation of banking activities, by C. Geiger, Retrieved November 14, 2013, from http://www. finance-watch.org/hot-topics/blog/796-eu-citizens-want-separation

Gornitzka, Å., & Sverdrup, U. (2011). Access of experts: Information and EU decision-making. *West European Politics, 34*(1), 48–70.

Gornitzka, Å., & Sverdrup, U. (2015). Societal inclusion in expert venues: Participation of interest group and business in the European Commission expert groups. *Politics and Governance, 3*(1), 151–165.

Greenwood, J. (2011). *Interest representation in the European Union*. Houndmills: Palgrave Macmillan.

Hartlapp, M., Metz, J., & Rauh, C. (2014). *Which policy for Europe? Power and conflict inside the European Commission*. Oxford: Oxford University Press.

Hirst, P. (1994). *Associative democracy. New forms of economic and social governance*. Amherst, MA: University of Massachussets Press.

Kohler-Koch, B. (2007). The organization of interests and democracy in the European Union. In B. Kohler-Koch & B. Rittberger (Eds.), *Debating the democratic legitimacy of the European Union* (pp. 255–271). Lanham: Rowman & Littlefield.

Kohler-Koch, B. (2013). Civil society and democracy in the EU. High expectations under empirical scrutiny. In B. Kohler-Koch & C. Quittkat (Eds.), *De-Mystification of participatory democracy. EU governance and civil society* (pp. 1–17). Oxford: Oxford University Press.

Kohler-Koch, B., & Finke, B. (2007). The institutional shaping of EU-Society relations: A contribution to democracy via participation? *Journal of Civil Society, 3*(3), 205–221.

Mahoney, C. (2007). Lobbying success in the United States and the European Union. *Journal of Public Policy, 27*(1), 35–56.

Mahoney, C., & Beckstrand, M. (2011). Following the money: European Union funding of civil society organizations. *Journal of Common Market Studies, 49*(6), 1139–1361.

Mazey, S., & Richardson, J. (2001). Institutionalizing promiscuity: Commission-interest group relations in the EU. In A. Stone Sweet, W. Sandholtz, & N. Fligstein (Eds.), *The institutionalization of Europe* (pp. 71–93). Oxford: Oxford University Press.

Offe, C., & Wiesenthal, H. (1980). Two logics of collective action: Theoretical notes on social class and organizational form. *Political Power and Social Theory, 1*, 67–115.

Olson, M. (1965). *The logic of collective action: Public goods and the theory of groups*. Cambridge: Harvard University Press.

Quittkat, C. (2013). New instruments serving democracy. Do on-line consultations benefit civil society? In B. Kohler-Koch & C. Quittkat (Eds.), *De-Mystification of participatory democracy: EU governance and civil society* (pp. 85–113). Oxford: Oxford University Press.

Quittkat, C., & Kohler-Koch, B. (2013). Involving civil society in EU governance. The consultation regime of the European Commission. In B. Kohler-Koch & C. Quittkat (Eds.), *De-Mystification of participatory democracy. EU governance and civil society* (pp. 41–61). Oxford: Oxford University Press.

Saurugger, S. (2002). L'expertise: un mode de participation des groups d'intérêt au processus décisionnel communautaire. *Revue française de science politique, 52*, 375–401.

Saurugger, S. (2008). Interest groups and democracy in the European Union. *West European Politics, 31*(6), 1274–1291.

Streeck, W., & Schmitter, P. (1991). From national corporatism to transnational pluralism: Organized interests in the single European Market. *Politics and Society, 19*, 133–164.

van Apeldoorn, B. (2002). *Transnational capitalism and the struggle over European Integration*. London: Routledge.

van Schendelen, R. (2010). *More Machiavelli in Brussels. The art of lobbying in the EU*. Amsterdam: Amsterdam University Press.

Young, K. (2013). Financial industry groups' adaptation to the post-crisis regulatory environment: Changing approaches to the policy cycle. *Regulation and Governance, 7*, 460–480.

European Commission's Sing-along: Civil Society as a Last Resort in the European Union Emissions Trading Scheme Debate— The Case DG CLIMA

Pawel Pustelnik

Introduction

Directorate General Climate Action (DG CLIMA) has been known since its establishment in 2010 as a part of the European Commission (EC), which is particularly disposed to pick up signals from civil society organizations. DG CLIMA's partnership with these organizations, or more precisely, with the environmental non-governmental organizations (NGOs), has been well facilitated by with the ability to cooperate coming from both sides. At the same time, it is claimed that that the DG had to strongly defend its green ideas against less environmentally predisposed member states but also internally, against DG Energy, DG Competition, and DG Industry. This was evident, for example, during the 2009–2011 discussion on a possible step-up to higher emission targets (Skovgaard 2014). A more recent initiative that proved DG CLIMA isolation, and

P. Pustelnik (✉)
School of Geography and Planning, Cardiff University, Cardiff, UK

175

disagreements with DG Mobility and Transport (DG MOVE), has been an attempt to include aviation in the European Union Emissions Trading System (EU ETS). These two examples are not outliers but represent a wider problem of the EU's unambitious approach to climate policy due to financial constraints in a period of economic downturn combined with its aspiration to be a leader internationally on climate change (Oberthür and Pallemaerts 2011; Wurzel and Connelly 2010). This, as gathered by Skovgaard (2014), has been further fuelled by poor COP15 results and diverging interests of the new and old EU member states.

This chapter considers the inclusion of aviation in the EU ETS as a case to address questions pertaining to the relations between the EC and environmental non-governmental organizations (eNGOs) that provide here an example of civil society—European public institution interactions. While some have already focused on the role of non-state, target actors in the EU ETS debate (Skodvin et al. 2010), here the spotlight is shifted towards civil society organizations. First, this chapter asks how the relationship between eNGOs and the EC has been developing in the ETS file. Secondly it investigates at the role that the eNGOs played in the debate and how their involvement supported or hindered EC decision-making. Lastly, it examines the influence of US eNGOs on decision-making processes about inclusion of aviation in the EU ETS.

The empirical material for this analysis was gathered during semi-structured interviews conducted between March and May 2013 in Washington, DC and in March and April 2014 in Brussels. In the USA 20 people were interviewed in 18 interviews (two interviews were given by two persons simultaneously). Fifteen of them were face-to-face meetings that lasted between 40 and 90 minutes. Two more interviews were conducted by phone due to the interviewees' limited availability in Washington. Additionally one interview was conducted via Skype in June 2013. The interviewees come from various backgrounds: the US Congress, American aviation industry (airlines, manufacturers, airports), eNGOs, EU officials present in Washington, one consultancy firm and one think tank involved in the discussion on the EU ETS and aviation. In Brussels 19 interviews were conducted during face-to-face meetings that lasted between 50 and 90 minutes. The interviewees included EC staff, staff of the Members of the European Parliament, staff of parliamentary groups, environmental NGOs representatives, and aviation industry representatives (airlines, airports, plane manufacturers). All the interviews were transcribed and the verbatim transcripts were used in the analysis.

POLICY CONTEXT: EU ETS FOR AVIATION

The EU ETS was established in 2005 and quickly became a flagship of the EU's Climate Action Programme, an initiative to reduce carbon dioxide (CO_2) emissions. The EU ETS is the first international cap-and-trade scheme in the world that operates on the company level. It has been nicknamed 'a parade horse' (Peeters and Deketelaere 2006, p. 8) the 'eighthundred-pound gorilla' (Ghaleigh 2010, p. 48), and 'a political pet that the EU has aggressively implemented and promoted' (Parker and Karlsson 2010, p. 930).

Until 2008 the EU ETS included spatially fixed plants generating heat and power, energy intensive industries such as oil refineries, steel works, and production of iron, aluminum, metals, cement, lime, glass, ceramics, pulp, paper, cardboard, acids, and several organic chemicals, which all together accounted for more than 45% of the EU's greenhouse gas emissions (European Commission 2013). Following the EC's proposal to include international aviation in the EU ETS, in 2008 the sector became covered by scheme by the Directive 2008/101/EC, later called the Aviation Directive (Official Journal of the European Union 2008). This decision marked the EU's leadership in shaping international climate change and showed how it could address policies much more directly than in the previous years. This is because the Directive assumed that all flights landing at or departing from European airports would have to surrender their allowances based on the emissions produced during the whole duration of a flight (and not just those produced above the EU territory).

From an environmental perspective, the rationale for including aviation within programme for action on climate change would appear clear. Aviation itself is responsible for approximately 2–2.5% of total CO_2 emissions globally (Lee et al. 2009) and 13% of all greenhouse gas emissions (GHG) related to transportation (European Commission 2005). The trend is growing, according to estimates aviation emissions will grow by 330% to 700% by 2050 (European Commission 2015). In 2013 aviation emissions amounted to 705 Mtones CO_2 (ATAG 2015). It is also estimated that 68% of the volume was produced by international aviation and 38% by domestic operations (Lee et al. 2013). According to the data reported by the Annex I countries to the United Nations Framework Convention on Climate Change (UNFCCC) the European Union accounted for more than a half of international aviation emissions (European Commission 2005, p. 5).

According to the new directive, the EU could fine aircraft operators 100 euros per missing allowance on top of the obligation to procure and surrender missing allowances. What is more, if the failure to submit allowances continues, the country where carrier is registered 'may request the Commission to decide on the imposition of an operating ban on the aircraft operator concerned' (Official Journal of the European Union 2008).

The EC estimated if all these provisions are taken into account and the countries comply with the scheme it would bring savings as high as 183 million tonnes of CO_2 by 2020, which is a reduction of 46% compared with business as usual (European Commission 2011).

One major concern over the design of the inclusion was raised from the very beginning: the fact that the EU decided to include not only the European carriers but also all operators that depart or land in Europe. According to non-EU states as well as non-EU airlines, this step was illegal on several grounds. First, opponents argued that it interferes with sovereignty over airspace since the emissions taken into account are calculated for the whole duration of flight, including the part outside of the EU. Secondly, it was claimed that it infringes the principle of freedom to fly over the high seas and of the principle of exclusive jurisdiction of the country where the aircraft is registered while over the high seas. Further challenges included infringements of the Chicago Convention on International Civil Aviation, Open Skies Agreements, and the Kyoto Protocol.[1] For the purposes of this analysis, the EU ETS for aviation is looked at only until the decision to stop the enforcement of the inclusion of aviation in the EU ETS with regard to flights to and from non-European countries was announced on 12 November 2012 (European Commission 2012). Once those concerns were voiced, a struggle between the EU its partners and civil society began.

The Role of eNGOs in the ETS Debate

At the beginning of twenty-first century, it has become evident that non-state actors, including civil society actors, are not only growing in number with regard to global governance of the environment but their authority in transnational environmental issues is much larger than it used to be (Pattberg and Widerberg 2015). Some argue that 'non-governmental organizations have joined governments to put international norms into practice, for example as quasi-implementing agencies for development assistance programs administered by the World Bank or bilateral agencies'

(Pattberg and Widerberg 2015, p. 687). Some also argue that 'state-based public power' is exercised beyond state boundaries and involves civil society institutions as well as private actors (Thynne 2008, p. 329). There has also been a shift, illustrated here, which assumes that civil society organizations lobbies and advocates directly with the private sector rather than at intergovernmental meetings (Newell 2008). These organizations also tend to look for new spaces where these activities can be pursued (Cornwall and Coelho Schatten 2007). Simultaneously, 'target groups do not have formal decision-making power. Thus, a key condition for target-group influence is that their interests are represented by decision-makers with control of the outcome of the process' (Skodvin et al. 2010, p. 855).

The case featured here perfectly illustrates these multi-level involvements observed in the EU ETS debate. Although industry is not considered as being the main focus of this chapter, it is important to mention that it has been able to influence decision-making with regard to the EU ETS both in the EU and in the USA (Vespermann and Wald 2011; Kopsch 2012; Staniland 2012). This, however, does not limit the space for civil society actors in the debate. Newell, for example, has argued that

> unless and until governments take seriously their responsibilities to act on climate change within public international arenas and vis-à-vis private sector actors, we can expect the continued and expanded use by civil society groups of all tools and resources available to them: legal and non-legal, national, regional and international, liberal and critical, constructive and coercive. (2008, p. 150)

The importance of consultancies and eNGOs was recognized by the EC at the onset of institutionalizing emissions trading in Europe by heavily engaging non-state actors in the discussions (Braun 2009). This involvement has extended beyond Europe, as for example in the Defense Fund,[2] an eNGO based in the United States became one of the leading experts advising DG Environment on the shape of the planned European scheme and later strongly engaged in the discussion on EU ETS' inclusion of aviation in the USA. At the same time, it is argued that European eNGOs were less present in the debate and only later started gathering expertise related to the effectiveness of carbon markets (Braun 2009). On the other hand, the eNGO community was highly critical of the idea of emissions trading per se and was not entirely on board with the EC in wanting to establish a cornerstone of EU climate policy on a market-based mechanism.

Nevertheless, around 2001 eNGOs became more lenient towards the idea of carbon markets and at one of the stakeholder meetings leading to the establishment of the scheme it was agreed that 'emissions trading would offer a desirable additional instrument for achieving reductions in emissions of greenhouse gases fulfilling the EU's international commitments' (European Commission 2001). In the same period, eNGOs engaged with the campaign 'The Right Price for the Air Travel' coordinated by a Dutch environmental organization, Milieudefensie, which popularized reports indicating that the aviation industry was recording growth partly because of the special treatment of aviation with regard to taxation (Ellis et al. 2003) and aimed at developing global alliances working on the issues related to reducing aviation environmental impacts (Gazzard 1999). As considered by one of the interviewees:

> [the campaign] brought together for the first time a network of NGOs and airport community groups to say to the European Union that there were a lot of externalities like climate change that simply won't be regulated for, priced for, but there was also a lot of subsidization in the industry and there are two factors that emerged from that. (Interview 16.06.2014)

Although the campaign was considered to be successful by the interviewees, the broad participation in 'The Right Price for the Air Travel' did not translate into equally strong involvement or support for the EU ETS inclusion of aviation, as shown in Section 3.1 below.

EU Environmental NGOs and Aviation

As sketched above, European eNGOs seemed to be natural allies of DG CLIMA in that they tried to hold the industry to account for its emissions. They have been actively commenting on aviation expansion in Europe and this also translated into policy statements, such as the Joint Policy Proposals for a Sustainable Future Aviation Strategy prepared with the Aviation Environment Federation (AEF), Campaign for Better Transport, Friends of the Earth, the Royal Society for the Protection of Birds, and the World Wildlife Fund (WWF) (AEF 2014). eNGOs' work on this issue was considered 'continuous' as far as highlighting the sector's climate impacts (Buhr 2012) and the eNGOs more radical in their proposals than the Commission. This can be illustrated by the proposals from eNGOs circles to include information on passenger tickets about the detrimental impacts of aviation on climate and to allocate individual annual flight allowances

to reduce the number of trips taken (Staniland 2009). Furthermore, there were divergences concerning baseline years: the eNGOs wanted to see baseline years consistent with 1990 Kyoto Protocol baselines. The baseline years for the EU ETS and levels of allowances to be auctioned that the eNGOs wanted to see were more ambitious than those finally approved by the EC (Staniland 2009).[3] Civil society organizations thus acted in opposition to the industry that lobbied for keeping regulations as weak as possible. The aviation industries could additionally count on the state's support in the debate: manufacturers enjoyed the advocacy of the countries where their plants were located and the airlines tried to have their messages reinforced through their countries' legislation.

It has been argued that in EU ETS aviation issues three types of civil society organization have been active: organizations concerned with broadly understood environmental and climate problems such as Greenpeace, the WWF, and Friends of the Earth; transport-focusing organizations such as Transport and Environment; and lastly, the organizations that 'appeal directly to citizens within individual Member States, urging them to take action' (Staniland 2009, p. 10). This to certain extent has been confirmed in the interviews conducted. However, it is clear that the involvement of large eNGOs from the first group was different in Europe and in the United States. In the EU context they were symbolic supporters, leaving space for the transport-focusing bodies. At the same time, in the United States the lead was taken exclusively by the large eNGOs: WWF, Environmental Defense Fund (EDF), and Natural Resources Defense Council (NRDC) (see Section 4 below).

One of the interviewees from a European civil society organization described the relation with the Commission as follows:

> If we can go to them and say, look we have done this analysis, it saves them having to do it. And they will often at least listen to ideas and in the Commission they are very open to meetings, at least with us, I know that you had some issues, but they are generally pretty good. And we are generally on their side. They generally see us as an ally. So in that sense it is quite easy. (Interview 14.03.2014)

In relation to this, one of the DG CLIMA interviewees considered civil society organizations as useful in that they are able to feed the Commission with valuable information and thus the Commission's staff is able to channel their resources elsewhere. As explained by another Commission interviewee:

usually they [eNGOs] have very useful inputs and they give their point of view on what needs to be done, which is usually trying to push for more ambition. Sometimes they also give technical advice on certain parameters, which they think are more suitable than others. They try to somehow be a counterweight to the industry in general. (Interview 14.04.2014)

There is, however, no consensus concerning the NGOs' place while interacting with the Commission. A high-ranking EC staff member saw the Commission–civil society cooperation differently from their DG CLIMA colleague:

They [eNGOs] are not our allies because the Commission always tries to be in the middle. We don't have any allies anywhere, maybe on specific files that we think that our position is closer to one actor or another but usually we are there to try to define public interest and the NGOs do the same from their point of view. We simply look at the arguments that are brought forward by everyone. (Interview 14.04.2014)

This clearly conveys the message of the EC as an impartial body easing power asymmetries and facilitating decision-making between member states, their constituencies, and third countries (Tsakatika 2005). The massive attack on DG CLIMA that was to induce the suspension of the EU ETS was orchestrated by the EU member states, EU and non-EU aviation industry as well as the non-EU governments. The attack isolated DG CLIMA to the extent that the only support could be anticipated from the eNGOs side. Notwithstanding this, one of the EC interviewees was not entirely happy with the organizations' involvement:

I think here the NGOs could have been more effective (…) I think, in my ideal world, the NGOs would be pursuing a twin-track strategy of sort of aiming for the best possible global system but also, I mean one of our mantras is the best is the enemy of the good, and I think the ETS is still good, even if it is not global and can provide a model for something global, so sort of making the system work, seeing how it can work best in the absence of a global system. (Interview 16.04.2014)

The perception of the work of eNGOs in this case varied in relation to the Directorate General an interviewee would represent. The staff of DG CLIMA saw the position of eNGOs as much closer to their stance on the inclusion of aviation whereas DG MOVE was less inclined to be persuaded by the organizations' arguments. This can be explained by the

different mindsets that the two Directorates tend to feature (Interview 29.04.2015). DG CLIMA has, since its establishment, promoted ambitious targets, which often situated it in conflict with more industry-oriented DGs. At the stage of creating the EU ETS, the Commission was considered to be dominating the European policy network by discussing the EU ETS (Braun 2009). This position is very different a decade later, when aviation was to be included in the scheme and the EC was far from being able to exercise control over the process, partly because of competition between the DGs taking part in the discussions on the aviation inclusion.

Similarly, in the EU ETS case, there has been strong reinforcement of DG CLIMA messages coming from the European eNGOs that have been advocating on behalf of the EC at the member state level. At the end of 2013 a coalition built on AEF, Transport & Environment, Bund–Friends of the Earth Germany, and Réseau Action Climat France addressed a letter to the prime ministers of Great Britain, France, and Germany, where they opposed curtailing the scope of the EU ETS and explicitly mentioned how the three governments blocked EC ambitions. The letter mentions that

> last month with the ink on the Commission's 'airspace' proposal barely dry, your Government [it is a fragment of a letter addressed to the British prime minister David Cameron] adopted a joint position with France and Germany pressing for yet a further retreat, so that the system would leave out flights from and to Europe entirely, and cover flights within Europe only. (AEF 2013)

The eNGOs were thus able to amplify the Commission's messages and assessments. What is more, the eNGO community was able to use more aggressive language than the Commission would normally have used,[4] which in turn reached a wider public and was more easily picked up by the media.

Dis/engagement

Although it may seem that the eNGOs were actively engaging in the EU ETS case, their role depended on the financial resources they were able to earmark for this issue. As one of the Brussels-based interviewees explained:

> We are basically on our own here in Brussels. WWF worked on aviation for a little while but it is really hard to get funding because aviation just keeps

> … the legislation keeps getting destroyed and the airlines keep winning and carbon isn't going down it's just going up and up and up and funders don't fund us based on where the carbon is, they fund us on where you can get the reductions. (Interview 14.03.2014)

It has been also mentioned that big environmental NGOs decided to leave the EU ETS for aviation outside their portfolios because there was no guarantee that they could achieve their goals. If these are not attained, it creates difficulties when applying for funding in the future: the organization's image can be dented by unsuccessful campaigns and thus their chances for attracting funding decrease. For the EU ETS and aviation case, one cannot identify any window of opportunity that the eNGOs were able to resort to in the policy process. There has not been any major decision regarding aviation emissions taken internationally or any major political rearrangements globally. Furthermore, the European eNGOs were not entirely confident about their legitimacy regarding wide inclusion of aviation in the EU ETS. As explained by an interviewee representing a civil society organization based in Brussels:

> We don't have any Indian, Chinese, African [members]… It is literally us and the US, which is a huge gap, and means that we don't have the same credibility. We are seen, not to be like blasé about it, but we are seen like the White people saying you have to do this. (Interview 14.03.2014)

This argument was not directly employed by the countries opposing the EU ETS, but some countries, including India, China, and Brazil, stated that the EU was ignoring common but differentiated responsibilities principles that they believed should have been taken into consideration (Interview 28.04.2014).

Furthermore, the eNGOs found their involvement with the case difficult because among the civil society organizations it was perceived as unpopular and difficult to promote within their networks:

> On aviation we are totally alone. Because we want to make your holidays more expensive. That's what it comes down to, right? And we can never ever ever say that because we would get absolutely lynched. (Interview 14.03.2014)

The sense of isolation grew until the EC decided to suspend the application of the EU ETS to non-EU routes. Although the eNGOs did not

decide to drop the ETS entirely from their agendas, from the moment of suspension the lobbying activities in this issue became very limited.

Although there has been interest among the EU eNGO community in holding the aviation sector liable for its emissions, the support has been weakened by the poor resources available for this cause. The EU's NGOs supported DG CLIMA in its endeavours even if that support has not been fully appreciated.

American eNGOs and the EC

Concurrent with the European discussions on the EU ETS, an intense policy debate took place in the USA as the country considered legal steps to oppose the inclusion. The involvement of US eNGOs largely related to proposed legislation to counter the EU ETS. This final section addresses the involvement of US eNGOs in the EU ETS debate. Although US eNGOs joined the discussion relatively late due to poor resources that would enable them to track policy developments in transport (Interview 22.03.2013), they were considered an important counterbalance to aviation-related interests, especially in the US context. Their involvement was however limited by US lobbying regulations that forbade the NGOs to spend more than 10% of their time on lobbying. As mentioned by one of the interviewees, the US eNGOs had to be very careful not to be seen to be unpatriotic due to their support for EU regulations (Interview 9.04.2013). The differences between the eNGOs' position in the EU and the USA were also made clear by one of the interviewees representing a Brussels-based eNGO community:

> When European airlines go and see EU politicians (…) the underlining assumption is that we need to do something about climate change. So, if they are going they have to say something like 'This is unfair on me because of X' whereas in the States they just go in and say 'This ETS, it's bullshit' and the Congressman are like 'Yeah!' It is not the same. (Interview 14.03.2014)

The US eNGOs became involved in the debate in two areas. Firstly, they were asked by their European counterparts to support efforts to sustain broad inclusion of aviation to the scheme. Secondly, the organizations considered the USA's attempts to pass the EU ETS Prohibition Bill an attack on EU climate policy and thus lobbied against it.[5] The Bill allows the US Secretary of Transportation to forbid US airlines to surrender their emissions within the EU ETS framework.

One of the most active organizations taking part in the debate on aviation in the EU ETS was EDF, which had been supporting emissions trading from the early 1990s (Braun 2009, p. 472). Its support for the EU scheme can be viewed as collateral to the company's general policy line. Additionally, the US branch of WWF directly involved with the lawsuit that the American airlines filed against the European Commission.[6] This decision was done in order to support WWF UK that has been spearheading the efforts in Europe with regards to the lawsuit.

While it was relatively easy to coordinate efforts within the eNGO community, the environmental organizations were considerably weaker in persuading Congress to accept its claims. Environmental Defense Fund (EDF), World Wide Fund for Nature (WWF), and National Resources Defense Council (NRDC) were the only US-based organizations who actively tried to influence policy-making at Congress level in order to block the EU ETS Prohibition Act and persuade Congressmen that opposing Europe will not redirect discussions back to the International Civil Aviation Organization (ICAO) but only prolong the global process. Although the eNGOs targeted both industry and policy-makers, they were unable to mobilize significant resources. The organizations explicitly defended the EU, for example by addressing the industry. In a letter signed by several eNGOs and sent to the Chairman and CEO of American Airlines,[7] 'The European Union deserves kudos, not lawsuits, for acting to reduce airline pollution—particularly given that the international community has proven incapable of doing so despite more than a dozen years of negotiations' (EDF 2011a). Similar endorsement for the EU's actions is provided in a letter concerning the sense of Congress[8] urging the Secretary of Transportation and the FAA Administrator to block application of the EU ETS to American carriers. The American eNGOs called "to reject the House-passed 'Sense of the Congress' language asserting that the European Union's Aviation Directive is inconsistent with international law" (EDF 2011).

The environmental organizations acted even beyond promoting the EU's approach by criticizing the aviation industry. In a letter to Airlines for America (A4A), an airline sectoral organization, they claimed 'American [Airlines] and United/Continental [both are Members of A4A] are hypocritically and publicly touting their commitment to environmental protection while simultaneously working actively to undercut the world's first program [EU ETS] to reduce carbon pollution from aviation activities' (EDF 2011b). Similarly, in interviews with EC staff, they were portrayed

as significant and useful partners (Interview 09.03.2013). The language they employed was much stronger than that of their EU counterparts and clearly directed discussion towards the aviation sector that was attempting to evade regulation.

US environmental organizations engaged with the EU ETS file saw the EU as the only advocate for a timely response to growing aviation emissions while their faith in ICAO's delivery of a global solution was limited. By default, the eNGOs became the only allies of the EU in resistance to the EU ETS Prohibition Bill. The Delegation of the European Union to the United States representative admitted that the EU could not engage in the process in the USA: 'What you than see is that if you want to play the Washington game you have to have really a lot of resources and we of course do not have these resources' (Interview 9.04.2013). The same interviewee emphasized that US eNGOs and some Congressmen (those with strong green credentials) were the only EU allies in the USA. The EC had nowhere else to look for support since the inclusion of international aviation in the EU ETS was very clearly portrayed by the US aviation industry as a breach of US sovereignty and an attempt to tax American passengers.

In a letter to President Barack Obama, the eNGO community tried to persuade the president, 'rather than seeking to block the only program in the world [EU ETS] that sets enforceable limits on carbon pollution from aviation, the Administration [to] … join with the EU in taking meaningful steps to ensure that the aviation sector significantly reduces its contribution to global warming' (EDF 2011c). More of a statement than anything else, the letter was not answered in any presidential action in favour of the inclusion.

As in the EU, in the USA aviation-related organizations employed their lobbying capacities in fighting the EU ETS for aviation. Entities such as A4A, Allied Pilots Association, Coalition of Airline Pilots Association, and National Business Aviation Association concentrated their efforts to block the EU ETS application on US airlines. First the sectoral organizations focused on the aforementioned Court case of American airlines against the European Commission, but once it was adjudicated that the inclusion is legal, they intensified lobbying at Congress level. Their narrative regarding inclusion was built on the claim that the inclusion is illegal, infringes international law, creates a dangerous precedent for international aviation regulation, and will harm US taxpayers.

The networks that emerged merit closer analysis as they constituted a whole body of content crucial for this case. There were two separate policy

networks, one based on the aviation industry and the other on he environmental organizations and their supporters. The two clusters concentrated on the different values that bound them. The eNGOs and their supporters tended to underline the EU's leadership and the need to address the problem given the stalemate at ICAO. They stove to orientate discussion towards making rapid steps and agreeing on binding agreements. On the other side, there was the aviation industry line of argumentation that based its discourse on sovereignty, the global solution as the only viable one, and disagreement about payment to be made to cover the cost of the EU ETS allowances. This line has prevailed. The eNGO community argued that due to limited resources they were able to employ for this file they were not in a position to engage as fully as the industry. A similar position was held by the EU delegation. This in turn may have influenced the decision-making process of the policy-makers who were much more exposed to business lobbying both in terms of the number of meetings requested but also the timing—the aviation industry started lobbying Congress well before the others.

As in the EU context, in the USA EU ideas about inclusion were amplified by the US civil society associations. This process took place independently from that in the EU. Although there are links, for example between the European and US offices of WWF, these synergies were used only by the US eNGOs to gather information on details concerning the functioning of the scheme. In this way, the European eNGOs have taken over the legislator's task of explaining the EC's policy.

Conclusions

In a broader perspective, the close relationship between DG CLIMA and eNGOs may appear surprising when one considers for example the way the WTO looks at links to the NGO community. The WTO's Guidelines for Arrangements on Relations with NGOs explain that 'there is currently a broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings' (WTO 1996). Whilst the EU has been attentive to considering a distribution of political power between various stakeholders and included the views of a wide variety of actors in policy process, it is unlikely that in critical situations DG CLIMA was inclined to lean towards civil society organization involvement, considering them only as supporters of their cause.

The case study also indicates that the limited resources the EU could draw on for the ETS file affected the process. On one side the industry was predisposed to achieve its goals relatively easily, and on the other hand the eNGOs took over some of the responsibilities inherent in EU institutions (providing information, diplomatic involvement with non-EU states, etc.). This was evident especially in the USA, where the involvement of the EU's diplomatic service was almost obsolete. The US eNGOs were able to vocally represent their positions and voice EU stances, even if they did not manage to block the EU ETS Prohibition Bill. Simultaneously, the eNGOs were financially constrained and thus not able to enter the debate as actively as the aviation industry. Funding regulations in the USA and general lack of funds for the case in the EU exhausted civil society's involvement relatively quickly.

The EU ETS is an example of a policy that has been much exposed to industrial lobbying and the inclusion of aviation merely amplified the magnitude of lobbying efforts. The internal issues between DG CLIMA and DG MOVE weakened the EU's position in the case but also made it more difficult for civil society to become involved, as there were two parts of the Commission working on the file. What was even worse from the NGOs perspective, DG MOVE was not officially co-leading the file, but only working on its ICAO dimension, hence the eNGOs had to double their already debilitated efforts.

This analysis proves that the eNGOs and the DG CLIMA reinforced their messages in the context of an EU facing significant resistance from industry and non-EU countries in the period between 2008 and 2012. Although the DG CLIMA staff would not officially agree on an alliance, it is clear that civil society organizations were the only ones to support the Commission's ambitious goals. One can only speculate as to whether or not the Commission sought the assistance of the eNGOs to promote its ideas informally.

However, it still remains unclear whether the observations made here can be generalized given both the broad scope of the policy proposed and, as corollary, the intense opposition to the idea from non-EU countries. Given that some concrete steps have been taken towards a global mechanism for aviation (Birchfield 2015), it is possible that the eNGO–EC partnership will revive in the context of forthcoming regulations.

Notes

1. All the listed issues were brought to the Court of Justice of the European Union by several American airlines in Case C-366/10 The Air Transport Association of America, American Airlines, Inc., Continental Airlines, Inc., United Airlines, Inc., v The Secretary of State for Energy and Climate Change.
2. Defense Fund is a former name of the Environmental Defense Fund.
3. Transport and Environment together with WWF were arguing that in order to ensure fairness and efficiency of the system all the allowances for aviation should be auctioned (Gibbs and Retallack 2006).
4. The aforementioned letter would mention for example that 'commercial orders that depend on European governments complying with foreign demands are severely damaging to democracy, sovereignty, political standing, and with that ultimately the economy too. Concessions today will inevitably lead to further concessions tomorrow. These are not short-term consequences' (AEF 2013).
5. Effectively the bill was signed by the President on 27.11.2012 and became Public Law No: 112–200.
6. Air Transport Association of America, filed a case to the High Court of Justice of England and Wales on December 16, 2009. The case was filed to a British court, as the UK was the administrator of the ETS for the American airlines challenging the legislation. The British court asked the CJEU to determine if the EU directive was valid and therefore the proceedings in the UK were stayed.
7. The letter was signed by Center for Biological Diversity, Earthjustice, Environment America, Environmental Defense Fund, Natural Resources Defense Council and Sierra Club.
8. Sense of Congress is an additional text that can be added to any bill but does not have any legal and is not be signed by the President.

References

AEF. 2013. *Letter to governments of France, Germany, and the UK regarding Europe's ETS for aviation*. Retrieved February 22, 2015, from http://www.transportenvironment.org/sites/te/files/publications/2013%2012%2018%20NGO%20letter%20to%20UK%20DE%20FR%20aviation%20ETS.pdf

AEF. 2014. Joint policy proposals for a sustainable future aviation strategy. Retrieved February 22, 2015, from http://www.aef.org.uk/uploads/Aviation-joint-environmental-policy-proposals.pdf

ATAG. 2015. *Facts and figures*. Retrieved August 10, 2015, from http://www.atag.org/facts-and-figures.html

Birchfield, V. L. (2015). Coercion with kid gloves? The European Union's role in shaping a global regulatory framework for aviation emissions. *Journal of European Public Policy, 22*(9), 1276–1294.

Braun, M. (2009). The evolution of emissions trading in the European Union–The role of policy networks, knowledge and policy entrepreneurs. *Accounting, Organizations and Society, 34*(3), 469–487.

Buhr, K. (2012). The inclusion of aviation in the EU emissions trading scheme: Temporal conditions for institutional entrepreneurship. *Organization Studies, 33*(11), 1565–1587.

Cornwall, A., & Coelho Schatten, V. (2007). *Spaces for change?: The politics of citizen participation in new democratic arenas.* London: Zed Books.

Ellis, H., Stoczkiewicz, M., Stewart, J., Hassink, E., & Medarova, K. 2003. Flying with big business: The European investment bank & the aviation industry. *The EIB Campaign Coalition*. Retrieved February 1, 2015, from https://milieude-fensie.nl/publicaties/rapporten/flying-with-big-business

EDF. 2011a. Letter by by Centre of Biological Diveristy, Earth Justice, Environment America, EDF, NRDC and Sierra Club to American Airlines Chairman and CEO. Retrieved March 20, 2012, from http://www.edf.org/sites/default/files/11761_UnitedContinental_letter_EnviroCEOs_051111.pdf

EDF. 2011b. Letter by earth justice, environment America, EDF, NRDC and Sierra club to Nancy Young, Vice President for environmental affairs air transport association of America dated June 2nd 2011. Retrieved March 20, 2012, from http://www.edf.org/sites/default/files/11806_EDF_response_to_ATA_letter.pdf

EDF. 2011c. Letter by ActionAid USA, *Clean water action*, *earthjustice*, *environment America*, *EDF*, *Greenpeace USA*, *interfaith power & light*, *league of conservation voters*, *NRDC*, *Oxfam America*, *Sierra Club*, *Union of concerned scientists*, *US climate network*, WWF to the US President. Retrieved March 20, 2012, from http://www.edf.org/sites/default/files/Letter%20to%20President%20Obama%20on%20EU%20Aviation%20Directive%206-21-11%20final.pdf

EDF, 2011d. Letter by Environmental Organisations and Charities concerning the FAA Reauthorization Bill and the EU ETS to the US Senators, Available at: http://www.edf.org/sites/default/files/11898_Letter_to_SenConferees_FAA_reauth_052011.pdf [Accessed 20.03.2012].

European Commission. 2001. Chairman's summary record of stakeholder consultation meeting (with industry and environmental NGOSs). Retrieved February 22, 2012, from http://ec.europa.eu/clima/policies/ets/docs/record_of_stakeholder_consultation_meeting_en.pdf

European Commission. 2011. Questions & Answers on historic aviation emissions and the inclusion of aviation in the EU's Emission Trading System (EU ETS).

MEMO/11/139. Retrieved July 10, 2013, from http://europa.eu/rapid/press-release_MEMO-11-139_en.htm

European Commission. 2013. *The EU emissions trading system—Factsheet*. Retrieved January 10, 2014, from http://ec.europa.eu/clima/publications/docs/factsheet_ets_2013_en.pdf

European Commission. 2015. *Reducing emissions from aviation*. Retrieved April 22, 2015, from http://ec.europa.eu/clima/policies/transport/aviation/index_en.htm

European Commission. 2005. Communication: Reducing the Climate Change Impact of Aviation, COM (2005) 459 final. Available at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0459en01.pdf [Accessed 20.07.2015].

European Commission. 2015. Reducing emissions from aviation. Available online: http://ec.europa.eu/clima/policies/transport/aviation/index_en.htm [Accessed 22.04.2015].

Gazzard, J. (1999). *Environmental policies at Europe's airports*. Amsterdam: Friends of the Earth Netherlands.

Ghaleigh, N. S. (2010). 'Six honest serving-men': Climate change litigation as legal mobilization and the utility of typologies. *Climate Law, 1*(1), 31–61.

Gibbs, T., & Retallack, S. (2006). *Trading up: Reforming the European Union's emissions trading scheme*. London: Institute for Public Policy Research.

Kopsch, F. (2012). Aviation and the EU emissions trading scheme—Lessons learned from previous emissions trading schemes. *Energy Policy, 49*, 770–773.

Lee, D., Lim, L. L., & Owen, B., (2013). *Bridging the aviation CO2 emissions gap: Why emissions trading is needed*, Retrieved May 22, 2015, from http://www.cate.mmu.ac.uk/wp-content/uploads/Bridging_the_aviation_emissions_gap_010313.pdf

Lee, D. S., Fahey, D. W., Forster, P. M., Newton, P. J., Wit, R. C. N., Lim, L. L., et al. (2009). Aviation and global climate change in the 21st century. *Atmospheric Environment, 43*(22–23), 3520–3537.

Newell, P. (2008). Civil society, corporate accountability and the politics of climate change. *Global Environmental Politics, 8*(3), 122–153.

Official Journal of the European Union. (2008). Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community. Retrieved January 14, 2014, from http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:008:0003:0021:EN:PDF

Oberthür, S., & Pallemaerts, M. (2011). *The new climate policies of the European Union: Internal legislation and climate diplomacy*. Brussels: VUB Press.

Parker, C., & Karlsson, C. (2010). Climate change and the European Union's leadership moment: An inconvenient truth? *Journal of Common Market Studies, 48*(4), 923–943.

Pattberg, P., & Widerberg, O. (2015). Theorising global environmental governance: Key findings and future questions. *Millennium-Journal of International Studies, 43*(2), 684–705.

Peeters, M., & Deketelaere, K. (2006). Key challenges of EU climate change policy: Competence, measures and compliance. In M. Peeters & K. Deketelaere (Eds.), *EU climate change policy: The challenge of new regulatory initiatives* (pp. 3–21). Cheltenham: Edward Elgar.

Skodvin, T., Gullberg, A. T., & Aakre, S. (2010). Target-group influence and political feasibility: The case of climate policy design in Europe. *Journal of European Public Policy, 17*(6), 854–873.

Skovgaard, J. (2014). EU climate policy after the crisis. *Environmental Politics, 23*(1), 1–17.

Staniland, M. (2009). *Air transport and the EU's emissions trading scheme* (Policy Paper No. 13). Pittsburgh: European Union Center of Excellence European Studies Center, University of Pittsburgh.

Staniland, M. (2012). Regulating aircraft emissions: Leadership and market power. *Journal of European Public Policy, 19*(7), 1006–1025.

Thynne, I. (2008). Symposium introduction-climate change, governance and environmental services: Institutional perspectives, issues and challenges. *Public administration and development, 28*(5), 327–339.

Tsakatika, M. (2005). Claims to legitimacy: The European Commission between continuity and change. *Journal of Common Market Studies, 43*(1), 193–220.

Vespermann, J., & Wald, A. (2011). Much Ado about Nothing?–An analysis of economic impacts and ecologic effects of the EU-emission trading scheme in the aviation industry. *Transportation Research Part A: Policy and Practice, 45*(10), 1066–1076.

WTO. (1996). *Guidelines for arrangements on relations with NGOs.* Document WT/L/162. Geneva: WTO.

Wurzel, R., & Connelly, J. (2010). *The European Union as a leader in international climate change politics.* Oxon: Routledge.

Civil Society in the EU Development and Human Rights Agenda: The Case of DG DEVCO-EIDHR

Chiara Pierobon

INTRODUCTION

Since the introduction of the Lisbon Treaty in 2007, the protection and promotion of human rights has become an essential element of the European Union's external policy, and development cooperation and civil society has gained increasing importance in this field. A central tool that the EU has at its disposal is the European Instrument for Democracy and Human Rights (EIDHR) which was launched in the same year and is managed by the Commission's Directorate-General for International Cooperation and Development (DG DEVCO). The aim of this chapter is to describe the current development and human rights agenda of the European Union by investigating how the EU conceptualizes and strengthens the contribution of civil society as development actor. Particular attention will be given to the implementation of the development and human rights strategy on the ground, by providing empirical evidence of the EU's support to civil society organizations (CSOs) in Kazakhstan.

C. Pierobon (✉)
Department of Sociology, Bielefeld University, Bielefeld, Germany

195

The chapter proceeds in the following five steps: Section 10.1 familiarizes the reader with the EU's engagement with human rights, pointing out how its commitment to the protection and promotion of human rights is grounded in the EU's founding treaties themselves. A review of the main documents carving out the current EU human rights agenda is presented in Section 10.2, looking especially at the role assigned to civil society in the development process. Section 10.3 then deals with the implementation of the EU development and human rights strategy, by examining the work of DG DEVCO through the EIDHR. A few examples of projects and initiatives that were conducted by Kazakh CSOs under the EIDHR are given in Section 10.4, in order to illustrate concrete outputs of this development cooperation tool on the ground. The final section sums up the main features of the current EU development and human rights agenda and shed some light on strengths and shortcomings of the EU's direct support to civil society under the EIDHR.

The European Union and Human Rights

The European Union conceives all human rights—encompassing civil, political, economic, social, and cultural rights—as universal, indivisible, and interdependent. These principles underpin all aspects of the internal and external policies of the European Union (EU) since, in its view, sustainable peace, long-term development and prosperity are possible only when grounded upon respect for human rights and democratic institutions (Council of the European Union 2012). The EU consistently stresses its commitment to the protection and promotion of human rights and invites all states to implement the provision of the Universal Declaration of Human Rights and other international human rights treaties.

The principles of human rights are embedded in the EU founding treaties themselves. In particular, according to Article F(2) of the Treaty on European Union (TEU)

> The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law. (Treaty of Maastricht 1992)

The centrality of human rights was reinforced by the Treaty of Amsterdam which amended Article F of the TEU by specifying that

> The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States. (Treaty of Amsterdam 1997)

The treaty foresees the possibility of suspending membership in case of violation of these fundamental rights and limits the right to apply for EU membership for the countries not respecting these principles. With the 'EU Charter of Fundamental Rights' adopted in 2000, and which became legally binding in 2009, the Union's commitment towards fundamental rights has been further strengthened. As reported in the charter:

> Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice. (Charter of Fundamental Rights of the European Union 2000)

Since the early 1990s, human rights have gained increasing centrality also in the external policies of the European Community which has included 'more or less systematically a so-called human rights clause in its bilateral trade and cooperation agreements with third countries' (Brandtner and Rosas 1998, p. 473). As highlighted by Brandtner and Allan, a Council Decision of 1995 'spelled out the basic modalities of this clause, with the aim of ensuring consistency in the text used and its applications' (ibid.). Since 1995, the human rights clause has been integrated in all bilateral agreements (with exception of the sectoral ones), thus conferring the Community the right to suspend or terminate an agreement if third countries do not safeguard these principles.

In the last decade, the EU has developed a new policy framework for the integration of human rights in its external policy and development cooperation. The Treaty of Maastricht of 1992 already stressed the importance of human rights in the EU's development agenda, by explicitly stating that the Community polices (or First Pillar) in the area of development cooperation should 'contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms' (Treaty of Maastricht 1992). Similarly, the Amsterdam Treaty underlined how one of the main objectives of the Common Foreign and Security Policy is the development and consolidation of democracy and the rule of law, and respect for human rights and

fundamental freedoms. Nonetheless, it was only with the Lisbon Treaty which was proposed in 2007 and entered into force in 2009 that substantial changes in the human rights protection were introduced, anchoring development policy within EU external action and putting human rights at the centre of the EU's development agenda. Art. 21 stipulates that

> The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. (Treaty of Lisbon 2008)

As a result of this new commitment, several policy initiatives and instruments were introduced with the purpose of further integrating human rights in the European external cooperation. The next section familiarizes the reader with the main documents drawing up the EU's renewed engagement in this field and the role assigned to civil society. More specifically, it analyses the Commission's 'Agenda for Change' of 2011, the Joint Communication on 'Human Rights and Democracy at the Hearth of the EU External Action' issued in 2011 and the Communication on 'Europe's Engagement with Civil Society in external relations' of 2012. In addition, the 'EU Strategic Framework and Action Plan on Human Rights and Democracy', adopted by the Council of the European Union in 2012, and the Joint Communication on the 'Action Plan on Human Rights and Democracy for the period 2015–2019' are briefly presented.

EU Development and Human Rights Agenda and the Role of Civil Society

In 2011, the European Commission introduced the 'Agenda for Change' with the ambition of strengthening Europe's solidarity with the world's developing nations in their fight against poverty. In that document, human rights, democracy and good governance are presented as intertwined and as vital elements for promoting inclusive and sustainable development. The agenda did not modify the basic policy principles of the EU development cooperation—i.e. partnership and country ownership of the development process—but rather it fostered more reciprocal

engagement and mutual responsibility with partner countries. It foresaw different programs and project-based interventions to support actors and processes at local, national, and sectoral level which are not limited to human rights but include public-sector management and the provision of social services, fight against corruption, conflict prevention and peace-building, and more. These initiatives should be implemented according to a differentiated approach, taking into consideration the country's needs, capacity, commitment, and performance. The document describes the improvement of the situation concerning human rights, democracy, and rule of law in third countries as a long-term process driven only by internal forces which can be stimulated through an approach centred on political and policy dialogue with all stakeholders. If partner countries show only limited commitment to human rights, the EU will seek to strengthen its cooperation with non-state actors and local authorities and to provide aid which meets the demands and needs of the most vulnerable segments of the population. A special mention is made of CSOs and local authorities as the EU strives for enhancing its exchange and cooperation with these actors and for supporting the emergence of an organized local civil society acting as watchdog and as a partner in the dialogue with national governments in third countries.

The Joint Communication 'Human Rights and Democracy at the Heart of EU External Action—Towards a more effective Approach' was published by the European Commission and the EU High Representative for Foreign Affairs and Security Policy in 2011. The communication was intended to open a discussion with the Council and the European Parliament 'on how to make the EU's external policy on human rights and democracy more active, more coherent and more effective' (European Commission and the EU High Representative for Foreign Affairs and Security Policy 2011, p. 5). At the same time, it represented the response to recent challenges faced by human rights whose legitimacy has been questioned from emerging countries with which the EU is establishing new partnerships and cooperation.

The Joint Communication reaffirms the universality, indivisibility, and interdependence of human rights and stresses that the 'protection and promotion of human rights is a silver thread running through all EU actions, both at home and abroad'(ibid., p. 4). More specifically, the EU is committed to prevent violations of human rights throughout the world and to ensure that 'victims have access to justice and redress, and that those responsible are held to account' (ibid., p. 7). The communication clarifies

the relation existing between human rights and democracy: 'human rights and democracy go hand in hand with the empowering of freedoms—freedom of expression, association and assembly—which underpin democracy' (ibid., p. 7). Human rights and democracy are also seen as the preconditions to ensure security, development, economic participation, and social inclusion and, therefore, should be taken into consideration in foreign policy decisions at every stage.

One of the main novelties of the Joint Communication is the recognition of the importance of a tailor-made approach complementary to the top-down one traditionally used in the EU's human rights strategy. According to the document, whereas the overall objectives of human rights and democracy policy remain unaltered, tailor-made country strategies matching the EU's objectives with the realities on the ground should be developed with the help of the EU Delegations and the diplomatic missions of EU Member States taking also into account the views of civil society. In addition, the communication highlights that close engagement with and assistance to civil society is a key feature of EU actions and lays emphasis on the importance of working in partnership with civil society. More specifically, it addresses the need of a greater EU involvement with civil society in third countries, seen as a vital element of a democratic state and of sustainable reforms. Therefore, the EU is declares its willingness to preserve and create the necessary opportunities for civil society to operate freely and to prosper even when there is little prospect of engaging effectively with the government of a partner country. Moreover, the EU is in favour of a greater inclusion of civil society actors in its development and human rights strategy through their participation in the assessment of the impact ofEU actions and the definition of future priorities. The document presents the European Instrument for Democracy and Human Rights (EIDHR) as a tool specifically targeted at human rights NGOs and defenders, providing them with political and financial support; the EIDHR is described in more detail in the next section.

The communication 'The roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations' issued by the Commission in 2012 recognizes civil society and, in particular, civil society organizations as 'development actors in their own right' (European Commission 2012, p. 3). The EU considers CSOs as 'all non-state, non-for profit structures, non-partisan and non-violent, through which people organize to pursue shared objectives and ideals, whether political, cultural, social or economic' (ibid.). Their peculiarity consists in

the capacity to reach out, empower, represent, and defend vulnerable and socially excluded groups, and trigger social innovation. The EU attributes a role of central importance to CSOs in boosting domestic accountability at the local and national level by ensuring a free, clear, accessible flow of information. Through the conduction of anti-corruption initiatives and the monitoring of the effective implementation of laws and policies, CSOs may contribute to nurturing and strengthening respect for the rule of law. Another important function fulfilled by CSOs, and which favours sustainable development, is the delivery of social services complementing local and national government provisions. As noted by the Commission, CSOs are able to 'identify needs, address neglected issues and human rights concerns, and mainstream services to populations that are socially excluded or out of reach' (ibid., p. 8). Finally, CSOs are conceived as privileged actors in supporting social economy, local entrepreneurship, and jobs creation by mobilizing grassroots communities, delivering services, and stimulating income generating activities for the poor and marginalized (ibid., p. 9). As part of its development agenda, the EU is therefore interested in increasing local CSOs' capacity to perform their role as development actors, by promoting a favourable legal and regulatory framework in which they can operate freely and independently, and by providing them with different funding modalities (direct award grants, core-funding, co-financing etc.) for the implementation of their projects and initiatives.

In the same year, the Council of the European Union launched the 'EU Strategic Framework and Action Plan on Human Rights and Democracy (2012–2014)'. The plan underscores the EU's commitment to improving respect for human rights in all areas of its external action including trade, investment, technology and telecommunications, energy, environment, corporate social responsibility, common security and defense policy, and development policy. According to the document, in the field of development policy the EU should seek to intensify its efforts to promote economic, social, and cultural rights in third countries. This should be achieved by ameliorating the access to basic services which ought to be universal, non-discriminatory, and opened also to the most disadvantaged groups of the population. Besides the use of the human rights clause in political framework agreements with third countries and the conduction of human rights dialogues and consultation with their governments, the Council calls for a closer collaboration with civil society and human rights activists. In the document, 'a vigorous and independent civil society' is described as an 'essential condition to the functioning of democracy and

the implementation of human rights' and 'an effective engagement with civil society' is conceived as 'a cornerstone of a successful human rights policy' (Council of Europe 2012, p. 3).

In 2015, the European Commission, together with the EU High Representative for Foreign Affairs and Security Policy, issued a Joint Communication to contribute to the new 'Action Plan on Human Rights and Democracy' for the period 2015–2019. The communication pinpoints the main achievements of the previous Action Plan, mentioning, for instance, the establishment of the EU Special Representative on Human Rights and of a Brussels-based Council Working Group on Human Rights. According to the document, the Action Plan of 2012 succeeded in strengthening the EU's cooperation with and support to civil society worldwide by mainstreaming the practice of consulting CSOs ahead of human rights dialogues or in relation to key policy documents. Moreover, it was successful in enhancing the EU support for CSOs facing restrictive measures and in promoting the involvement of civil society organizations in the design of political and financial assistance. The document refers to an additional achievement of the previous plan: the introduction of a 'toolbox' for a rights-based approach to development. Notably, this rights-based approach sees the respect for and protection of human rights as prerequisites for achieving sustainable development and human rights principles as both a means for and a goal of effective development cooperation. The approach is grounded in the universality and indivisibility of human rights and the principles of inclusion and participation in decision-making processes. A crucial role is attributed to civil society, seen as able to empower rights holders through awareness-raising activities and to foster accountability and transparency of the government and the public administration. The toolbox for the rights-based approach was launched by the European Commission in 2014 as an instrument to 'integrate human rights principles into EU operational activities for development, covering arrangements both at headquarters and in the field for the synchronization of human rights and development cooperation activities' (Council of the European Union 2014, p. 1).

Nonetheless, the communication does not dismiss the challenges that still lie ahead. In fact, as reported in the document, human rights and democratic values are still questioned and ignored in many EU partner countries, and in the past years human rights violations have increased in volume and intensity, civil society's action has been curtailed, and authoritarian regimes have become bolder (European Commission and

the EU High Representative for Foreign Affairs 2015, p. 2). Therefore, the Commission and the EU High Representative suggest improving EU internal coherence in addressing human rights and to promoting their integration in its external action by empowering endogenous forces and interlocutors in third countries as the government, the parliament, the judiciary system and civil society. To this end, specific measures focused on invigorating civil society are necessary in order to further strengthen the capacity of CSOs to hold governments accountable and to involve these organizations in the designing and implementation of EU development policies (ibid., p. 9).

After the presentation of the main documents shaping the current EU development and human rights agenda and the role assigned to civil society, the next two sections are focused on with its implementation. More specifically, the following pages examine the work of DG DEVCO, the main features of the EIDHR and concrete projects and initiatives which were carried out by Kazakh CSOs between 2007 and 2013 in the EIDHR financial framework.

DG DEVCO and the Support to Civil Society Under the EIDHR

The Commission's Directorate-General for International Cooperation and Development (DG DEVCO) is responsible for designing European international cooperation and development policy and delivering aid throughout the world. More precisely, it is in charge of formulating EU development and thematic policies in the field of poverty reduction and sustainable economic, social, and environmental development as well as promoting democracy, rule of law, good governance, and the respect of human rights through external aid. In its work, DG DEVCO cooperates closely both with the European External Action Service and with other Commission services.

The main tool through which DG DEVCO engages in the promotion of human rights is the EIDHR. This was introduced in 2007, replacing the European Initiative for Democracy and Human Rights of 1994. This instrument had a budget of €1104 million for the period 2007–13 and 1332.752 million for the period 2014–20, mainly implemented through calls for proposals issued by DG DEVCO also in collaboration with EU Delegations.

As mentioned in Point 3 of the Introduction to the 'Regulation (EC) No. 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide', 'the promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community's development policy and economic, financial and technical cooperation with third countries' (European Parliament and Council 2006). In the document, human rights and democracy are presented as 'inextricably linked': in particular, 'the fundamental freedoms of expression and association are the preconditions of political pluralism and democratic process, whereas democratic control and separation of powers are essential to sustain an independent judiciary and the rule of law which in turn are required for effective protection of human rights' (ibid.).

The 'Regulation (EC) No. 1889/2006' establishes and allows forms of assistance which are independent from the consent of third country governments and other public authorities. This independence of action is stressed several times throughout the document, where these measures are depicted as 'in addition' and 'complementary' to the measures agreed with partner countries and as able to address 'community needs' which were unforeseeable or simply caused by exceptional circumstances. In addition, as stated in Point 9 of the Introduction, 'the task of building and sustaining a culture of human rights and making democracy work for citizens, though especially urgent and difficult in emerging democracies, is essentially a continuous challenge, belonging first and foremost to the people of the country' (European Parliament and Council 2006, p. 2). The instrument is directed at different bodies and actors which are meant to operate on an independent and accountable basis and which include public sector not-for-profit agencies, parliamentary bodies, organizations, and networks at local, national, regional, and international level and natural persons. A role of pivotal importance is given to civil society, defined as 'all types of social action by individuals or groups that are independent from the state' (ibid.) and described as flexible enough to 'respond to changing circumstances and to support innovation' (ibid., p. 3).

The EIDHR addresses three main objectives which shall be achieved through the assistance to and cooperation with civil society organizations. Firstly, the instrument aims at enhancing the respect for and observance of human rights and fundamental freedoms—as proclaimed in the 'Universal Declaration of Human Rights' and other international and regional human

rights instruments—and to promote and consolidate democracy and democratic reform in third countries. Secondly, the EIDHR seeks to strengthen the international and regional framework for the protection, promotion, and monitoring of human rights, democracy, and the rule of law worldwide. Finally, the instrument strives for building confidence in and enhancing the reliability of the electoral process at the local and regional level. Overall, the actions carried out under the EIDHR should boost participatory and representative democracy in third countries, by sustaining freedom of association and expression, political pluralism, democratic political representation, and political participation on behalf of ordinary citizens. Special attention is given to the most vulnerable groups and the protection of the rights of women, children, indigenous people, and people with disabilities.

The following section is dedicated to the presentation of the main outcomes of the EIDHR's projects conducted in Kazakhstan[1] in the period 2007–in the framework of the EIDHR-Country-based Support Scheme.[2] The analysis helps the readers to familiarize themself with the implementation of the EIDHR's aims, looking at the fields covered by the grants, at the forms of engagement, and at the actors that were involved in EU-funded initiatives.

EIDHR and its Implementation: Evidence from Kazakh Civil Society

Between 2007 and 2010, two different calls for proposals were issued in Kazakhstan under the European Instrument for Democracy and Human Rights: the Call for Proposals 127-714 EIDHR published on 24 October 2008 (deadline February 2009) and the Call for Proposals 130-022 EIDHR published on 28 April 2010 (deadline July 2010).

The Call for Proposals 127-714 EIDHR[3] was focused on strengthening the role of civil society in promoting political, civil, economic, social, and cultural rights as well as fostering democratic reform (Delegation of the European Union 2009, p. 4). More specifically, it was addressed to initiatives that endeavoured to develop the media sector and to enhance the contribution and participation of civil society in various stages of media policy management. Secondly, the call welcomed projects fostering the involvement of civil society in the policy-making process through the introduction of innovative mechanisms such as public hearings and consultations with the goal of promoting the accountability of the public administration and the access to public information. Finally, the call

was opened to proposals in the field of education on human rights and fundamental freedoms conceived as fundamental elements of a modern democratic state—such as freedom of association, assembly, expression, and religion.

The Call for Proposals 130-022 EIDHR was directed towards initiatives aimed at increasing the knowledge about the 'Kazakh National Human Rights Action Plan' for the period 2009–2012 and at promoting its implementation at the local level.[4] In addition, it welcomed proposals in the field of legal education and the protection of human rights within the judicial system, including the right of fair trial and freedom from torture and from other degrading treatments (Delegation of the European Union 2010, p. 5).

Tables 10.1 and 10.2 provide the list of organizations that were awarded EU-financial support in the framework of the calls EIDHR 127-714 and 130-022 EIDHR, together with information on the project title, duration, amount of the grant, and percentage of total eligible costs financed by the EU.

The projects carried out by Kazakh CSOs under the Calls for Proposals EIDHR 127-714 and EIDHR 130-022 were intended to promote human rights and, more precisely, the social and economic rights of underprivileged segments of the population and in ameliorating their living standards. All in all, it is possible to identify three types of activity which were conducted in this framework: those focused on the improvement of the quality and efficiency of the social service system; capacity building activities for NGOs, social workers and human rights defenders; and awareness-raising activities targetted at the general public.[5]

An initial group of EU-funded projects aspired to improve national legislation concerning the rights and social services for the most vulnerable groups, such as people with disabilities, people with HIV, patients in medical institutions, orphans, and pensioners. In particular, for one project an analysis of the social services market in Pavlodar and East Kazakhstan was conducted with the goal of developing a united methodological tool for the monitoring and evaluation of the social service system in the country. Another grant was intended to improve the labour market situation, with an emphasis on the rights of pensioners. For this project, an analysis of gaps and weaknesses in the pension sector was carried out, and strategy sessions involving government, local authorities, and other relevant stakeholders were organized in order to facilitate reform of the pension system.

Table 10.1 Grants awarded under Call for Proposals 127-714 EIDHR Kazakhstan published on 24 October 2008

Beneficiary	Title of the project	Duration (months)	Grant amount (EUR)	Percentage of total eligible costs financed by the EU
Foundation Decenta	Increase Life Quality by Protecting our Rights	36	236,625.45	80%
ZUBR Social Corporative Foundation	Legal Protection on the Labour Market Today is Your Decent Old Age Tomorrow	24	198,001.84	80%
Kazakhstan Newspaper Publishers Association	Improvement and Reform of Legislation on Publishing Activity and Allied Industries in Kazakhstan	24	97,373.33	78%
Charter for Human Rights	Enhancing the Capacity of Civil Society to Disseminate Human Rights Information in the Kazakh language	20	156,064.00	80%
Kazakhstan Criminological Association	International Standards on Mass Media and National Legislation	24	68,438.94	77.21%
Association of Social Workers, Disabled and Volunteers	Development of Effective Legal and Social Instruments for Protection of the Vulnerable Groups' Civil and Human Rights in Kazakhstan	24	97,079.90	79.59%

(continued)

Table 10.1   (continued)

| Sana Sezim | Legal Training in Response to Human Trafficking | 36 | 213,088.00 | 80% |
| Eurasia Foundation of Central Asia | Open Budget Kazakhstan | 18 | 130,374.72 | 80% |

Author's own compilation based on European External Action Service data

Table 10.2   Grants awarded under call for proposals 130-022 EIDHR Kazakhstan published on 28 April 2010

Beneficiary	Title of the project	Duration (months)	Grant amount (EUR)	Percentage of total eligible costs financed by the EU
Kazakhstan International Bureau for Human Rights and Rule of Law	Monitoring the National Human Rights Action Plan for Kazakhstan for 2009–12 implementation progress	24	240,000.00	80%
Rsnn Foundation	National Action Plan for Human Rights in the Republic of Kazakhstan: Increasing public awareness and monitoring of its implementation	30	274,452.39	90%

Author's own compilation based on European External Action Service data

Secondly, capacity-building seminars were offered to NGOs and social workers active in the field of social services provision in order to increase their professionalization and knowledge of the legislative framework in which they operate. The activities were conducted in six different oblasts and led to the creation of an NGO working group engaged in the improvement of current legislation and collaborating with the government

at national level. Education seminars for self-help groups, social bureaus, and law-enforcement structures delivering services to people with HIV and capacity development activities for NGOs providing services for orphanage graduates were also supplied under the EIDHR.

Finally, the projects financed through the EIDHR sought to raise awareness in the general population of the situation and rights of the most vulnerable groups living in the country. One of the EU-funded projects was dedicated to raising awareness of human rights issues among the Kazakh-speaking population. In this case, seminars to strengthen the capacity of NGOs, human rights defenders, teachers, and media representatives to disseminate human rights information and to provide education concerning human rights in the Kazakh language were offered. Around 20 teachers and NGOs from seven different regions including Almaty, Shymkent, Kyzylorda, Taraz, Aktobe, Atyrau, and Taldykurgan were instructed to become human rights trainers and are now able to run courses on human rights in Kazakh. Another project consisted of an information campaign engaged in familiarizing the Kazakh population with the issue of human trafficking, which affects Kazakhstan as an inflow, transit and outflow country. As a result of the project, 15,000 booklets entitled 'You are not the Product!' were distributed among women aged between 18 and 45 years to thoroughly inform potential victims of human trafficking. In addition, 3000 brochures on 'People Trade: The Principles of Personal Security' were produced and delivered to women and children, containing information on local services, consulates, embassies, and NGOs active in this field to be contacted, and a blacklist of tourism agencies to be avoided. Moreover, educational training events on human trafficking were attended by 240 young people between the ages of 13 and 25, and a confidential hotline providing qualified information on travel issues was set up.

Conclusion

This chapter aimed to describe the current EU development and human rights agenda looking at the role assigned to civil society and at the contribution of DG DEVCO through the EIDHR. As pinpointed above, human rights underpin all aspects of international and external policy of the EU. Indeed, besides being embedded in the EU founding treaties, since 1995 human rights have been integrated in all EU bilateral agreements with third countries through the introduction of a human rights clause.

Moreover, since the Lisbon Treaty, human rights have gained increasing importance in EU external action and development cooperation.

In the current EU development and human rights agenda, human rights—together with democracy—are seen as preconditions to achieving security, economic participation, social inclusion, and sustainable development, while human rights principles are considered both a means and a goal of EU cooperation. Nonetheless, as has emerged in the course of this chapter, the EU conceives the enhancement of the human rights situation in third countries as a long-term process which can be led only by international forces. The current strategy is based on a tailor-made approach, matching EU objectives with the realities on the ground, and it fosters a greater involvement of civil society and non-state actors in partner countries. From the documents analysed, civil society emerged as a privileged development actor which is aware of the needs and interests of vulnerable and socially excluded groups and is able to address and protect their rights. In addition, civil society organizations are seen as particularly suited to adapt to changing circumstances and to act in innovative ways. By ensuring a free, clear, accessible flow of information, they can boost government accountability at the local and national level. Moreover, thanks to their non-for-profit and local orientation, they may contribute to social economy and sustainable growth at the grassroots level. For all these reasons, the EU seeks to intensify its cooperation with civil society, identified as central partner in the designing, implementation, and monitoring of its development and human rights agenda. One of the main tools through which the EU and, especially, DG DEVCO support and cooperate with civil society organizations active in the field of human rights and development is the EIDHR.

The chapter then introduced the EIDHR and presented a series of projects and initiatives which were carried out by Kazakh CSOs between 2007 and 2013 in the EIDHR framework. The analysis identified three types of activities which were conducted by EU-funded civil society organizations: activities focused on improving the efficiency and performance of the social service system; capacity-building activities for NGOs, social workers, and human rights activists; and awareness-raising activities. It also pointed out the variety of fields in which the projects were implemented, including human trafficking, the provision of social services, the rights of underprivileged groups such as people with HIV, orphans, and disabled people, and pension reforms. Overall, the CSOs that were granted EIDHR support are well-established, highly professionalized, and are mainly based

in the two major Kazakh cities of Astana and Almaty. They are very familiar with the international donor community and procedures and have a long record of projects conducted with international support. Yet, if the EU seeks truly to empower endogenous forces and interlocutors, a need also to involve smaller and locally-based organizations in its development and human rights agenda is registered. These organizations tend to be excluded from the EU's financial support due their lack of familiarity with international procedures, their insufficient knowledge of the English language, and their overall shortage of professionalism and experience. Only through the involvement of local CSOs and non-state actors aware of the situation and needs of the most peripheral areas of the country can the EU ensure the sustainability of its development agenda and succeed in assisting in the creation of an autochthonous culture of human rights.

Acronyms

CSO	Civil Society Organization
DG DEVCO	Directorate-General for International Cooperation and Development
EIDHR	European Instrument for Democracy and Human Rights
EU	European Union
NGO	Non-Governmental Organization

Notes

1. The author of this chapter has conducted extensive research and fieldwork in Kazakhstan. This is the reason why this country was selected for the empirical part of this article.
2. This chapter examines only the first wave of EIDHR grants implemented between 2007 and 2013 as the author considers it more reasonable to evaluate the outcomes of projects already completed. It is worth noting that a second wave of EIDHR grants was awarded between 2012 and 2014 and the projects are still running.
3. Technical details for the Call 127-714 EIDHR: Opened to both Kazakh and European applicants with at least two partner organizations. EU grant should cover no less than 50% and could not exceed 80% of the total eligible costs of the action. Two types of grant were awarded: small grants between €30,000 and €100,000 with a total allocation of €200,000 and grants between €100,000 and €300,000 with a total allocation of €400,000. Duration of the action: between 18 and 36 months.

4. Technical details for the Call 130-022 EIDHR: Opened to Kazakh, European and international applicants with at least two partner organizations. The grants requested must be between €150,000 and €300,000 with a total allocation of €600,000. The EU grant should cover no less than 50% of the total eligible costs of the action; whereas for European and international applicants the EU grant could not exceed 75% of the total eligible costs of the action, 90% applied in the case of Kazakhstani applicants. The duration of the action could vary between 24 and 36 months.

5. The data presented here were collected through fieldwork in Kazakhstan in 2014 during which the author conducted semi-structured interviews with Kazakh organizations which were granted EIDHR financial support between 2007 and 2013.

BIBLIOGRAPHY

Brandtner, B., & Rosas, A. (1998). Human rights and the external relations of the European community: An analysis of doctrine and practices. *European Journal of International Law, 9*, 468–490.

Charter of Fundamental Rights of the European Union. (2000). Retrieved November 26, 2015, http://www.europarl.europa.eucharter/pdf/text_en.pdf

Council of the European Union. (2012). EU Strategic Framework and Action Plan on Human Rights and Democracy. Retrieved December 9, 2015, from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

Council of the European Union. (2014). *Council conclusions on a rights-based approach to development cooperation*, *encompassing all human rights*, Retrieved December 8, 2015, from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/142682.pdf

Delegation of the European Union. (2009). *European Instrument for Democracy and Human Rights* (*EIDHR*)—*Country Based Support Scheme* (*CBSS*), *Kazakhstan*. Retrieved December 9, 2015, from https://webgate.ec.europa.eu/europeaid/onlineservices/index.cfm?ADSSChck=1449587676144&do=publi.detPUB&searchtype=AS&Pgm=7573843&zgeo=2495336&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=15&page=2&aoref=127714

Delegation of the European Union. (2010). *European Instrument for Democracy and Human Rights* (*EIDHR*)—*Country Based Support Scheme* (*CBSS*), *Kazakhstan*. Retrieved December 9, 2015, from https://webgate.ec.europa.eu/europeaid/onlineservices/index.cfm?ADSSChck=1449587585602&do=publi.detPUB&searchtype=AS&Pgm=7573843&zgeo=2495336&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=15&page=1&aoref=130022

European Commission and the EU High Representative for Foreign Affairs and Security Policy. (2011). *Human Rights and Democracy at the Heart of EU*

External Action—Towards a More effective Approach, COM(2011) 886 final. Retrieved December 8, 2015, from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224343/evidence-eeas-joint-communication-dec-11.pdf

European Commission. (2012). *The roots of democracy and sustainable development*: *Europe's engagement with civil society in external relations*, COM(2012) 492 final. Retrieved December 8, 2015, from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0492:FIN:EN:PDF

European Commission and the EU High Representative for Foreign Affairs and Security Policy. (2015). *Joint Communication to the European Parliament and the Council Action Plan on Human Rights and Democracy* (*2015–2019*) "*Keeping human rights at the heart of the EU agenda"*. Retrieved December 8, 2015, from https://ec.europa.eu/europeaid/sites/devco/files/joint-communication-ap-human-rights-and-democracy_en.pdf

European Parliament and Council. (2006). "Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide". *Official Journal of the European Union*, *L 386/1*. Retrieved May 17, 2013, from http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:386:0001:0011:en:PDF

Treaty of Amsterdam. (1997). Retrieved November 25, 2015, from http://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf

Treaty of Lisbon. (2008). Retrieved November 26, 2015, http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-5-general-provisions-on-the-unions-external-action-and-specific-provisions/chapter-1-general-provisions-on-the-unions-external-action/101-article-21.html

Treaty of Maastricht. (1992). Retrieved November 25, 2015, from http://europa.eu/eu-law/decision-making/treaties/pdf/treaty_on_european_union/treaty_on_european_union_en.pdf

From Window-dressing to Windows of Opportunity: Civil Society Actors in the EU Security Regime—The Case of DG HOME

Georgios Kolliarakis

SETTING THE STAGE: CIVIL SOCIETY ORGANIZATIONS IN A CONTENTIOUS POLICY FIELD

The present chapter examines the positioning of civil society organizations (CSOs) in the institutional and organizational context of the European Union Security Research Programme (ESRP). This policy area, despite having emerged after 2001, has stirred controversies in the context of current counter-terrorism and crisis management practices in Europe with regard to the appropriateness, accountability, and compliance of security-relevant technologies with fundamental rights. Civil society engagement in security research is something distinct, yet closely intertwined with engagement in security policy. Security research can been seen as a crucial form of proactive security policy, and, in this respect, intimately connected with its production and provision mechanisms (Kolliarakis 2014b).

G. Kolliarakis (✉)
Institute for Political Science & Cluster of Excellence, Goethe University, Frankfurt, Germany

The technological trajectories opened during the research and innovation process provide a pool for future security responses. A good number of CSOs are active in crisis management, emergency response, community integration and anti-radicalization, but also in the fields of civil rights and cyber liberties. CSOs are often practitioners and critical activists in the broader spectrum of security provision and consequently their 'hands-on' approach renders them potential key actors in research. CSOs have the capacity to ground security R&D in the concerns and requirements of the citizens, while at the same time enhancing compatibility with societal norms and values, and contributing to acceptability and sustainable operative success.

Recent technological advances have given a novel twist to the contentious politics of security. For example, pattern recognition and detection technologies used in public surveillance through CCTV or by Unmanned Aerial Vehicles (drones) can be used for other, unsolicited purposes, compromizing civil liberties and fundamental rights, or discriminating against social groups, while not actually raising the levels of security in society. Defence technologies applied in the military battlefield should be scrutinized in terms of ethical and legal compliance before being transferred to civil protection or border management applications. After recent revelations about massive unsolicited and untargeted mining and storage of citizens' online transaction data by state authorities and private companies, the pressure has risen for a more transparent and accountable governance of security (research) policy (Kolliarakis 2016a). Security policy seems to systematically resist parliamentary and judicial control, even in liberal democracies, let alone admitting citizen and CSO participation in decision-making (Council of Europe 2016).

The European security research policy landscape is dominated by national and international organizations which engage partners and experts primarily from the high-tech (defence) industry, as well as from Research and Technology Organizations (RTOs) promoting high-tech 'fixes' and engineering solutions for comprehensive and complex threats and risks (Statewatch 2009). Public investment in security research should ensure that development and deployment of technological and non-technological security solutions deliver on their primary objective, that is to serve documented needs of society, and minimize, if not preclude, non-intended undesirable impacts on citizens, who should be the ultimate beneficiaries of research and policy (EC 2014: 2012c). Conceiving the societal dimension of policies on civil security not as an 'add-on' to

technology development, but as the de facto context of security seems to be an absolute prerequisite for policy effectiveness. This, in turn, needs to be premised upon the conviction that security and its provision are *public goods.* However, competing policy priorities make it hard at the moment for the European Commission to see the value of engaging a broader and more balanced mix of stakeholders, including CSOs in the ESRP, despite the documented impact of security technologies on ourway of life. This discrepancy is the point of entry for this chapter.

In the following I focus on the positioning of CSOs in the EU Security Research regime within the context of the evolving EU Security Strategy. This is a relatively new, and as of now rather under-researched field of study, albeit politically contentious and deeply consequential (Kolliarakis, 2014a, 2016a). The literature has so far tackled issues of democratic governance in the context of European Security (Eriksen 2011), the role of civil society and CSOs in EU politics (Jobert and Kohler-Koch 2008; Kohler-Koch et al. 2013; Ruzza 2007; Steffek et al. 2007), and the role of CSOs in research (Fondation Sciences Citoyennes 2009; Brodersen et al. 2014; Ferretti and Pavone 2009), but not of CSOs in the specific field of security research.[1]

In such a turbulent environment, security policy at the European Commission is a challenging multilateral exercise, since it has to strike a path across established policies in other policy areas such as justice, industrial and market policies, communication, transport, and also research and innovation, and also to mobilize stakeholders from all 28 EU member states. Recent research in public policy has pointed at the fact that multiplicity and ambiguity of goals in public organizations may lead to self-serving, ineffective policies, and to implementation paralysis (Ackrill et al. 2013; Rainey and Jung 2015). How goals are formulated is a task embedded in institutional mandates, interdependent with problem definitions, and consequential for relevant stakeholders engaged in the process of policy formulation and implementation.

A number of scholars have convincingly demonstrated that the non-linearity of the policy process, along with its non-deterministic, and often also non-intended outcomes, can be captured as an interplay between the *institutional*, *organizational*, and *normative dimensions*, conducive to certain constellations in a given policy field (Ackrill et al. 2013; Zahariadis 2008, 2013). What has become known as Multiple Streams Framework (MSF) examines the above three dimensions as they find concrete expression in *policies*, *politics*, and *problem framings* respectively within a given

field. These shape the transactions, which, when successfully coupled, lead to the opening or closing of opportunity windows, and enable agency margins for policy entrepreneurs to promote and set their agenda. Often, policy makers under time constraints and diverging interests cannot attend to all (or most crucial) problems, and opt for policies that merely satisfy rather than optimize or solve the problem, and they are subject to random and not strictly 'rational' choices (Ackrill et al. 2013, p. 872). The MSF is sensitive to agenda manipulation as the interplay of policies anchored at bureaucracies and institutions, and the more fluid dimension of opportunistic politics by powerful actors struggling to gain traction for their problem frames and their promoted solutions (Daviter 2011). In this regard, the decision to go or stay along one policy path and not take another, is the outcome of all three above dimensions or 'streams' coming together.

Subsequently, for the sake of analysis, I will try to address the three streams separately in order to trace openings and closures of opportunity windows for CSO engagement in the ESRP. I will thereby examine three closely intertwined aspects: first, the *what* dimension, mirrored by the institutional background of an array of policies manifesting the goal ambiguity at the European Commission (EC); second, the *what-for* dimension as mirrored in dominant EU framings of technology and innovation in tackling threats and security, which impose a series of blinkers and favour certain stakeholders' constellations at the cost of others. Third, I will turn to the *how* dimension, as reflected in the politics of key stakeholders in the organizational ecology of the ESRP in order to analyse relationships of competition, opportunistic cooperation, but also co-optation. Finally, I will comment on the conditions and current chances for the emergence of a window of opportunity for the constructive engagement of CSOs in security research and policy.

Based upon the triple MSF framework, I will examine CSOs in security (research) policy-making not merely in the relationship to the EC, but, moreover, within the nexus of policies, framings, and politics. I intend to make, in this regard, a series of observations concerning compatible and competing goals which tend lock-in the ESRP agenda into a supply-driven path within a technology-centred ecosystem of stakeholders. What often tips the balance of staying or abandoning the policy path in contentious 'wicked' fields, such as that of security, are stakeholder communities of practice which successfully promote a certain epistemic frame, and make other stakeholders' agendas appear of lower priority, or even of limited relevance. Therefore, departing from rationalist approaches in policy analysis, where the *what*-dimension of the policy problem dictates *how* (and with

whom) to proceed during policy implementation, I will, instead, following the MSF, demonstrate, *vice versa*, that *how* is premised upon engagement of certain (influential) stakeholders in the policy ecosystem, who open or close opportunity windows by bringing together problem definitions with institutional resources.

In this context, I advance two arguments, providing tentative answers to a core question raised in the introduction to this volume, that is, what are the *enabling and constraining* conditions *facilitating or impeding* CSO engagement in a given policy field? The first one is the (indirect) power of mainstream EU understandings of innovation in relation to R&D, and their impact in making policy paths compatible for certain stakeholders' interests. Norms, in this context, are often retrospectively instrumentalized, particularly within 'wicked' policy fields such as that of security, in a selective and opportunistic manner in order to justify policy choices against competing ones (e.g. industrial competitiveness and growth, as opposed to the Precautionary Principle and Responsible Research and Innovation) (Rittel & Webber 1973; Richtey 2011). The second argument advanced here relates directly to the overlooked dimension of intra-stakeholder relationships. The policy ecosystem perspective in studying CSOs in the ESRP allows for going beyond the direct relationship of EU institutions and CSOs, by considering their antagonistic or symbiotic relations with other, more powerful stakeholders in the security research landscape, which may lead to competing, 'fig-leaf', 'parasite', or substantial relationships.

THE INSTITUTIONAL DIMENSION: GOAL AMBIGUITY IN EU SECURITY RESEARCH

Security research, while formally operating under the jurisdiction of Directorate-General Migration and Home Affairs (DG HOME), actually lies, in terms of policy scope, at the crossroads of several DGs, such as DG Research and Innovation (RTD), DG Justice, Consumers, and Gender Equality (JUST), and DG Communications Networks, Content & Technology (CONNECT) (to include only those with the most direct relevance). A very brief history will elucidate the landscape of policy objectives which directly or indirectly inform security goals and attract stakeholders.

The publication of the EU European Security Strategy in 2003 (*A Secure Europe in a Better World*, European Council 2003) brought about a shift of focus toward the 'new' threats affecting European citizens

as directly as national borders. Over time, the focus of the EU security model was consolidated (*Report on the Implementation of the European Security Strategy—Providing Security in a Changing World*,, European Council [2008](#)), and underwent an '*all-hazards*', comprehensive-threat turn toward the areas of counter-terrorism, international organized crime, cyber-security, crisis and disaster management, and border control (*Internal security strategy for the European Union. Towards a European security model*, European Council [2010a](#)).

The time was ripe for explicitly anchoring the EU security model in requirements for justice, citizens' freedoms, and rights protection, as reflected in the EU Stockholm Programme, published the same year (*The Stockholm Programme—An open and secure Europe serving and protecting citizens*, European Council [2010b](#)). This document's major contribution pointed out the necessity of forging a common culture of rights protection, and of mutual trust between the authorities and citizens. The latest evolution in that line of EU policy documents on security was published in April 2015 as a communication of the Commission to the Council and the Parliament (*The European Agenda on Security*, European Commission [2015b](#)). It advanced a series of strategic recommendations to enhance effectiveness and legitimacy of EU security practices, among which was the need to establish '*more transparency, accountability and democratic control, to give citizens confidence*' (p. 3). Notably, this is the first time that citizens have been explicitly referred to not merely as objects and addressees of policies, but also as subjects and agents in a democratic participatory process.

In 2004 the Commission promptly reacted with the launch of an accompanying security research programme (*Towards a programme to advance European security through Research and Technology*, European Commission [2004](#)), tailored to the needs formulated in the security policy Strategy. The ESRP, via its envisioned innovative results, was supposed to generate a pool of potential policy instruments and establish a European network of relevant security actors. Budgeted with roughly €1.2bn under FP7 for the period 2007–2013, and with almost €1.7bn under Horizon 2020 for the period 2014–2020, the ESRP aims at responding to a fast-growing international security technologies market, while adhering to the core values and principles of European treaties and declarations. The areas identified for funding thereby are currently five: *Critical Infrastructure Protection*; *Disaster Resilience*; *Fight against Crime and Terrorism*; *Border Security and External Security*; and *Digital Security*. The resulting technologies

should address 'hard security' functions, such as critical infrastructure protection, border management, counter-crime and – terrorism, as well as first-responder capabilities and crisis management interoperability, civil disaster planning, and anti-radicalization dynamics in society.[2]

In institutional terms, the focus of the ESRP has been decisively shaped through the fact that it has been a research area administered by Directorate-General 'Entrepreneurship and Industry' (DG ENTR, now GROW), and not by DG RTD, until it moved to DG HOME at the end of 2014. This noticeable partition of research areas, and the detachment of security research from the Socio-economic Sciences and Humanities dossier originates in FP7 and has continued under Horizon 2020, as the Societal Challenge 7, '*Secure societies—Protecting freedom and security of Europe and its citizens*', was split from Challenge 6, '*Europe in a changing world—Inclusive, innovative and reflective societies*'. Yet, goal ambiguity persists and is characteristically reflected by a self-description of the ESRP multiple mission in a 2013 catalogue, where four key targets/addressees are featured:

> Investing in security research for the benefit of European citizens, critical infrastructures, SMEs and industry. (EC 2013a, EU Research for a Secure Society, p. 1)

In the DG HOME organizational chart, the unit administering the programme is called 'Innovation and Industry for Security', suggesting the impetus of the mandate. A series of policy documents and studies commissioned by the unit, concentrating on overcoming the fragmentation of the EU security markets through the harmonization of standards and certification procedures for security technologies, on reducing the research-to-market gap via pre-commercial procurement, and on exploiting synergies between civilian and defence orientated research, testify the ESRP priorities.[3] Despite the global economic crisis, the security industry is a fast-growing sector with an estimated annual turnover of more than €100bn in 2011—compared with €10bn before 2001. The EU security sector is estimated to employ around 180,000 people, having an annual turnover of around €30bn, which prompted DG ENTR to draft an action plan for an 'innovative and competitive Security Industry' (EC 2012a). While safeguarding freedoms and rights is one stated dimension of the programme, societal objectives, with the exception of pursuing 'acceptance' for security-relevant technologies, seem to have been only

peripheral to the research endeavours. This can be documented also in a content analysis of the ESRP call texts of the research Work Programmes since 2007 (Kolliarakis 2016). In this respect, the marginal standing of the 'societal dimensions' does not seem to welcome or motivate CSOs to bring their agendas into research actions. This ambivalence of available frames will be examined in the next section.

The Conceptual Dimension: Mainstream Understandings of Science & Technology Research and Innovation

The institutional landscape for security R&D, favouring technology development and strengthening industrial and market links, seems to be consistent with the understanding set out already in the first founding document launching the ESRP in 2004:

> Europe needs to invest in a "security" culture that harnesses the combined and relatively untapped strengths of the "security" industry and the research community in order to effectively and innovatively address existing and future security challenges. (EC 2004, p. 2)

This framing accommodates sensitive, and, according to some, controversial research areas under the EU multi-annual Framework Programmes (Edler and James 2015). Viewing innovation for civil security through the lenses of technology development, market competitiveness, and economic growth has been common also in the general framing of EU research. The internal impact assessment for Horizon 2020 pursued, by and large, a market-driven, growth-oriented paradigm for all Societal Challenges (EC 2011). Similarly, the new composite *EU Innovation Output indicator* reflects the prevalence of the technology-market nexus, measured in a pure econometric style along four components (technological innovation by patents; employment in knowledge-intensive activities; competitiveness of knowledge-intensive goods and services; employment in fast-growing firms of innovative sectors) (EC 2013b).

In contrast to the above developments, the regime of science and technology (S&T) knowledge production has been constantly questioned and in transformation since the 1990s. Failures, due to non-intended and non-anticipated effects of S&T development, forced the research community to think about conditions for *societally more inclusive and robust knowledge*

production mechanisms. Such developments gave rise to the '*Mode 2*' of knowledge production (Gibbons et al. 1994; Nowotny et al. 2001; Fondation Sciences Citoyennes 2009). Accordingly, Mode-2 knowledge is produced within the context of application, is targeted toward problem solving, and is rather trans-disciplinary and trans-sectoral. A parallel call for an S&T paradigm shift, aimed at transforming the way R&D is managed and used by policy, was instigated using the term '*Post-normal Science*'. When societal stakes in public policy are extraordinarily high, while uncertainty, complexity, and value conflicts are equally high, policy makers or scientists alone cannot be the only ones entrusted with decisions (Funtowicz and Ravetz 1990; Kolliarakis 2013a). This has made the strong case for a move towards a participatory mode of scientific inquiry, inclusive of societal actors (Jasanoff 2009).

A series of examples from security governance in the fields of man-made and natural disasters, terrorism, and political or religious extremism, international organized crime, or cyber-threats, illustrate the above problematique: recent deployment of mass, non-targeted surveillance in public space, mining and harvesting of 'big data' produced by citizens' transactions, or function creep of pattern recognition and detection technologies for both military (e.g. battlefield operations) and civil application (e.g. border control, emergency response) have raised pressing questions about ethics, fundamental rights, and racial and social discrimination.

Civil society engagement receives thereby a *normative* and a *functionalist/instrumental* justification: from a normative side, participation should complement the representation pillar of democracy and materialize inclusive and accountable governance of public security. From the functionalist side, civil society participation should make knowledge production and technology development more responsive to factual needs and concerns on the ground and enhance the positive impact of security policies, while helping to pre-empt/mitigate negative undesirable consequences (Fondation Sciences Citoyennes 2009).

Applied to the ESRP, the Commission welcomed in 2009, at least on paper, the accommodation of human and social aspects of security by fostering a stronger role for the public in security research as a function of 'societal resilience':

> No security technology can in fact be a security solution in the long term without the active participation (and acceptance) by the public at large .…
> A societal security approach implies a vision of security that does not focus

on prevention and protection at all costs but rather, features in the capacity of our societies to face risks, and at times losses, and to recover from them. Such a "societal resilience" depends on the free will of informed citizens as much as on the quality of technical systems and on business continuity capabilities of companies and administrations. (EC 2009, p. 3)

This recommendation can be read as a warning against mistaking high-tech inventions for acceptable and effective 'innovative' measures to enhance societal security, and it explicitly associates citizen involvement with the legitimate achievement of policy goals (Kolliarakis 2016a).

Alternative frames for non-technological or social innovation have already been in place in the EC within different policy venues. Scientific advisers had expressed the concern internally that enormous bottom-up potential for innovation lies untapped in European societies (*Empowering People*, *Driving Change*: *Social Innovation in the European Union*, BEPA 2011). In a similar vein, the *Monitoring Activities of Science in Society Group* at the EC sought to ensure that S&T innovation was rooted in society and was responsive to its needs, by advancing civil society participation from an optional desideratum to a policy requirement for *transparency*, *accountability*, *and legitimacy* of research processes (MASIS 2009). Such a bi-directional *transaction* model, replacing transmission consultations, should reinforce *trust* in institutions, and *solidarity* among stakeholder groups. The official Council decision establishing Horizon 2020 prescribes a similar frame:

[T]he aim is to foster the development of innovative societies and policies in Europe through the engagement of citizens, enterprises and users in research and innovation and the promotion of coordinated research and innovation policies in the context of globalisation and the need to promote the highest ethical standards .… Cultural and societal knowledge is a major source of creativity and innovation, including business, public sector and social innovation. (European Council 2012, p. 119)

While decision-making on the *Science-Policy-Society interface* is bound to remain a tense affair due to diverging interests (Liberatore and Funtowicz 2003), the requirements for transforming the relationships among researchers, policy makers and society have been lately recognized both outside (ESF 2013), and within the Commission (EC 2012c). In the context of 'Science and Society' (FP6), and 'Science in Society' (FP7), as well as in the current 'Science with and for Society' (Horizon

2020) funding programmes, the broadinclusion of societal actors and their agendas has been in the focus of research activities. A major development in this respect, has been the EC template of *Responsible Research and Innovation* (RRI), prescribing a set of principles that have to be respected in order to enhance innovative potential of R&D processes and outcomes. Inclusiveness via engagement of citizens and CSOs in R&D is, for example, about bringing on board the widest possible diversity of actors, and *co-creating* future EU societies in an accountable and responsible way.[4] In a key EC report about ethical and regulatory challenges, focusing on ICT and security technologies, RRI is defined as

a transparent, interactive process by which societal actors and innovators become mutually responsive to each other with a view on the (ethical) acceptability, sustainability and societal desirability of the innovation process and its marketable products (in order to allow a proper embedding of scientific and technological advances in our society). (EC 2012c, p. 44)

Such consciousness has caused controversies in other technology fields, such as nanotechnology, genetic modification of organisms, and has in the meantime also spilled over into the security technology field, namely, terahertz spectroscopy (body scanners), unmanned aerial vehicles (drones) and CCTV in public space, and mass data collection via spy software. Lack of adequate assessment and evaluation of ethical, legal, social, and political aspects of security technology application, in combination with non-disclosure of evidence by authorities, has led on a number of occasions to severe criticism, and low acceptance—if not outright opposition—by citizens and CSOs (Kolliarakis 2014b, 2016a). A series of recent Eurobarometer surveys has elucidated framings from the 'bottom-up', by documenting EU citizens' perceptions and attitudes in the context of technology development and security provision. Specifically, citizens' responses demonstrate the expectation of rather positive future impacts from security technology R&D,[5] but also their explicit support for the Precautionary principle is the case of risky technologies with ambivalent consequences.[6] When it comes to contemporary practices of threat protection, EU citizens prefer that CSOs and citizens themselves are also entrusted with the task of security provision, besides just law enforcement agencies, the judiciary, and the military.[7]

The availability of 'alternative' frames receptive to societal agendas and open to CSO involvement, in parallel to the prevailing high-tech,

market-centred innovation mantras, also central to the ESRP, open possibilities where ethical, legal and societal aspects (ELSA) are not corollary, optional '*add-ons*' to R&D during the research cycle. The predominant, mainstream frame of *security-as-technological-fix* (ESF 2015; Kolliarakis 2013b, 2014a) has reserved only a marginal and weak role for CSOs, most of the time as disseminators of results for the sake of acceptance, with integration sometimes having for them an aftertaste of co-optation. As long as the ESRP is centred in the *context of development* R&D is bound to be trapped in agendas serving industry, SMEs, and RTOs. If security research is placed in the societally 'thick' *context of application*, in terms of ELSA, it could incorporate more prominently issues of effective and accountable security provision important to the civil society. In this respect ELSA is viewed, alternatively, as the context in which security R&D is de facto embedded, and which may valorize, or simply scrap security R&D outcomes, as the ex-post evaluation of the FP7 ESRP has documented (EC 2015a).

The Organizational Dimension: CSOs in the Stakeholders' Ecosystem

This section will attempt to zoom in to the positioning and politics of CSOs in relation to other stakeholders in the organizational ecology of the ESRP. Social scientists, security industry actors/technology developers, end-users, such as facility operators, law enforcement, or emergency and crisis managers, security policy makers from ministries and international agencies, and civil society representatives, can be distinguished for analytical reasons as types of stakeholders in the ESRP ecosystem. Each of them plays a crucial role in the process of research in public security on the grounds of their different incentives and objectives regarding financial interests, adherence to cultural values and social norms, ethics, and political priorities.[8]

The ex-post evaluation of the security research programme under FP7 documented considerable discrepancies in the participants' composition: private-for-profit organizations (industry, including SMEs), comprised 43% of participations, research and technology organizations (RTOs) comprised 23%, public education organizations (e.g. universities) 21%, and public authorities 11% (EC 2015a, p. 6). Additionally, there is the residual category 'other', comprising 3% of participants. CSOs or

non-governmental not-for-profit organizations, excluded from explicit statistical categorization and codification, presumably fall into this statistical 'other'. The analysis in the context of the project SecurePART reached comparable conclusions, counting ca. 80–100 CSOs out of ca. 2000 total beneficiaries of the ESRP found in the EC CORDIS database as of December 2014, which is less than 5%.[9] In qualitative terms, the role of CSO partners in security research projects is often a marginal and limited one with regard to effort/resources, usually associated with dissemination and outreach activities, but not with influencing research questions in the first place.

A major challenge, recognized by both policymakers and CSOs, refers to the absence of a common operational definition of CSO. This would impact positively on making them and their activity repertoires visible for the statistics of the EU institutions, and is of instrumental value for engaging them in a reliable and effective way. Legal form, funding sources, for- or not-for-profit activities, and degree of orientation to public interest are criteria that have thereby to be clarified in a more rigorous manner. In a definition proposed by the European Economic and Social Committee on '*The role and contribution of civil society organisations in the building of Europe*', civil society encompasses the trade unions and employers' organizations, nongovernmental organizations, professional associations, charities, grassroots organizations, and organizations that involve citizens in local and municipal life, including churches and religious communities (EC 1999, p. 30). In a more recent formal operationalization of the term, the EC proposed that CSOs include

> all non-state, not-for-profit structures, non-partisan and nonviolent, through which people organise to pursue shared objectives and ideals, whether political, cultural, social or economic. (EC 2012b)

After completing an overview of CSOs with a stake in the ESRP, we came up with the following 'map' of CSO categories[10]:

- Medical disaster first aid/relief associations;
- Emergency Services (fire brigades and rescue services);
- Transport associations and passenger rights NGOs;
- Community and neighbourhood integration associations;
- Human/civil rights associations;
- ICT/cyber liberties and data protection organizations;

- Climate change and environmental organizations;
- Development cooperation organizations;
- Think tanks and foundations;
- Science dissemination organizations

Many of the above categories contain hybrid organizations, which may border with public administration, research organizations, or small enterprises. In a series of semi-structured interviews specially conducted by SecurePART from October 2014 to January 2015, CSOs stated that their motives to get involved in security research have predominantly to do directly with their professional activities (36.5%), with societal, ethical, and political concerns (31.6%), and with intellectual curiosity (16.1%). At the same time, the interviews looked for structural and contextual barriers. CSOs responded that from the CSO 'internal capacity' side, limited staff and administrative resources, clash or incompatibilities with the core CSO mandate, or lack of awareness about the ESRP have been major impediments to engagement. Regarding external barriers, they referred to lack of professional links to other security R&D actors, the overly technological focus and complexity of the ESRP, as well as the European scale of the R&D activities as contrasted to the CSO's local or regional focus—all of which have been factors that constrained engagement.

A number of CSOs has an explicit interest in security research and also participated/want to participate in research actions. However, more than one third of the interviewed CSOs do not readily recognize much relevance in security research to their activities—at least not at first sight—and therefore has not participated. There is also a considerable proportion of the interviewed CSOs that are explicitly interested in security research, yet lack access to research actions. This highlights the existence of target groups of CSOs for security research, offering untapped potential. Those which do not yet recognize the relevance of SR could be sensitized and mobilized to participate in future research actions for mutual benefit; those willing to participate need better access opportunities.

Influential actors from the industry, RTOs, SMEs, or universities, who often lead project consortia, resort, rather opportunistically, to CSOs in order to furnish their application with some plausible link to societal practices, yet it is very seldom that they reserve a substantial role for CSOs in co-shaping the research design. A SecurePART study into best practices and success stories from CSOs in security research, confirmed a common pattern, namely, that *early, equitable, and substantial involvement*

of the CSOs have crystallized as common elements which contributed to successful transfer of project results, and beneficial participation from the side of CSOs.[11]

Frequency of participation, or the amount of resources devoted to CSOs are quantitatively measurable, yet not always reliable proxies for the degree of engagement, as they blend out what CSOs have been tasked to perform. Degree of engagement, besides its quantitative dimension (more CSOs or more resources dedicated to CSOs), comprises a crucial qualitative one too, i.e. expanded and stronger roles for CSOs. One should differentiate between 'intensity' of engagement, ranging from consultations, to sub-contracting for specific missions, to sponsoring, and reaching up to co-decision processes. In the case of CSO engagement in the context of ESRP, is crucial to treat CSOs not as passive objects of research (e.g. interviewees), but as active subjects and agents of research. The roles that CSO can potentially undertake during the research policy cycle, correspond, more or less, to the phases of (1) Problem diagnosis (threat framing/prioritization); (2) Research agenda setting (drafting the ESRP work programmes); (3) Implementation (research within projects); (4) Exploitation of results (transfer and valorization of results into practice); and (5) Impact evaluation (ex-post or ex-ante assessment of societal, ethical, etc. impacts of security research in society). Intensity and quality of the role undertaken by CSOs is not irrespective of the normative or functionalist (instrumental) considerations presented in the previous section of this chapter. It is more realistic to expect in this context that CSO engagement can be promoted as a means-to-an-end, in their capacity as practitioners and intermediaries to citizens, rather as an end in itself for enhancing inclusion and democratic governance of the ESRP.

At least six distinct sets of CSO roles could be empirically identified thereby, ordered from the weakest toward the strongest: (a) *Observers* (e.g. participants at info-events etc.); (b) *Project Advisors* (e.g. members of external advisory boards); (c) *Project Participants* (involved as partners in the research activities); (d) *Project Evaluators and Reviewers*; (e) *Programme Experts* (involved in platforms and ad hoc consultations, but also in semi-permanent advisory bodies); (f) *Commissioners of research* (directly defining field and topics of research activities).[12] As of now, the most frequent roles played by CSOs have been those of participants, and, to a lesser extent, of advisory board members. It remains to be seen whether CSOs will be able to climb the influence stair and acquire a stron-

ger say as evaluators and reviewers, or as programme experts, and research commissioners.

In addition to participation in research projects, there are other venues, ad hoc, permanent, or semi-permanent, where ESRP stakeholders have the chance to exercise influence. Two critical reports commissioned by the European Parliament's LIBE Committee (Civil Liberties, Justice and Home Affairs) at the Department for Citizens' Rights and Constitutional Affairs, criticized the unbalanced and limited 'public-private' dialogue staged by the European Commission (European Parliament 2014; 2010). The majority of the 'personalities' and 'experts' invited to the consultations during the preparation phase of the agenda came from industry, and also turned out to be the main beneficiaries of the research grants, disregarding conflicts of interest. The composition in that phase of the stakeholder forum which produced the '*European Security Research and Innovation Agenda*' was two thirds from the security and defence industry, almost one third from national and European security services and agencies, and only 1.4% (9 participants out of 660) from civil society, none of them from civil liberties organizations (Statewatch 2009, p. 24). A similar imbalance is to be found in the composition of the (informal and temporary) external expert consultation instrument for the ESRP, known as 'Security Advisory Group' in the area 'Secure societies—protecting freedom and security of Europe and its citizens', where hardly any CSOs are present as of 2016.

Outlook: Opening a Window of Opportunity for CSOs

The analysis in this chapter has followed the structure *policies—frames— politics*, which most of time appears to be logical or intuitive in that order. Yet the reader must have noticed that in policy-making reality the order is often the reverse: it is a number of stakeholders who acquire leverage through their presence at consultations or projects and come to influence the framing of the 'right' problems, shaping, consequently, more or less directly, scope and direction of policies. Opening windows of opportunity for some may well entail closing them down for others. CSOs are important but underrated actors in the EU security research landscape, as the analysis of institutional, organizational, and conceptual dimensions of policy-making demonstrated. While the 'own'-willingness and capacity of diverse CSOs actively to engage in research constitutes the important

'push' side of the equation, the convergence of the three streams of politics, policies, and problem framings, as demonstrated above, is the 'pull' factor which opens (or not) a window of opportunity for turning CSO engagement into an attractive endeavour. Up to now the ESRP appears to have been locked in a path which leaves the window open for technology stakeholders, but not for CSOs. CSOs feel somewhat alienated by the narrow technology-oriented framings and industry stakeholder constellations, as well as by the relative lack of sensitivity for the societal requirements in the respective application contexts.

Yet what could break this path and 'change the game' for CSOs within the ESRP ecosystem for mutual benefit, is a combination of the present turbulent political circumstances in the EU, the salience of issues tackled in the ESRP, including crisis and disaster response, border management, anti-radicalization and terrorism, cyber-security and trust, and the activation of currently available but not mainstream frames and policies in the EU. Sensitizing the ESRP problem framing for the societal and operational challenges in the context of application, comes together with opening the window for CSOs as practitioners with a critical and hands-on perspective. In terms of agenda, this would open up the path for non-technological, organizational and institutional research about societal impacts, in order to ensure that security research meets the needs of society, that it benefits society as a whole, and, last but not least, ensure that it does not have negative impacts on society (EC 2012d).

Under the present constellation in the ESRP ecosystem, four scenarios for the short and middle term are imaginable for CSOs: first, *no awareness* among CSOs and other stakeholders, including policy makers, with *no mobilization* toward change. This is the probable, 'business-as-usual' option. Second, *no awareness*, yet *with mobilization* efforts in a unilateral top-down manner from the EC side to engage CSOs for acquiring higher input legitimacy for the ESRP, mostly as a 'window-dressing' exercise. Third, *higher awareness-raising*, yet, *without successful mobilization*. This 'missed-chance' scenario will practically continue along the current technology-oriented path. Fourth, *higher awareness with greater mobilization*. This 'optimistic' scenario, although not the most probable, is currently supported through a series of developments:

From the organizational point of view, the launch in 2015 of a 'Community-of-Users' multi-stakeholder exchange platform at DG HOME in order to create visibility for practitioners' concerns and requirements, and boost bi-directional exchange, including also CSOs.

In a similar vein, the activities of a number of consultative civil society networks administered at DG HOME, such as the Radicalisation Awareness Network (RAN), and the European Migration Network (EMN), could provide a considerable—if productively linked—awareness for security challenges from a practitioners' perspective directly to the ESRP.

In parallel to the above, the ongoing efforts at DG RTD to draft a more robust CSO definition will unfold the necessary template for making such organizations visible to other stakeholders and to EU policy makers.

From an institutional side, the moving of the ESRP from DG ENTR to DG HOME since the end of 2014, can gradually ripen the need to update and adjust its 2004 mandate, in order to become fit-for-purpose within the new policy realities on the ground.

The chances are good for a stronger cross-fertilization among policies pursued at DG JUST (e.g. fundamental rights, anti-discrimination, data protection), DG CONNECT (e.g. online trust, cyber-security and privacy), and also DG RTD (inclusive and reflexive societies) and the ESRP in the form of joint programming with a dedicated focus on societal aspects.

The current gain in political traction of the RRI framework within the Horizon 2020 programme area '*Science with and for Society*' (SwafS), through mainstreaming best practices for accountable, sustainable, and inclusive research processes, can be integrated more strongly into the ESRP.

Pulling those streams together, could, indeed, open a window for CSO engagement in the ESRP ecosystem, and make security research more demand-driven, responsible, and effective in delivering on its primary objective: making citizens more secure.

Notes

1. Part of the background evidence for this article has been drawn from the EU research project SecurePART (Increasing the engagement of civil society in security research), 2014–2016, Grant Agreement No. 608039. All SecurePART reports containing more detailed data are publicly accessible under www.securepart.eu.

2. See the official European Commission DG HOME website under http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/industry-for-security/index_en.htm (accessed 1 March 2016).

3. See the list of studies and reports under http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/security/reference-documents/index_en.htm (accessed 1 March 2016).

4. See the official EC website under http://ec.europa.eu/programmes/horizon2020/en/h2020-section/public-engagement-responsible-research-and-innovation (10/2/2016).

5. Eurobarometer 419 (2014). *Public Perception of Science, Research and Innovation*, p. 36.

6. Special Eurobarometer 340 (2010). *Science and Technology*, p. 80. See Special Eurobarometer 340 (2010).

7. Special Eurobarometer 432 (2015). *Europeans' attitudes towards security*, p. 36.

8. For a more detailed account s. SecurePART report 3.3 'Matrix of CSOs and other stakeholders' perception and expectations' under http://www.securepart.eu/en/public-results.html.

9. For more detailed accounts s. SecurePART report 1.10 'Conclusions Report' under http://www.securepart.eu/en/public-results.html.

10. This categorisation is based upon an analysis of the EC CORDIS database, and it claims to be neither comprehensive, nor exclusive. S. SecurePART report 3.2 "*Report on the collaborative links among CSOs*" under http://www.securepart.eu/en/public-results.html.

11. See the list of the SecurePART success stories as separate Policy Briefs under http://www.securepart.eu/en/policy-briefs.html (2 February 2016).

12. For more detailed accounts s. SecurePART report 5.1 "*Plan for Rules of Participation of CSOs*" under http://www.securepart.eu/en/public-results.html.

REFERENCES

Ackrill, R., Kay, A. & Zahariadis, N. (2013). Ambiguity, multiple streams and EU policy. *Journal of European Public Policy, 20*(6), 871–887.

Brodersen, S., Dorland, J., & Jørgensen, M. S. (Eds.). (2014). *An innovative civil society: Impact through co-creation and participation*. Copenhagen.

Bureau of European Policy Advisers/European Commission (BEPA). (2011). *Empowering people, driving change: Social innovation in the European Union*. Luxembourg.

Council of Europe. (2016). *Freedom vs control: For a democratic response*. World Forum for Democracy 2015 Final Report. Retrieved February 10, 2016, from http://www.coe.int/en/web/world-forum-democracy/reports-of-the-forums

Daviter, F. (2011). *Policy framing in the European Union*. Basingstoke: Palgrave Macmillan.

Edler, J., & James, A. D. (2015). Understanding the emergence of new science and technology policies: Policy entrepreneurship, agenda setting and the development of the European framework programme. *Research Policy, 44*(6), 1252–1265.

Eriksen, E. O. (2011). Governance between expertise and democracy: The case of European security. *Journal of European Public Policy, 18*(8), 1169–1189.

European Commission (EC). (1999). *Opinion of the economic and social committee on the role and contribution of civil society organisations in the building of Europe.* Brussels. CES 851/99 D/GW.

European Commission (EC). (2004). *On the implementation of the preparatory action on the enhancement of the European industrial potential in the field of security research: Towards a programme to advance European security through research and technology.* Brussels, 3.2.2004. COM(2004) 72 final.

European Commission (EC). (2009). *A European security research and innovation agenda—Commission's initial position on ESRIF's key findings and recommendations.* Brussels. COM(2009) 691 final.

European Commission (EC). (2011). *Impact assessment accompanying the communication from the Commission 'Horizon 2020—The framework programme for research and innovation'.* Brussels. SEC(2011) 1427 final.

European Commission (EC). (2012a). *Security industrial policy. Action plan for an innovative and competitive security industry.* Brussels, 26/7/2012. COM(2012) 417 final.

European Commission (EC). (2012b). *The roots of democracy and sustainable development. Europe's engagement with civil society in external relations.* Brussels, 12/9/2012. COM(2012) 492 final.

European Commission (EC). (2012c). *Ethical and regulatory challenges to science and research policy at the global level.* Luxembourg.

European Commission (EC). (2012d). *Report of the Societal Impact Expert Working Group.* DG ENTR Report, February 2012, Brussels.

European Commission (EC). (2013a). *EU research for a secure society.* Brussels.

European Commission (EC). (2013b). *Developing an indicator of innovation output.* Brussels, SWD(2013) 325 final.

European Commission (EC). (2014). *Revision of the European Commission impact assessment guidelines.* Public Consultation Document. Brussels.

European Commission (EC). (2015a). *Ex-post evaluation of the fp7 security research programme.* Brussels.

European Commission (EC). (2015b). *The European agenda on security.* COM(2015) 185 final. Luxembourg.

European Council. (2003). *A secure Europe in a better world—European security strategy.* Brussels.

European Council. (2008). *Report on the implementation of the European security strategy—Providing security in a changing world.* Brussels.

European Council. (2010a). *Internal security strategy for the European Union. Towards a European security model.* Luxembourg.

European Council. (2010b). *The Stockholm programme—An open and secure Europe serving and protecting citizens.* Brussels.

European Council. (2012). *Regulation of the European Parliament and of the Council establishing Horizon 2020.* Brussels. File 2011/0401.

European Parliament (EP). (2010). *Review of security measures in the research framework programme.* Policy Department C: Citizens' Rights and Constitutional Affairs. Brussels.

European Parliament (EP). (2014). *Review of security measures in the 7th research framework programme FP7 2007–2013.* Policy Department C: Citizens' Rights and Constitutional Affairs. Brussels.

European Science Foundation (ESF). (2013). *Science in society*: *Caring for our futures in turbulent times.* Science Policy Briefing 50, Strasbourg.

European Science Fundation (ESF). (2015). *The future of security research in the social sciences and humanities.* Standing Committee for the Humanities Discussion Paper. Strasbourg.

Ferretti, M. P., & Pavone, V. (2009). What do civil society organisations expect from participation in science? *Lessons from Germany and Spain on the Issue of GMOs, Science and Public Policy, 36,* 287–299.

Fondation Sciences Citoyennes. (2009). *Participation of civil society organisations in research.* STACS Report Science, Technology and Civil Society, Paris.

Funtowicz, S. O., & Ravetz, J. R. (1990). *Uncertainty and quality in science for policy.* The Netherlands: Kluwer Academic Publishers.

Gibbons, M. et al. (Eds.). (1994). *The new production of knowledge*: *The dynamics of science and research in contemporary societies.* London: Sage.

Jasanoff, S. (2009). Technologies of humility: Citizen participation in governing science. In D. M. Kaplan (Ed.), *Readings in the philosophy of technology* (pp. 570–583). MD: Rowman and Littlefield.

Jobert, B., & Kohler-Koch, B. (2008). *Changing images of civil society: From protest to governance.* Routledge.

Kohler-Koch, B. et al. (Eds.). (2013). *De-mystification of participatory democracy: EU governance and civil society.* Oxford: Oxford University Press.

Kolliarakis, G. (2013a). Der Umgang mit Ungewissheit in der Politik Ziviler Sicherheit (Coping with uncertainty in civil security research). In S. Jeschke, et al. (Eds.), *Exploring Uncertainty. Ungewissheit und Unsicherheit im interdisziplinären Diskurs* (Uncertainty and insecurity in interdisciplinary discourse) (pp. 313–332). Berlin: Springer.

Kolliarakis, G. (2013b). Resilience as an innovation policy objective: Blind spots and untapped potential for security research. In M. Lauster (Ed.), *8th future security research conference—Proceedings* (pp. 107–116). Stuttgart: Fraunhofer VVS.

Kolliarakis, G. (2014a). Of wolves and sheep: CSO participation as a responsible research and innovation mechanism in European Security Research. In S. Brodersen, J. Dorland, & M. S. Jørgensen (Eds.), *An innovative civil society: Impact through co-creation and participation.* 6th Living Knowledge Conference, 274–296. Copenhagen.

Kolliarakis, G. (2014b). Sicherheitsforschung und ihre Schnittstelle zur Sicherheitspolitik: Intendierte und nicht-intendierte Konsequenzen der Wissenschaftsförderung (Security Research and its Interface with Security Policy). In C. Daase et al. (Eds.), *Politik und Unsicherheit* (Poltics and insecurity). Frankfurt: Campus.

Kolliarakis, G. (2016). *'Acceptance' and 'acceptability' of security-related technologies*. SecurePART Policy Brief #2. Retrieved February 10, 2016, from http://www.securepart.eu/download/securepart_pb-2160119151110.pdf

Kolliarakis, G. (2016a). In quest of reflexivity: Towards an anticipatory governance regime for security. In M. Friedewald, et al. (Eds.), *Discourses of privacy and security*. Routledge.

Liberatore, A., & Funtowicz, S. (Eds.). (2003). Introduction to the special issue "democratising" expertise, "expertising" democracy: What does this mean, and why bother? *Science and Public Policy, 30*(1): 146–150.

Marchetti, R. (2015). The conditions for civil society participation in international decision making. In D. Della Porta & M. Diani (Eds.), *The Oxford handbook of social movements* (pp. 753–766). Oxford: Oxford University Press.

Monitoring Activities of Science in Society/European Commission (MASIS). (2009). *Challenging futures of science in society—Emerging trends and cutting-edge issues*. Report of the MASIS Expert Group, Brussels.

Nowotny, H. et al. (Eds.). (2001). *Rethinking science*: *Knowledge in an age of uncertainty*. Cambridge: Polity.

Rainey, H. G., & Jung, C. S. (2015). A conceptual framework for analysis of goal ambiguity in public organizations. *Journal of Public Administration Research and Theory, 25*(1), 71–99.

Ritchey, T. (2011). *Wicked problems—Social messes*. Decision Support Modelling with Morphological Analysis. Berlin.

Rittel, H. W. J., & Webber, M. M. (1973). Dilemmas in a general theory of planning. *Policy Planning, 4*, 155–169.

Ruzza, C. (2007). *Europe and civil society: Movement coalitions and European governance*. Manchester: Manchester University Press.

Statewatch. (2009). *NeoConOpticon*: *The EU security-industrial complex*. London. Retrieved February 10, 2016, from http://www.statewatch.org/analyses/neoconopticon-report.pdf

Steffek, J., Kissling, C., & Nanz, P. (Eds.). (2007). *Civil society participation in European and Global governance. A cure for the democratic deficit?* Basingstoke: Palgrave.

Zahariadis, N. (2008). Ambiguity and choice in European public policy. *Journal of European Public Policy, 15*(4), 514–530.

Zahariadis, N. (2013). Building better theoretical frameworks to the European Union's policy process. *Journal of European Public Policy, 20*(6), 807–816.

NGOs and the EU's Responses to Emergencies and Crises. An Analysis of ECHO's and Member States' Support

Daniela Irrera

The study of the global policies for relief and reconstruction has produced, a wide and rich variety of analyses. The context of global emergency actions consists of different types of actors, institutions and agencies, procedures, norms, decisions and practices. Non-governmental organizations (NGOs) are some of the most important non-state players of emergency policy-making and implementation. They are able to deploy a wide range of materials and logistics, and to make use of apposite capabilities while acting in peace-building and reconstruction activities. NGOs have their own approach to services provided to people affected by natural disasters and conflicts. In principle, this approach is complementary to those of the states 'and International Governmental Organizations' (IGOs). In practice, they can be divergent. Therefore,

D. Irrera (✉)
University of Catania, Catania, Italy

237

NGOs' actions often clash with the programmes states and IGOs develop at sites of humanitarian intervention, but most of the time they interact and contribute, directly or indirectly, to positively shape the whole humanitarian system.

From this perspective, EU humanitarian aid policies are a particularly interesting and explanatory case. On one hand, relations with international aid institutions and NGOs have been strongly developed over the years through the aid programme and within ECHO activities. On the other, NGOs have developed and strengthened direct relations with member states, receiving executive tasks and playing the role of implementing actors. The result is a multi-layered policy process in which national interests, common values, universal principles and actions, and global duties interact and clash.

Based on assumption that in the current phase of world politics global institutions are undergoing a process of change, and, concomitant with the aims of this book, focusing on analysis of relations among civil society and institutions in public policy-making, this chapter seeks to analyse trends and changes in EU humanitarian aid policy—in terms of dependency or development promotion—by looking in particular at NGOs' performances and their relationship with member states and EU institutions.

This chapter aims to responds to the following research questions: How is EU humanitarian aid policy changing and which are the current trends? Are NGOs contributing to shape relations with developing countries? Is EU policy fitting into changing global processes affecting humanitarian aid? It consists of three parts. The first one offers a general overview of the literature on humanitarian action and raises the problem of how and to what extent humanitarian actors are changing to cope with complex emergencies. The second part analyses—in a deeper way—the relations NGOs have evolved with EU institutions in the framework of humanitarian aid policy. The third part presents a quantitative analysis of NGOs' funding by EU member states and ECHO, in order to see whether there are also old and new trends in regions which are the recipients of aid policy. Data are taken from EDRIS (European Disaster Response Information System), which contains real-time information on contributions to humanitarian aid by the European Commission' Directorate-General for Humanitarian Aid and Civil Protection, and the EU Member State.

The Humanitarian System: Trends and Innovations

International Relations (IR) theories have extensively debated the ways in which the world governmental system has tried to provide security by managing emergencies and assisting people. The set of tools and mechanisms that have been developed are far from ideal. Rather, they are pervaded by the main contrast between the responsibility to manage human suffering and the need to safeguard state interests and priorities. The end of World War II and the beginning of the Cold War era saw an enormous proliferation of actors in the humanitarian movement. After the Cold War, a big 'community' comprising individuals who work around the world for a wide variety of organizations appeared and gathered strength, requiring some effort to define (Irrera 2013). The more diffuse definitions stress, on the one hand, the 'environment', that is to say, the framework of competencies and rules which govern relief activities. In this case, scholars use the concept of humanitarian space, as 'an environment where humanitarians can work without hindrance and follow the humanitarian principles of neutrality, impartiality and humanity' (Spearin 2001, p. 22). It is also a conducive operating environment, in which a clear distinction between civilian and military actors should be maintained in terms of competencies. On the other hand, definitions also focus on the nature of the actors involved and the amount of interactions among them. The term network, particularly a 'network of actors', labels an 'amalgam of non-binding contacts, sustained by various channels of communication and by awareness of who is around' (Kent 1987, p. 69). Additionally, practitioners started to discuss the 'humanitarian enterprise', describing a multi-valent machine in which different actors encounter each other on the approach to facing current challenges, with some of them striving to maintain fidelity to their ideals (Minear 2002). The debate is controversial and the peculiarity of this topic contributes further to divide scholars. Even though there is no consensus, constant interactions between academics and practitioners are lending interest to the term 'humanitarian system'.

Given the fact that the context is more than a set of technical competencies and that it is shaped by its actors, and that the level of relationship between mainly NGOs and IGOs cannot be easily summarized through the network structure alone, 'humanitarian system' can be considered a more effective and comprehensive label. In this chapter, the term is used to

indicate a set of principles, actors, policies, practices, rules, and procedures which is shaping interventions as a result of recent global trends (Irrera 2013). This term does not avoid criticism, but it helps to operationalize them.

The principles of 'classical humanitarianism' are based on the thought of Henry Dunant who, in his book *A Memory of Solferino*, described the violence and suffering inflicted on soldiers and people. After this experience he decided to promote the provision of aid through neutral civilian agencies. This approach was developed through the Red Cross Movement and humanitarian law and was officially declared as policy in the UN General Assembly Resolution 46/182. According to this resolution, humanitarian assistance should be provided in accordance with the principles of humanity (to be addressed to the most vulnerable, wherever they are), neutrality (without engaging in hostilities or taking sides) and impartiality (without discrimination). The IR literature has discussed the ways through which such principles have been applied and interpreted. The majority of international humanitarian organizations espouse them as fundamental principles that underpin their activities. However, the need for humanitarian action to be as independent as possible from political processes posits an implicit dichotomy between politics and humanitarianism. Actors' reactions to world events continued to affirm and consolidate principles, making them universally accepted. However, the constant recourse to interventions exhibited some of the most glaring problems and failures, in addition to the realization that principles can contradict each other in practice. Therefore, the humanitarian system started to be characterized—especially since the end of the Cold War—by a process of re-definition which, although faithful to its principles, tries to manage the most salient political aspects, namely power relations, questions of response effectiveness, and the ethical, legal, and moral consequences and challenges of humanitarian crisis response. This ongoing process may produce new practices and is strictly linked to actors' interactions and, as a consequence, to practical interventions.

The first definitions of humanitarian intervention have been shaped by the state-centric realist doctrine. According to this doctrine, states are the most important actors, since intervention is the threat of use of force across state borders by a state (or a group of states) aimed at preventing or ending widespread and grave violations of individuals' fundamental rights without asking for the permission of the state

within whose territory force is applied (Holzgrefe 2003, p. 18). Other approaches introduced additional actors and engaged new debates on the roles different kinds of organizations can play within the humanitarian system. The relevance of IGOs is at the core of the literature on the UN as the formal peace provider, as officially stated in the charter, but interest in regional organizations and their ability to promote stabilization is increasing (Attinà 2012). Dunant's call 'to form relief societies for the purpose of having care given to the wounded in wartime by zealous, devoted and thoroughly qualified volunteers' is at the basis of the 'special identity' of the International Committee of the Red Cross (ICRC), which is not an IGO or a non-state actor, but derives its legitimacy from international law. Even humanitarian NGOs have been shown to be able to occupy a specific place within the system, thanks to their own organizational capacities.

This wide range of actors and the variety of multi-layered interactions they can produce are also due to the different nature of emergencies over the years and the responses they require. Attinà summarizes emergencies in four categories, each of them having different implications: (1) man-made disasters, namely, large-scale human violence like war, genocide, and mass persecution; (2) massive poverty in a society, causing little or no means for decent life in terms of food, shelter, clothes, healthcare, and education; (3) natural disasters, like floods, volcanic eruptions, earthquakes, droughts, wildfire, and geologic processes and (4) systemic-risk problems, that is to say the breakdown of important infrastructures and technological systems, or such as the last global crisis in the financial sector. Even though they are quite different, such emergencies are able to produce problems which have many aspects in common and require response policies, actions, and measures able at the same time to assist victims, strengthen political order and security, rebuild infrastructure, and relaunch the local economy (Attinà 2013). Additionally, beyond traditional interventions in the post-crisis phase, they also require work on preparedness and prevention of emergencies and the strengthening of states' resilience (Attinà 2015).

Within the humanitarian system, and facing old and new implications of emergencies, the roles played by NGOs have increased and developed in parallel with other actors. Therefore, their performances should be analysed within the broader framework of relations with international and regional organizations and states. The EU example is particularly interesting and constitutes the focus of the next section.

NGOs and EU Aid Policy

Within the humanitarian system, the EU has developed its peculiar role based on a dominantly civilian approach to conflicts, as well as a set of structured policies towards natural emergency and crisis response. They are part of an overall humanitarian framework, which is subject to different preferences, common problems and needs, and deals with the increasing complexity of the crises which the EU is expected to contribute to tackling (Attinà 2012). Since the crisis concept is more broadly defined, more recent debate has been enriched with contributions from different backgrounds and expertise, also involving practitioners and experts (Boin et al. 2013; Attinà et al. 2014).

In the field of security and humanitarian intervention, the EU considerably increased its support to NGOs, especially during the 1980s and 1990s. It started to provide foreign assistance through funding to NGOs in the mid-1970s with a small co-financing programme. The work done by the European Community Humanitarian Office (ECHO) and most of the refugee work undertaken by other Directorate-Generals was essentially implemented by NGOs (Reinmann 2006). The dialogue between the Commission and the NGOs, in particular, contributed to the development of some conflict prevention norms and schemes that explicitly strengthened the relationships between the structural causes of instability and violence and the need to link aid and foreign policy.

The relationship between NGOs and the EU Commission has been significantly shaped and strengthened through the aid policy and humanitarian assistance in developing countries, especially on the African continent. By participating in official programs, European NGOs have promoted many humanitarian aid initiatives, especially in Africa (Ryelandt 1995). The pressure exerted by NGOs working in cooperation has helped make the EU strengthen humanitarian aid, pushing to develop specific policies and programs, and creating an important standard of consultation.

Direct funding of NGOs' initiatives and projects intended to be promoted and implemented in communities in need has, therefore, become the privileged method for driving the competencies and knowledge with which non-state actors are provided from the top. The European Commission established ECHO in 1992 to handle the evolution of the EU's relief operations. In 2004, it was upgraded to Directorate-General for Humanitarian Aid, with an annual budget of over €500 million, and it was fortified with the inclusion of specific responsibilities in the field of

civil protection services in 2010. Firstly, ECHO is expected to monitor the application and respect of universally accepted humanitarian principles of neutrality, impartiality, and independence in the deployment of any EU intervention. Secondly, it has to manage a wide range of practical tasks, that is to say, mobilization of the resources on the scale required to deliver emergency relief supplies, provision of rescue teams, setting up of emergency measures, and installation of temporary communications systems. The delivery of emergency supplies requires not only the selection of partners able rapidly to provide logistics and skill, but also huge coordination efforts to bring together very different actors, including NGOs, the ICRC and UN agencies (Irrera 2013).

Since its creation in 1992, ECHO has always worked on the basis of the Framework Partnership Agreements (FPA) as the instrument which sets the principles of partnership between ECHO and humanitarian organizations, defines the respective roles, rights, and obligations of partners, and contains the legal provisions applicable to humanitarian operations. Agreements are entered into both with NGOs and with international organizations that have a humanitarian mission, including UN agencies to which the FAFA (EC/UN Financial Administrative Framework Agreement) is applied. The first ECHO FPA was adopted in 1993, the second in 1998, the third in 2003.

About half of the EU's relief aid has been channelled through ECHO to NGOs, together with UN agencies and other organizations like the ICRC and national Red Cross and Red Crescent Society.

As obtaining EU funds is important to NGOs' work in the field, the roles that civil society can fulfil are strongly asserted and often claimed both by member states and by EU institutions. Roles played by NGOs can often serve as a bridge between EU interventions and local communities, especially in countries with low levels of trust in national authorities. Cooperation with civil society can provide an important mechanism for increasing public trust and even legitimating any EU external interventions and, as a consequence, for enhancing their effectiveness. Thus, in the recent years, NGOs have gradually but irrevocably climbed to a privileged position in the ECHO agenda.

ECHO constitutes one of the most useful instruments for NGOs within EU humanitarian aid policy. The new mechanism created in 2004 was also the channel through which the long and established experience already collected by NGOs in developing countries was conveyed.

Therefore, in order to measure trends and perspectives in the NGOs' action within EU humanitarian aid policy, the analysis given here makes use of more recent data contained in EDRIS (European Disaster Response Information System) datasets and differentiated by region.

EDRIS contains real-time information on contributions to humanitarian aid by the European Commission' Directorate-General for Humanitarian Aid and Civil Protection and the EU Member State. Its core objective is to capture all humanitarian aid contributions, according to the definitions provided by the Council Regulation (EC) no. 1257/96. Humanitarian aid is here intended as a comprehensive concept which 'shall comprise assistance, relief and protection, operations on a non-discriminatory basis to help people in third countries, particularly the most vulnerable among them, and as a priority those in developing countries, victims of natural disasters, man-made crises, such as wars and outbreaks of fighting, or exceptional situations or circumstances comparable to natural or man-made disasters' (EU Council 1996, p. 2).

Thus, EDRIS offers a comprehensive set of data and information related to aid provided by EU member states and ECHO to a wide range of crisis and countries. Analysis of such data allow the investigation of traditional practices, as well as highlighting new trends in humanitarian aid.

In this chapter, analysis is made on aggregate data, i.e. at the level of international regions, and focuses on the funding (in Euros) of projects by ECHO and EU member states that are implemented in the field by NGOs. It aims to understand first whether there is a difference between the support provided by ECHO and that given by states; secondly, which member states are more active in humanitarian aid implemented in the field by NGOs; thirdly, whether the recipient regions confirm traditional trends in EU policy or not.

NGOs, ECHO, and Member States: Cooperation or Conflict?

ECHO constitutes one of the preferred channels for NGOs to access EU funds and develop their field projects. The activities NGOs have carried out over the decades coherently fit into the overall policy framework developed by EU institutions and the member states. As stated by Article 214 of the TFEU,[1] EU actions in the field of humanitarian aid aim at matching the humanitarian needs of people in third countries who are

victims of natural or man-made disasters. Such interventions should be complemented and reinforced by those of the member states, according to humanitarian principles, international law and common EU objectives. Thus, humanitarian policy has been built through unified efforts and attempts to identify shared ideas and practices, contributing to the accumulation of a consolidated tradition of common policy-making and a set of programs and resources which complement national ones. Member states have the opportunity of financing bilateral and collective assistance at the same time, i.e. the opportunity of making direct donations to a foreign country as well as the opportunity to make indirect donations via the EU's budget allocation to assistance programs (Attinà 2014). Member states have extensively exploited the expertise of NGOs—either national or international ones—and delegated ample functions and executive tasks to them as implementing actors in the field.

The present analysis uses data from EDRIS to capture the amount of funding supplied by member states to projects implemented in the field by NGOs and to combines them with those on projects directly supported by ECHO. The data refer to projects listed as humanitarian aid, in which NGOs are the implementing actor, funded in the period 2005–15 (since the ECHO mechanisms came into force).

Data on member states' support to NGOs as implementing actors confirm a general trend in crisis management, even though national preferences and practices may impact the propensity of states to invest money and delegate its use. The majority of crises—internal civil conflicts or natural disasters—is characterized by civilian populations being increasingly exposed to violence and suffering; NGOs can quite often deliver aid even in situations in which access to beneficiaries is difficult due to logistical or security constraints. Thus, employing the help and expertise of NGOs may reduce the time and costs of supplying aid. Additionally, the increasing use of civilian missions and the deployment of military personnel and hardware in the field—on the part of the EU—for providing relief assistance, propounds the need for more civil–military coordination. Such interventions are obviously funded by member states themselves. These factors explain why the support to projects implemented in the field by NGOs is a rational investment. As demonstrated by the data, in the period 2005–15 the support by member states follows constant and stable trends. A general up and down trend can be registered, which becomes higher and more stable after 2010 (Fig. 12.1).

	1	2	3	4	5	6	7	8	9	10	11
Years	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Aid by MS	299,26	183,80	256,78	304,29	265,26	302,18	215,93	212,31	515,69	553,15	480,73
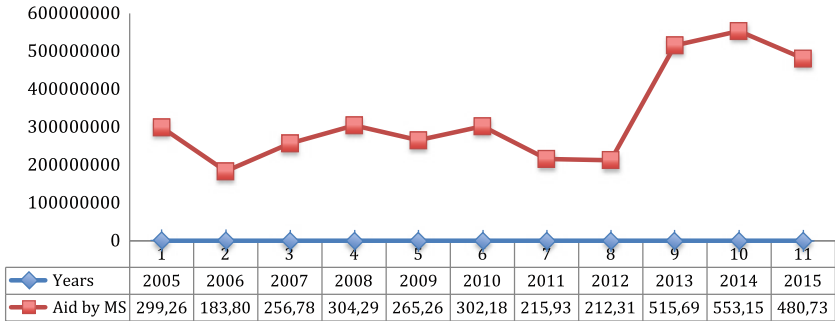
Fig. 12.1   MS financial support to projects implemented by NGOs (2005–15).

Data about member states should be compared to ECHO, to have a clearer overview of EU aid intervention. Even though the figure reveals an up and down trend, member states are significantly more generous and reliable over the years. ECHO support appears to be a bit more constant and homogenous, being less dependent on political constraints and national preferences. Investments in the last two years are due to the financial crisis, which has certainly had negative implications for state performances. However, this has not limited the constant commitment to humanitarian aid policy, or support for the ECHO mechanism. The relationship with NGOs, already consolidated in many countries, constitutes an additional convergence factor (Fig. 12.2).

Data on direct support to NGOs also reveal some specific features of the nature of member states as donors, as well as their level of commitment and availability to delegate executive tasks to NGOs.

A group of major donors can be envisaged, in the overall picture represented in Fig. 12.3. The UK is the most supportive, followed by Germany and a group of northern countries (Denmark, Sweden, Ireland, Netherlands), which invest a more or less similar range of funding. Finland, France, Spain and Luxembourg follow in the last part of the figure.

The group of major donors includes very different countries, with regards to economic conditions, size, and tradition of cooperation with NGOs. In terms of economic conditions, the founding countries and major contributors are included (with the exception of Italy) but the smallest states (Ireland, Netherlands, Luxembourg) demonstrate quite a high propensity to support projects, and, as a consequence, a more consolidated

	1	2	3	4	5	6	7	8	9	10	11
Aid by MS	312,07	290,67	288,80	338,27	372,13	418,87	430,54	522,19	589,56	518,24	515,74
Aid by ECHO	324,61	300,25	309,33	356,39	383,70	512,26	458,13	557,48	610,73	540,32	530,87
Years	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
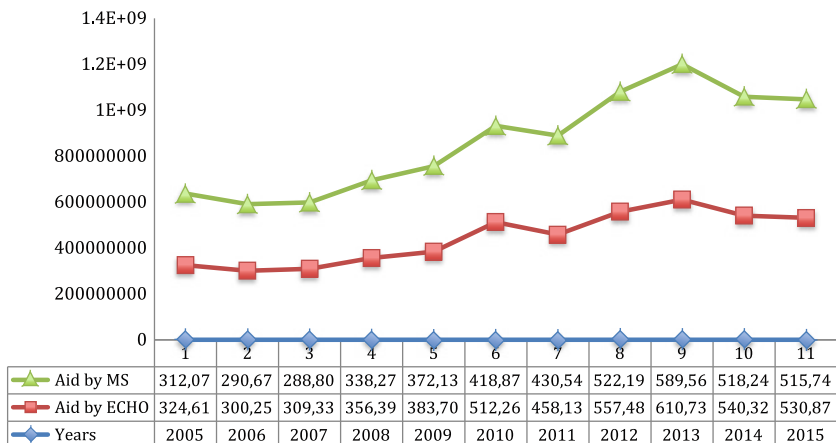
Fig. 12.2 MS and ECHO financial support to projects implemented by NGOs (2005–15).
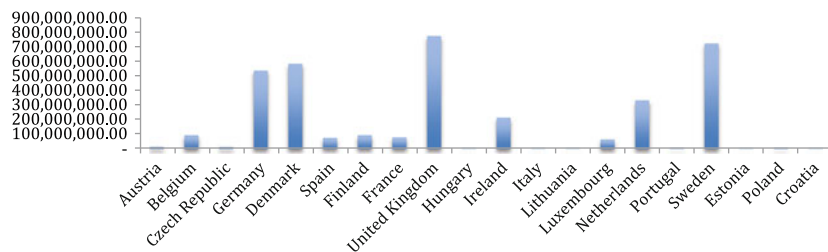
Fig. 12.3 Funding by EU member states to projects by NGOs (2005–15).

partnership with NGOs. While the UK, Germany and the Nordic countries have a longer tradition of cooperation with CSOs (through national partnerships or in sustaining EU mechanisms), the increasing involvement of Luxembourg represents an innovation (Fig. 12.4).

Data shown in Fig. 12.3 demonstrate that the majority of member states, both old and new ones, support aid policy according to their domestic preferences and within EU cooperation. Wealth (or at least the capacity to face the effects of financial crisis) and a more consolidated practice of cooperation with NGOs can explain the higher propensity of
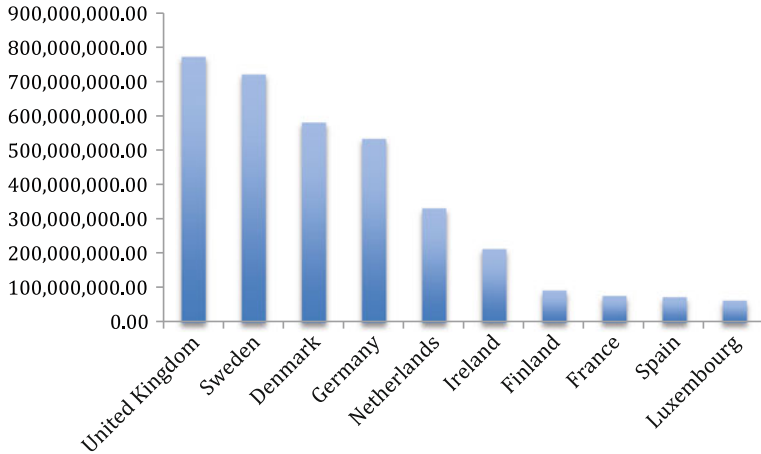
Fig. 12.4 Top ten biggest donors (2005–15).

some states than others to support aid policy. Analysis of the recipients of projects delivers more interesting insights. Scholars have stressed the fact that European aid policy has been shaped by postcolonial legacies. Thus, member states would be more likely to provide help to those countries with which they uphold this kind of relationship . According to Mayall, a 'Pyramid of Privilege' can be envisaged as a method of prioritizing aid given by Europe. The 'Pyramid' has the African, Caribbean and Pacific countries at the top, Mediterranean states below, and the rest of the developing world at the bottom (Mayall 2005). This was probably true at the beginning of 1980s, when countries to which member states had colonial ties used to get more aid within the EU framework and the aid policy itself was more dominated by economic issues such as reducing barriers to trade and coping with inequality (Chikeka 1993; Farrell 2005; Nugent 2006).

However, the action of NGOs used to be in contrast to such state preferences and was based more on humanitarian principles of impartiality, neutrality, and humanity. Data from EDRIS confirm some special relationships with former colonies but also demonstrate new trends (Table 12.1, Fig. 12.5).

According to data summarized in the table and then reported in the Figure, African states are still the first recipient of EU aid, since most affected by natural disasters, conflicts, and deprivation. The European neighbours (Balkans, Central Asia, and Caucasus) continue to be the
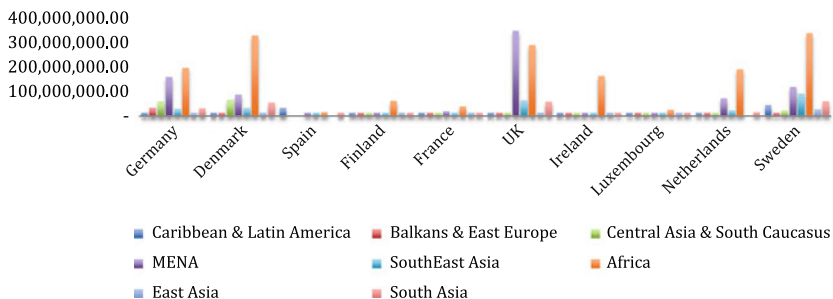
Fig. 12.5 Funding by major donors to projects implemented through NGOs per region (2005–15).

object of long-term peace-building initiatives. Asia emerges as one of the areas in which international intervention is going to be more resolute, even in the near future. More recently, Southeast Asia started to receive a consistent amount of aid, due to the presence of both political conflicts and disasters, like tsunami and floods. MENA countries continue to receive more support, especially after the Arab Spring of 2011 (Attinà 2015). The area was already at the core of humanitarian action because of the enduring turbulence in Afghanistan, Iraq, Israel and Palestine, and more recently Syria. As is clear in the Figure, the major donor, the UK, supports several projects in the area. It is worth bearing in mind that almost all regions are provided with aid even if through other policies and programmes such as the European Neighbourhood Policy and the Stabilization and Association Process.

This is demonstrated by data concerning NGOs projects directly funded by ECHO.

Major donors and ECHO tend to be active in all regions in a parallel way, except in East Asia where there is more involvement by states, due to the relations with China and South Asia, in which ECHO is more supportive (see Fig. 12.6).

Africa is undoubtedly the continent in which the majority of funds are allocated (more by ECHO than member states) but data confirm that all regions receive support from both member states and ECHO. Several changes have characterized the first aid programmes and contributed to shape member states' propensity to support, beyond their political preferences and colonial past. The issue of who should be responsible for interacting with former colonies—the EU itself, or the member states to which those colonies once owed their allegiance—is no longer significant.

Table 12.1 Funding by major donors to projects implemented through NGOs per regions (2005–15)

	Caribbean & Latin America	Balkans & East Europe	East Central Asia & South Caucasus	MENA	SouthEast Asia	Africa	East Asia	South Asia
Germany	13,253,475.86	34,680,657.38	62,251,163.49	158,419,129.34	31,802,310.99	195.921.845,48	3,109,930.00	32,723,606.13
Denmark	3,351,697.98	3,876,193.68	66,902,430.90	88,255,771.47	36,202,602.00	324.333.508,49	67,244.97	56,714,119.93
Spain	34,988,987.55			16,959,829.49	3,480,218.90	17.738.894,27		1,000,156.57
Finland	1,200,000.00	400,000.00	5,733,000.00	4,120,783.00	13,813,000.00	63.046.045,33	200,000.00	4,781,666.66
France	3,779,033.00	1,186,601.00	1,337,078.00	21,619,570.00	4,210,215.00	40.316.144,67	264,500.00	4,829,819.00
UK	6,634,556.00	251,720.00	4,315,997.15	344,326,377.40	66,421,398.68	287.494.999,71	1,988,416.00	59,372,906.49
Ireland	5,287,609.00	524,500.00	8,616,336.00	14,446,555.00	10,306,695.00	162.144.514,00	1,338,658.00	11,281,705.00
Luxembourg	10,370,614.72	494,819.00	2,149,263.00	9,642,478.71	4,619,147.09	28.244.543,88	693,631.00	7,816,610.00
Netherlands	15,932,904.00	494,819.00	9,242,080.59	74,215,017.67	25,472,953.00	189.092.228,93		17,957,928.00
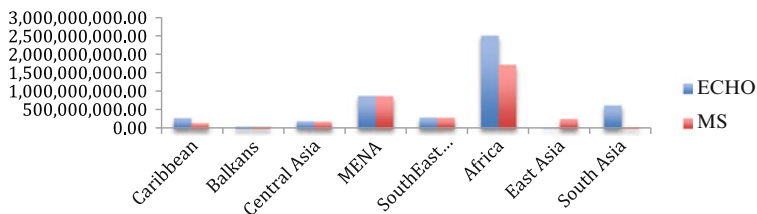
Fig. 12.6 Funding by ECHO and MSs to projects *implemented* by NGOs per region (2005–15).

Therefore, concurrent with general assumptions raised in the first and second parts of this book, the specific field of aid policy constitutes a significant example for understanding consolidated trends but also some innovations in the relations between civil society, states and EU institutions. According to the data, firstly, a substantial convergence among member states and EU institutions can be registered in the amount of support and in the selection of recipient countries. Secondly, there is a growing tendency to cooperate with NGOs (as the most structured part of civil society) and to delegate executive functions to them, as implementing actors. Thirdly, these typical EU processes are in agreement with global ones. This is the result of several factors, including the changes in humanitarian crises and emergencies, the need to develop a more coherent and common aid policy, and the necessity to fulfil the commitment to multilateral rules and procedures.

On one hand, budgetary powers and mechanisms are both managed by member states (and mainly by major donors), but in a more concerted way, involving the EU itself and non-state actors. On the other, funds allocation has a worldwide dimension, which maintains and protects special relationships, but opens it up to all regions in need.

CONCLUSIONS

The main aim of this chapter was to analyse trends and changes in EU humanitarian aid policy—in terms of dependency or development promotion—by focusing in particular on NGO performances and their relationship with member states and EU institutions, based on the assumption that in the current phase of world politics global emergencies are imposing on global institutions a process of change which is demanding and causes the creation of new rules and policies.

The growing participation of NGOs in conflict management and humanitarian intervention is part of the NGOs' struggle for effective international action in world politics, and, at the same time, the quest for significant political innovation. They have developed a wide range of approaches, but up to now they have managed to preserve their independence and neutrality. NGO approaches fit easily with governments' and international organizations' practice, even though they may sometimes differ. These approaches are tightly connected to the NGOs' individual identity and their specific approach to conflict management and humanitarian intervention.

In the specific case of EU aid policy, relations with NGOs have been developed strongly over time through the aid programme and within ECHO activities. At the same time, they have developed and strengthened direct relations with member states, engendering some interesting results and contributing to the shaping of the policy itself.

Data provided by EDRIS concerning the projects directly funded by ECHO and supported through member states in the period 2005–15—and on a regional basis—offer the chance to understand those trends which are currently modelling EU humanitarian policy.

It appears that firstly, no significant difference exists between the amount of support provided by ECHO and that given by states. Secondly, there is a small group of major donors who do not always overlap with the list of richest and biggest countries. And thirdly, colonial legacies are no more the most striking aspect in the relationship between donors and recipient. On the contrary, in aiding all regions of the world, member states, particularly major donors, pursue the general interest of preventing systemic instabilities and sustaining by the same token their own particular interests, either political or economic.

Continuity and change mark a policy framework in which current emergencies are at the core of the agenda and in which states, EU institutions and NGOs interact according to different competencies and resources.

Note

1. Part Five Title III Cooperation with Third Countries and Humanitarian Aid, Chap. 3 Humanitarian Aid.

References

Attinà F. (2012) (Eds.). *The politics and policies of relief, aid and reconstruction*. Basignstoke: Palgrave Macmillan.

Attinà, F. (2013). Merging policies as strategy against emergency threats. The EU's institutional response to disasters, risks and emergencies', *ReShape Online Papers Series*, Paper no. 01/13. Retrieved from http://www.fscpo.unict.it/EUROPA/JMAP/repaper1.pdf

Attinà, F. (2014). European aid to foreign countries in emergencies—Are ECHO and the EU large-donor countries on the same track? *Romanian Journal of European Affairs, 14*(3), 5–21.

Attinà, F. (2015). Diversity in unity. The European Union and member states emergency aid to the countries of the Middle East and North Africa (MENA) region. *Romanian Journal of European Affairs, 15*(2), 42–56.

Attinà, F., Boin, A., & Ekengren, M. (2014). Designing EU crisis management capacities: Filling the glass. *Journal of Contingencies and Crisis Management, 22*, 129–130.

Boin, A., Ekengren, M., & Rhinard, M. (2013). *The European Union as a crisis manager. Patterns and prospects*. Cambridge: Cambridge University Press.

Chikeka, C. (1993). *Africa and the European Economic Community 1957–1992*. Lewiston: The Edwin Mellen Press.

Donini A. (Eds.). (2012). *The golden fleece: Manipulation and independence in humanitarian action*. Hartford: Kumarian Press.

EU Council. (1996). Council Regulation on Humanitarian Aid, 1257/96, in OJEC L 163, 2 July 1996.

Farrell, M. (2005). A triumph of realism over idealism? Cooperation between the European Union and Africa. *European Integration, 27*, 263–283.

Holzgrefe J. L., & Keohane R. (Eds.). (2003). *Humanitarian intervention: Ethical, legal and political dilemmas*. Cambridge: Cambridge University Press.

Irrera, D. (2013). *NGOs, crisis management and conflict resolution*. Cheltenham: Edward Elgar.

Kent, Randolph (1987). *Anatomy of Disaster Relief*, London: Pinter.

Mayall, J. (2005). *The shadow of empire: The EU and the former colonial world*. In C. Hill & M. Smith (Eds.), *International relations and the European Union*. Oxford: Oxford University Press.

Minear, Larry, Jan Eliasson & John Hammock (2002). *The Humanitarian Enterprise: Dilemmas and Discoveries*, Bloomfield, CT: Kumarian Press.

Minear, L., Eliasson, J., & Hammock, J. (2002). *The humanitarian enterprise: Dilemmas and discoveries*. Hartford: Kumarian Press.

Nugent, N. (2006). *The government and politics of the European Union*. Basignstoke: Palgrave Macmillan.

Reinmann, Kim (2006). 'A view from the top: international politics, norms and the worldwide growth of NGOs', International Studies Quarterly, *50*, 45–67.

Ryelandt, Bernard (1995). 'Pourquoi la Communauté européenne travaille avec les ONG', Le Courrier, 152, 64.

Spearin, C. (2001). Private security companies and humanitarians? A corporate solution to securing humanitarian spaces? *International Peacekeeping, 8*(1), 20–43.

Controversies

Foreign Government Support for Threatened Civil Societies: Helpful or Harmful?

Clifford Bob

In recent years, the US and other democracies have invested substantial resources into efforts to support civil society abroad. These programmes have often been justified by the very real threats that civil society faces from authoritarian and electoral authoritarian governments: restrictions on non-governmental organizing, bans on protests, or imprisonment and killing of activists. Today civil society support has become an important component of foreign policy for the US and allied governments in Europe, North America, and elsewhere. Some of these programmes are direct government initiatives or funded through contracts with private for-profit and nonprofit firms. Others involve quasi-governmental or government-funded entities such as the International Republican Institute, National Democratic Institute, National Endowment for Democracy, and United States Institute of Peace. These work alongside autonomous private initiatives from foundations and non-governmental organizations (NGOs) to help civil society abroad. Both the public and the private programmes have

C. Bob (✉)
Department of Political Science and Graduate Center for Social and Public
Policy, Duquesne University, Pittsburgh, PA, USA

long focused on politically active organizations and movements, which typically face the most dire threats.

This chapter analyses and critiques governmental support for civil society abroad, especially governmental and quasi-governmental support by the United States (for convenience's sake, I call both of these 'US government support'). I start by defining such support, discussing its background, and examining its publicly stated goals—in order to build strong democracies and to weaken or overthrow authoritarian governments. I then raise questions about the effectiveness of civil society support in achieving these goals, highlighting the fact that expert opinion is divided about this issue, with some arguing that it is ineffective or even counterproductive. In the heart of the chapter I ask why civil society support continues despite significant uncertainties about its efficacy. I discuss a number of reasons, in the process elucidating some of the hidden goals of civil society support—most importantly to support a fundamental US national security interest, bolstering 'friendly' regimes whether democratic or not. Finally, the chapter tackles the important policy issue that remains: when authoritarian governments threaten political and religious groups in their own countries, what is the most helpful response that the US government can make?

Definitions and Other Preliminaries

The definition of civil society is contentious, with a variety of usages creating conceptual confusion. Edwards has identified three main ways in which the concept is used: associational—that is, voluntary associations among individuals within and across societies; structural—that is, arenas within which associational and other voluntary activities occur; and normative—that is, as a moral good towards which all humans should strive.[1] Without going into further discussion of these different conceptions, this chapter focuses on the first. This is a broadly Tocquevillean view of civil society, viewing voluntary associations as distinct from and to some extent balancing the power of states and businesses. For Tocquevillians, such associational life is thought to be a crucial means of creating the trust and reciprocity on which both democratic and market interactions depend. In this view, a vibrant associational life is thought to build strong and cohesive societies, particularly if it crosses primordial divisions such as ethnic and racial lines.[2]

The associational concept of civil society can itself be subdivided in a number of ways. Perhaps most relevant for purposes of discussing civil society support, it is useful to distinguish civil society on two dimensions: the formality of association (from formal and long-lasting organizations to informal and fleeting inter-personal relationships); and the central goal of the association whether social, economic, or political. Of course, these dimensions are artificial constructs. It can be difficult to pinpoint exactly how formally organized an association is, and there is no question that many associations have goals that overlap the three areas noted. Nonetheless, the distinctions noted here are useful (see Table 13.1).

In this chapter, my focus is primarily on US government support for NGOs that seek to influence governments directly or indirectly using peaceful means, rather than on support for the broader set of organizations making up the bulk of civil society. A major reason for this focus is because civil society support itself tends to target formal organizations that have such a political dimension, especially a national political dimension.[3] By 'civil society support', I mean anything that the US government might do to help a country's civil society, whether directly or indirectly. Although substantial amounts of foreign aid are earmarked for economic associations and activities, this is typically labelled development, rather than civil society aid. In addition, civil society support is more likely to go to formally organized political associations than to the far larger set of associations that have a purely social nature or that are loosely organized. It is noteworthy, however, that such social organizations (rather than more political ones) were pinpointed by Tocqueville as a key basis for democracy in America. It is also worth noting that some of the most important political changes in the modern world occurred through mobilization of large 'non-political' organizations, usually along with smaller political NGOs. For instance, in the American civil rights movement in the

Table 13.1 Types of civil society association

Goal	Degree of Organization	
	Formal	Informal
Economic	Corporation/Union	Barter network
Social	Club	'Café society'
Political	NGO/Insurgent group	Movement

Authors' own compilation

1950s and 1960s, Black churches that had previously been little focused on political change, became politicized. This provided a mass of citizens to engage in protests and pressure, along with the long-standing organized groups such as the The National Association for the Advancement of Colored People (NAACP), which had relatively small memberships.[4]

Scope and Background of Civil Society Support

Civil society support is by no means the largest form of US foreign aid in monetary terms. It is certainly dwarfed by military aid and almost certainly by economic development aid. Nonetheless, civil society support is an important component of foreign aid, itself part of the larger, related category of democracy assistance. The latter includes electoral monitoring, rule of law, and judicial and legislative institution-building programmes. Since at least the early 1990s, civil society support has been a facet of these programmes. They became more prominent at that time in part because civil society activism was seen as an important contributor to the collapse of communism in Eastern Europe. There seems little doubt, for instance, that the Solidarity trade union movement played a major role in Poland, and that other civic organizations formed in the wake of the Helsinki Accords were important contributors to the weakening of communist regimes.[5] Similarly, less organized civil society activism—mass protest— played a direct and immediate role in leading to the fall of the Berlin Wall, the Velvet Revolution, and other major moments in the transitions from Communist to democratic governments in several former Warsaw Pact governments.[6] Late in the decade and into the 2000s, a series of 'colour revolutions' in Eastern Europe and the Caucasus seemed to lend further support to the claims that civil society activism could topple autocrats and that foreign support to civil society might be helpful in this regard.[7]

Since the mid-2000s, civil society support has again become prominent in US government rhetoric. There appear to be two reasons for this. First is the perception that civil societies are coming under increasing threat in certain countries, particularly countries viewed as inimical to US interests. Whether or not this is a new phenomenon, it has gained greater salience in government and policy circles under the rubric 'closing space' for civil society.[8] Second and to some extent contradictorily is the perception that non-state actors are gaining greater influence in domestic and international politics. Although most statements of this proposition refer to the perceived influence of terrorist groups, they apply more generally to peaceful NGOs as well.

Whether or not these two perceptions are accurate, there have been a number of recent US government initiatives, direct or sponsored, aimed at helping threatened civil society abroad. Lifeline: Embattled CSOs Assistance Fund, a multilateral programme established in 2011, provides emergency assistance to threatened civil society organizations in certain countries.[9] In 2013, President Obama issued a memorandum initiating the 'Stand with Civil Society' agenda. This includes a number of initiatives conducted in partnership with other governments, and international and regional organizations to defend civil society organizations threatened by foreign governments.[10] In the summer of 2014, government officials engaged with a prominent think tank's forum on 'The Challenge of Closing Space' in civil society, as well as other meetings on civil society.[11] In a Presidential Memorandum and speech in September 2014, President Obama issued a call for executive agencies operating overseas to 'collaborate with and strengthen' civil society as an urgent national security matter. Obama's plan directs agencies to consult with social groups abroad, to support organizations facing repression, and to oppose foreign efforts to regulate external aid to their own civil societies. All agencies engaging with civil society overseas must report to the National Security Advisor at the White House. In addition, the Obama plan called for the USA to support Regional Civil Society Innovation Centers, in partnership with the government of Sweden and the Aga Khan Development Network.[12]

The foregoing initiatives focus on organized civil society overseas—NGOs—but there are indications that the USA is also devoting more resources to support for more loosely organized social movements. This has occurred on an informal basis for years, in the form of ad hoc support for the 'colour revolutions'. In the Ukraine crisis in 2013–14, top US diplomats provided at least rhetorical and possibly material support to the Maidan mobilization that helped topple the elected leader of Ukraine and led to dismemberment of the country. In a 2015 report that may be a bellwether of future directions in civil society action, the government-funded US Institute of Peace (USIP) seeks to conceptualize such support as a basis for providing it to social movements in the near future. The report, 'Aid to Civil Society: A Movement Mindset', begins with a sharp critique of problems with and limits of governmental assistance to NGOs (see below). However, rather than suggesting restraint in such aid, the report makes an apparent non sequitur: urging that it be *expanded* to include more loosely organized social movements, despite the many problems identified with support to civil society generally.[13]

Notably, the foregoing initiatives have occurred simultaneously and intertwined with efforts to more tightly regulate civil society in the USA itself, usually in the name of national security and counter-terrorism policy. These efforts are part of a vastly larger array of government programmes targeting one narrow category of civil society organizations, terrorist groups, whose numbers and membership are tiny. For instance, the Patriot Act's provisions concerning 'material support' for terrorism have been interpreted broadly by prosecutors and have led civil society organizations, particularly those engaged overseas, to reduce their activities. Since 2001, the US government has also closely monitored NGOs' financial transactions overseas. As I will argue, the twinning of these initiatives raises questions about the efficacy and goals of civil society support measures.

Overt Goals and Logic of Civil Society Support

What is the goal of civil society support? Although I will discuss latent goals subsequently, the publicly stated goals are encapsulated in the labels for such programmes: supporting civil society. This is sometimes portrayed as an end in itself—with strong civil societies seen as a normative good in themselves. More frequently, strong and autonomous civil societies are portrayed as a key characteristic of democracies. This view probably reflects an American bias because democracies such as Japan and various European countries have substantially smaller and less autonomous voluntary sectors than America's.[14] In more pragmatic vein, civil society is seen as a means of promoting democracy, itself a prominent overt goal of US policy. In this view, strong civic challengers, both NGOs and movements, are viewed as catalysts of change in authoritarian contexts.[15]

Before proceeding, the logic behind the proposition that strong civil societies promote democratization is worth probing. In some ways, it is a truism: civil society must play a role, in one form or another, in any transition from authoritarian to democratic regimes. At minimum in a democratic transition authoritarians must negotiate with civil groups that will form the societal basis for political parties in the new regime. More typically, without pressure from organized social groups authoritarian regimes would be unlikely to cede power. Conversely, repression of organized opposition is a hallmark of dictatorial regimes. In totalitarian countries, of course, such repression extends to any form of autonomous association.

Indirect and Direct Means of Civil Society Support

The fact that the proposition 'no civil society, no democracy' is a truism does not make it trivial. Rather, it becomes important to understand the external factors that might make civil society strong enough to pressure authoritarian regimes successfully. Such external support can occur through both indirect and direct means. Distinguishing support in this way is useful because it may be possible that one means could help civil society, whereas another might not.

Indirect means include measures aimed at weakening opponents of favoured civil society groups. The most obvious such opponent is the authoritarian state. It may be weakened through a variety of governmental and intergovernmental pressures exerted upon it, including rhetorical opprobrium, sanctions, boycotts, and other more coercive measures. (Contrariwise, it may also be strengthened through military or monetary support to repressive states.) In recent years, as a major aspect of such indirect civil society support, the USA and other democracies have criticized foreign governments that institute laws restricting or regulating civil society organization and activism.

Special targets for such criticism have been laws regulating external support for civil society, what some have called 'philanthropic protectionism'.[16] The reasons for such laws is as obvious as the reasons for external criticism of them: the laws aim to limit domestic NGOs to national sources of funding and other support, keeping them relatively weak especially in a context of broader repression and scarce resources. External supporters aim to strengthen NGOs from outside, with the hope that this will bolster domestic activism and exert further pressure on a target state. More broadly, the entire civil society support agenda hinges on the ability to provide support in relatively unhindered fashion. The USA has laws limiting external assistance to its civil society groups, most notably the Foreign Agents Registration Act (FARA). It also has laws regulating activities of domestic civil society groups, such as the 'material support' for terrorism provisions of the Patriot Act. And these laws have sometimes been used in arbitrary ways. Nonetheless, other countries' adoption of laws regulating foreign aid to local civil society and the activities of civil groups have provoked particular ire. Russia's adoption of such laws was a major news story, as was Egypt's.[17] This has come from non-governmental groups such as the Carnegie Council and International Center for Non-Profit

Law, quasi-governmental organizations such as the National Endowment for Democracy, and from the US government.

In addition to the targeting of states and laws, another indirect form of support for favoured civil society groups are efforts to undermine *disfavoured* groups. It is an obvious although often forgotten fact that civil societies within target countries are divided, just as they are within all societies. External actors such as the USA generally favour only a limited set of civil society groups. It is likely that simple neglect of disfavoured groups is probably the most common way in which they are dealt with, but in some cases the USA actively seeks to undermine such groups, although most efforts to undermine are likely to be done covertly. US relations with the diverse civil societies of certain Muslim countries illustrate this point: support for 'liberal' opponents of military regimes is significantly greater than support for 'Islamist' opponents, even though the latter have in the recent past had larger constituencies and more deeply rooted organizations.

Direct means of support for civil societies include supplying resources such as money and materiel. They also include training in such skills as public speaking, lobbying, media interactions, mobilization, non-violent tactics, and more. Because an independent media is often a critical vehicle for civil society activism—and a critical civil society component itself—external support to broaden a country's media ecology is also important. Such direct means of providing non-violent aid are usually what is meant by civil society support, but the indirect means described above are also important and considered here. As one final point, it is worth noting that direct and indirect approaches can sometimes act at cross-purposes. For instance, even as the US government may give small amounts of support to civil society groups, it can give far greater monetary and military support to a repressive government.

Problems With Civil Society Support

In this chapter, I make no attempt to survey the full range of social science and policy research about the effects of external support on civil society organizations. The literature is large, diverse, and multi-faceted. And it comes to conflicting conclusions about its efficacy. Much of it appears to be based on case studies that probably would not withstand rigorous review. Much of it also appears to be motivated research —that is, research conducted by activists or scholars who, whether consciously or not, have a pre-existing bias regarding civil society support, usually favouring it.

Although the efficacy of civil society support remains unclear, there are a number of over-arching issues that raise doubts. The first goes to a core characteristic of civil society, its autonomy from the state whether domestic or foreign. Civil societies that are controlled by or dependent on states cannot have the same impact on state–society relations as those that are relatively independent. Certainly in the United States, this is the main view of civil society organizations—and the primary way in which the government deals with them: it takes a generally hands-off attitude not only to the world of business but also to that of NGOs. The primary interaction between most voluntary organizations and the state is through the tax code, with various 501(c) categories that reduce or eliminate their tax burden. In this, the USA continues to follow policies toward civil society that are broadly similar to those in de Tocqueville's day.

Although there are few reliable measures of the health of civil society, scholars have examined this issue with respect to one part of civil society, religiously based organizations. An important finding is that civic participation in religious organizations is stronger in countries with governments that take a hands-off approach, than in those where the state plays a larger role in the form of state religions or subsidies to religious groups.[18] The finding suggests, as one might expect following Tocqueville's logic, that the religious sector of civil societies is most vibrant when it enjoys greater autonomy from the state. These findings are not conclusive, but they are indicative at minimum of a knowledge deficit about whether governmental support for civil societies even within a country's own borders is helpful or harmful. Yet civil society support programmes are built on the premise that US government support for civil societies abroad is somehow different—and can be beneficial. This should be a question rather than a preconception.

As a second problem, foreign support can create dependency on the external supporter, particularly if the support is monetary. Rather than raising funds domestically or building support at home, external aid makes NGOs respond primarily to incentives at the international level. They become clients of external patrons, with a power dynamic favouring the latter. This can lead to a variety of problematic changes in the behaviour and even the identity of the client (and in rare cases also the patron). This may include relatively superficial changes such as the need to follow proper accounting procedures or to avoid forms of discrimination that are disapproved in the West.

More importantly, this dynamic can easily lead local NGOs to distance themselves from grassroots constituents. In turn this may reduce the ability of civil society to challenge authoritarian states. Spending too much time, energy, and resources on servicing the patron, they lose local legitimacy, neglect national linkages, and become unable to mobilize mass protest. Even smaller-scale actions become difficult because ties to external actors make it easy for the authoritarian state to portray civil society groups as fifth columnists or tools of foreign powers. As two analysts have written regarding the recent illiberal turn in Hungary, 'foreign support for the opposition would risk discrediting the movement altogether', as the Orban government is 'quick to paint political opponents as traitors serving Western masters'.[19] Just as problematically, external support can lead such actors to take risks that might not otherwise be possible given a purely domestic balance of forces.[20]

A third issue concerns distortions created in civil society by an infusion of outside support and money. Such aid is never given in an objective manner. Rather, support for civil society is always partial, notwithstanding instructions for inclusive outreach. Groups that are well organized, led by professionals, and follow a US foreign policy line have distinct advantages. The poor, the 'uncivil', the anti-American, and the internationally tone-deaf are neglected.[21] The government's engagement with civil society overseas will mirror its Western-inspired conception of what civil society should be—not what arises spontaneously in other countries. For example, a rush of US civil society assistance to former Soviet bloc countries in the 1990s empowered favoured groups. But it left other organizations unsupported, even when they had large domestic constituencies, contributing to resentments and conflict.[22]

Explaining Civil Society Support

If it is unclear whether civil society support really helps build democracies and if there are well-known problems with such programmes, why then does the US government devote significant resources and rhetoric to such programmes? One simple answer is that this is a political, not a scientific, decision. But even if this is broadly the case, it only puts the question: what is the politics behind the provision of civil society support?

There are a number of reasons for it. First, civil society organizations overseas often cry out for help. Many are genuine demands: the groups have few indigenous resources and therefore seek them from outside.

Moreover, as scholars have shown, international aid encourages local NGOs to mobilize or even form.[23] But even if it is true that civil society groups overseas request assistance, this does not mean that their cries need to be answered. A superpower such as the USA does not have to provide assistance—and, in fact, the USA often ignores or rebuffs such requests. Nonetheless, under certain circumstances, civil society actors do play a role in convincing the US government to act. As a limit case, consider the Iraq National Congress (INC) in the early years of the George W. Bush administration. Its aggressive lobbying helped promote and justify US intervention.

The organizational interests of international supporters provide a second, related reason for civil support programmes, despite meager evidence of their efficacy. To understand this, first consider NGO-to-NGO support. Much like the US government, international NGOs receive many requests for assistance from oppressed civil society groups overseas. To explain which of these requests are accepted and which rejected, an important consideration is the organizational interests of the providers. Patrons need clients to justify their overseas engagements and their very existence. They therefore choose recipients carefully, but choose they must, both to help others and to help themselves. For the powerful US government, this organizational logic explains less about why civil society support exists; the government needs clients much less than international NGOs do. Nonetheless, government contractors and government-affiliated NGOs have strong incentives to promote their own civil society programmes whether or not they are efficacious. Officials within civil society bureaucracies at the State Department and other agencies have a similar motive to promote their own programmes.

Combined with this is a third factor: a compulsion to act among relevant government officials, particularly when the media shines sustained light on problems facing civil society abroad. In the glare of continuing assaults on foreign NGOs, it sometimes seems that government officials adopt the view that *something* must be done, and that doing something—anything—is better than doing nothing. In point of fact, common sense shows that these attitudes are inaccurate and often counter-productive. Yet in powerful corridors in Washington, DC, an obsession with 'managing' overseas conflict and indeed 'managing the world' sometimes trumps common sense. Consider an analogous situation: President Obama's multi-week 'pause' to think hard so as not to do 'stupid things' in the face of ISIS's rise in the summer of 2014. This moment of consideration

precipitated a firestorm of criticism from Congress and the US media, which presumed to know better how to act and that action, rather than inaction, was required. Put another way, there is a sense in Washington that only action constitutes policy, whereas doing nothing does not. In fact, non-policy can sometimes be the best policy and should certainly be higher on the menu of options for any number of issue areas. In the civil society realm, this compulsion to act may help explain support programmes even in the face of mixed or negative evidence of whether it is efficacious or even counter-productive.

A fourth reason relates to the domestic and foreign policy interests of the US government. For one thing, taking action and making rhetorical claims on behalf of civil society abroad can help camouflage domestic policy that threatens American civil society. It is striking that much of the agenda to protect threatened civil society abroad has occurred in a period in which the US government has tightened restrictions on and increased surveillance of civil society at home. Although ostensibly directed against vaguely defined 'terrorist' threats, this has a broader chilling effect on all of civil society.[24] In this context, trumpeting the promotion of civil society abroad can divert attention from the reduced circumstances of civil society at home.

Civil society support and broader democracy assistance programmes serve an even more important camouflaging function with respect to US foreign policy. To see this, it is useful to consider again the goals of these programmes. As noted above, some might argue that the titles of the programmes define their goals: creating strong civil societies and democracies overseas. Foreign policy elites often claim such goals, and journalists and scholars sometimes accept such statements at face value. Indeed, some elites and observers may be sincere in voicing these views, although they are also naïve in doing so. In fact, the names of the programmes merely denote their *overt* goals, concealing latent and more fundamental functions that often subvert the overt ones. Most basically, the real goal of these programmes appears to be the propagation of friendly regimes overseas. By 'friendly', I mean regimes that cooperate with or support basic US national security interests, most importantly trade, access to resources, and projection of military power. It should be unsurprising that, like other foreign policy programmes, civil society and democracy promotion are subordinate to these core goals. Put another way, civil society and democracy promotion are not ends but *means* of US foreign policy.

It is imperative in any realistic analysis of civil society and democracy assistance programmes to keep this point in mind. If the real ends of American foreign policy—the creation of friendly regimes overseas—may be achieved by creating strong civil societies and democracies, government agencies are happy to follow this method. But if those ends have to be achieved by other means—that is, by forming tight alliances with authoritarian countries or by undermining democratically elected but unfriendly governments—the USA readily adopts such an approach too. This is sometimes hard to discern because of the rhetoric noted above and the soothing and camouflaging labels, civil society support and democracy assistance. A torrent of scholarship about the democratic peace also obscures the reality, suggesting that democracy promotion should be and is the country's core foreign policy goal. But a sharp focus on actual US policy, rather than rhetoric, cuts though the smokescreen.

Consider just a few empirical examples to illustrate these points. These come in two broad categories: US support for authoritarian countries that sharply repress their own civil societies; and US opposition to civil societies and even elected democratic governments that are considered 'unfriendly'. With regard to the first of these, there are many illustrations, including contemporary and historical support for the Saudi Arabian, Bahraini, and Egyptian (Mubarak and Sisi) dictatorships. With regard to the second, American efforts to undermine the democratically elected Hamas government in Gaza or to coldshoulder the Muslim Brotherhood government in Egypt are key examples in the same region. American support for the Maidan demonstrations against the elected Ukrainian government is another recent example, albeit in a country whose democratic processes were long troubled.

Also helping us cut through the smokescreen surrounding civil society support is recognition of the fact that regime change of any kind always poses risks of violence, whether perpetrated by defenders of authoritarian governments or by those seeking to replace them with democratic governments (even if their primary tactics are non-violent). More important for our purposes, in pursuit of its foreign policy objectives, the US government (like others) has often used violent means to promote regime change. Part of this may entail provision of weapons, both offensive and defensive, for insurgent forces and rebel movements. The latter can be civil society groups as well, even if their tactics are sometimes portrayed as 'uncivil'.[25] In this chapter, I focus on provision of non-lethal civil society assistance, but it is important to understand that in some cases assistance

for civil societies has also involved provision of weaponry. Recent debates over whether to arm Syrian rebels and the rump Ukrainian government illustrate this point. All of this fits well with the broader argument: that US foreign policy interests are basic—and that civil society promotion is merely a (disposable) means of achieving these.

CONCLUSION

Whether or not local civil society groups reach out for overseas support, we are left with an important puzzle: there is no question that governments of certain countries harshly repress their own civil societies. Yet if the critique in this chapter is correct, it appears that many of the American programmes aiming to help such societies may be wrong-headed. Because they contradict some of the primary underpinnings of a healthy civil society, such as autonomy from governmental interference, they may not make sense. What then, if anything, should the US government do in response to the repression of civil society abroad? Should it be that because these civil societies are already repressed that we should therefore intervene to tip the balance in their favour from outside?

First, it is important to recognize that the critique above does not suggest that all foreign support for overseas societies will have problematic effects. It does not even suggest that US government programmes will necessarily be problematic. Instead, it argues that in the absence of knowledge about whether such government-sponsored programmes work and in the presence of theoretical and empirical analysis that it can be counterproductive, there are at minimum reasons to doubt their efficacy. More pointedly, significant evidence suggests that they may be harmful, notwithstanding the understandable desire of certain local civil society groups to receive foreign government support and the willingness of such governments to provide it for a variety of material and moral reasons.

In that context, a 'first do no harm' approach would appear to be preferable, analogous to a basic principle of medical practice. Arguably, certain overseas civil societies are 'diseased'—the result of attacks by the state, congenital weaknesses, and/or inhospitable cultural environments among other 'pathologies.' Of course, this is partially a disease observed by an outsider alone, whereas the 'patient', or at least many of the citizens composing it, may not see the problem. Leaving that point aside, in most cases, there are at least some within these societies who see a problem and seek help from outsiders. But neither the insiders nor the outsiders really

know whether such help will in fact cure or improve the patient. As noted above, civil society support may help the organized NGOs that usually receive it, but whether it has broader beneficial impacts is uncertain.

This may not mean that all foreign support should be ended. Support that is *not* funnelled through American government channels—that is, civil society to civil society support—avoids some of the pitfalls of a governmental approach, particularly one larded with national security approvals and influences as the recent Obama initiative appears to be. Unfortunately, however, the latter initiative and others in which government agencies have instrumentalized civil society cast suspicions on all forms of support, even private.

NOTES

1. See Edwards (2011).
2. See de Tocqueville (2002) and Putnam (1993).
3. See Stephan et al. (2015).
4. See McAdam (1999).
5. See Thomas (2001).
6. See Sarotte (2014).
7. See Spoerri (2014), Mitchell (2013) and Wedel (2001).
8. See Carothers and Brechenmacher (2014).
9. See Lifeline: Embattled Civil Society Organizations Assistance Fund (2015).
10. See US AID (2014).
11. Carothers and Brechenmacher, *Closing Space*.
12. White House (2014).
13. Stephan, Lakhani, and Naviwala, *Aid to Civil Society*, 9–13.
14. See Pekkanen (2003).
15. See Gershman (2004).
16. See Economist (2015).
17. Israel's proposal to limit foreign funding was similarly controversial—and was not implemented in part perhaps because of international pressure.
18. See Finke and Iannaccone (1993).
19. See Jenne and Mudde (2012).
20. See Kuperman (2008).
21. Wedel (2001).
22. See Meyer (1995).
23. See Bob (2005) and Ron ().
24. See PEN America (2015).
25. See Bob (2011).

Bibliography

Bob, C. (2005). *The marketing of rebellion: Insurgents, media, and international activism*. Cambridge: Cambridge University Press.

Bob, C. (2011). Civil and uncivil society. In M. Edwards (Ed.), *The Oxford handbook of civil society* (pp. 209–219). New York: Oxford University Press.

Carothers, T., & Brechenmacher, S. (2014). *Closing space: Democracy and human rights support under fire*. Washington, DC: Carnegie Endowment for International Peace. Retrieved from http://carnegieendowment.org/files/closing_space.pdf

Economist. (2015). *Foreign funding of NGOs: Donors: Keep out*, May 2, 1. Retrieved from http://www.economist.com/node/21616969/print

Edwards, M. (2011). Introduction: Civil society and the geometry of human relations. In M. Edwards (Ed.), *The Oxford handbook of civil society* (pp. 3–14). Oxford: Oxford University Press.

Finke, R., & Iannaccone, L. R. (1993). Supply-side explanations for religious change. *Annals of the American Academy of Political and Social Science, 527*, 27–39.

Gershman, C. (2004). Democracy promotion: The relationship of political parties and civil society. *Democratization, 11*(3), 27–35.

Jenne, E., & Mudde, C. (2012). Can outsiders help? *Journal of Democracy, 23*(3), 147–155.

Kuperman, A. J. (2008). The moral hazard of humanitarian intervention: Lessons from the Balkans. *International Studies Quarterly, 52*(1), 49–80.

Lifeline: Embattled Civil Society Organizations Assistance Fund. (2015). Retrieved December 15, 2015, from http://www.state.gov/r/pa/prs/ps/2013/09/214567.htm

McAdam, D. (1999). *Political process and the development of black insurgency, 1930–1970* (2nd ed.). Chicago: University of Chicago Press.

Meyer, C. A. (1995). Opportunism and NGOs: Entrepreneurship and Green North-South transfers. *World Development, 23*(8), 1277–1289.

Mitchell, L. A. (2013). *Uncertain democracy: US foreign policy and Georgia's Rose revolution*. Philadelphia: University of Pennsylvania Press.

Pekkanen, R. (2003). Molding Japanese civil society: State-Structured incentives and the patterning of civil society. In F. J. Schwartz & S. Pharr (Eds.), *The state of civil society in Japan* (pp. 116–134). Cambridge: Cambridge University Press.

PEN America. (2015). *Global chilling: The impact of mass surveillance on international writers*. Retrieved from http://www.pen.org/sites/default/files/globalchilling_2015.pdf

Putnam, R. D. (1993). *Making democracy work: Civic traditions in modern Italy*. Princeton: Princeton University Press.

Ron, J., Ramos, H., & Rodgers, K. (2005). Transnational information politics: NGO Human rights reporting, 1986–2000. *International Studies Quarterly, 49*(3), 557–588.

Sarotte, M. E. (2014). *The collapse: The accidental opening of the Berlin wall.* New York: Basic Books.

Spoerri, M. (2014). *Engineering revolution: The paradox of democracy promotion in Serbia.* Philadelphia: University of Pennsylvania Press.

Stephan, M. J., Lakhani, S., & Naviwala, N. (2015). *Aid to civil society: A movement mindset.* Washington, DC: United States Institute of Peace. Retrieved from http://www.usip.org/sites/default/files/SR361_Aid_to_Civil_Society_A_Movement_Mindset.pdf

Thomas, D. C. (2001). *The Helsinki effect: International norms, human rights, and the demise of communism.* Princeton: Princeton University Press.

de Tocqueville, A. (2002 [1835, 1840]). *Democracy in America.* Chicago: University of Chicago Press.

US AID. (2014). *Stand with civil society: Best practices.* Retrieved from www.usaid.gov/sites/default/files/documents/1866/SWCS%20Best%20Practices%20Publications%20Final%20(1).pdf

Wedel, J. R. (2001). *Collision and collusion: The strange case of Western aid to Eastern Europe.* New York: Palgrave.

White House. (2013) *Fact sheet: US support for civil society.* Retrieved from https://www.whitehouse.gov/the-press-office/2013/09/23/fact-sheet-us-support-civil-society

White House. (2014) *Deepening US government efforts to collaborate with and strengthen civil society.* Retrieved from www.whitehouse.gov/the-press-office/2014/09/23/presidential-memorandum-civil-society

Foreign Policy by Proxy: Democracy and Human Rights Promotion through an Engagement with Civil Society

Raffaele Marchetti

EU Engagement with Civil Society

The European Union (EU) is particularly engaged in developing its external action through and in partnership with civil society actors. But this is becoming more and more controversial. This chapter provides a critical and comparative reflection on the new dynamic of foreign policy centred on the synergy between EU and civil society actors.

In the context of the EU, civil society is usually understood in a functionally broad way, though it may be limited in political terms (Kaya and Marchetti 2014). It is functionally broad in that definitions of civil society usually include different kinds of interest groups: non-governmental organizations (NGOs); social movements; advocacy and promotional groups; functional interest groups as social partners (such as trade unions and employers' organizations); sectoral organizations (such as entrepreneurs' and consumers' associations), but also universities, research institutes and epistemic communities. In the EU, civil society organizations (CSOs) are usually expected to play a collaborative role (rather than being a force of

R. Marchetti (✉)
LUISS, Roma, Italy

275

opposition), adopting a procedural manner in the policy-making process. As we will see, EU procedures tend to favour a functional, output oriented conception of civil society involvement. For this reason, politically antagonist groups are usually marginalized, if not ostracized and even criminalized.

From a civil society perspective, the process of Europeanization has to be understood as a complex European integration process that transforms actors and makes them supranationally part of a single demos, a single public space in which CSOs interact transnationally. More formally, Radaelli interprets Europeanization as a 'construction; diffusion; and the institutionalization of formal and informal procedures, rules and ways of doing things, shared beliefs and norms, which are first defined and consolidated in the EU policy process and then incorporated into the logic of domestic discourses, identities, political structures and public policies' (Radaelli 2003, p. 30). In sum, it is a process (of diffusion, learning, adjusting, and the reorientation of politics), and effect (of engagement with Europe), a cause (of further integration), and relation (between the EU and other actors) (Boronska-Hryniewiecka 2011).

The topic of civil society participation entered the EU agenda after the foundation of the European Union in 1993 with the Maastricht Treaty. Setting the goal of political union, the treaty indirectly generated debate on the democratic deficit and more generally on the increasing politicization of the EU integration process. That signaled the end of the 'permissive consensus' on the elite-driven process of EU integration, from that moment on the previously de-politicized process of EU integration became more contentious (Hooghe and Marks 2009). In this context, the participation of civil society became more and more essential from the point of view of both CSOs and practitioners who saw CSOs as a solution, and as a legitimacy enhancer, to help solve their problems. Together with civil society, the other legitimacy-enhancing strategy was to strengthen the European Parliament and to make a shift from output to input dimensions of legitimacy.

The European Commission has a long history of consultation with civil experts, but it has changed and expanded its attitude over time (Quittkat and Finke 2008). In the 1960s and 1970s the Commission focused on 'consultation' within European economic integration and dialogue with primarily economic experts within industrial and agrarian interest groups.[1] Other CSOs were still outside interaction with the EEC, except the long-standing Europe movements of the federalists.

Later on in the 1980s and 1990s, the Commission focused on developing a 'partnership' with nongovernmental actors within the social dialogue on specific policy areas such as security, social, and educational policy. While the Commission demanded greater participation of civil society, European civil society itself expanded its reach to the regional level. A multitude of associations opened their branches in Brussels, such as the European Trade Union Confederation. Better IT technologies and improved European coordination facilitated the scale shift towards the EU level.

However, only in the 1990s and 2000s did attention move to the idea of 'participation' itself and the concept of participatory democracy (Economic and Social Committee 1999). The White Paper on Governance outlined the framework for such cooperation (European Commission 2001) and the Leaken Conference of 2001 established a qualitative milestone for the recognition of participation of NGOs in European governance by including for the first time representation of civil society in the Convention working on the Constitutional Treaty. The most recent development in the integration of civil society is constituted by the Lisbon Treaty, which further enhances European Social Dialogue and institutionalizes citizens' initiatives. Today, the 'Your Voice in Europe' online consultation system offers the opportunity for all accredited groups to express a view during the Commission's policy formulation phase. As a result, the process of policy formation has widened beyond the classical intergovernmental method and included voluntary, informal, inclusive, and participatory forms of coordination, the so-called new era of EU multilevel governance.

These transformations in EU attitude towards civil society created a structure of opportunities that CSOs repeatedly used to influence and integrate into decision-making processes at the European level. In fact, we can expect that 'the more political decisions are dispersed, the more open (and less repressive) a system is considered. The prevalent assumption is that the greater the number of actors who share political power (the more the checks and balances), the greater the chance that social movements will emerge and develop' (Della Porta and Caiani 2009, p. 7). EU governance structure tends to be fairly open to the input of civil society, if compared with similar political regimes throughout the world. While it is relatively clear by now that the system is more open to conventional, pragmatic lobbying than to ideological and disruptive action, it still leaves windows of opportunity for various kinds of mobilization on different levels. Depending on the circumstances, CSOs may, for instance, adopt strategies of either domestication

(putting pressure on national constituencies) or externalization (targeting EU institutions) to adapt better to the political opportunity structure that is presented to them, or indeed alternatively adopting a multiple strategy in which both the local and the European level is targeted. Especially in specific sectors such as the definition of EU democracy and human rights external policies, civil society has played a significant role in setting the agenda. A recent case in point is represented by the successful mobilization of LGBT groups that managed to include their political goals in the official agenda of the European Instrument for Democracy and Human Rights (EIDHR) (Council of the European Union 2012).

The debate on the specific role played by CSOs within the European governance system is intense. There are two the principal interpretations in the reading of the functions assigned to and played by CSOs within the EU system: functional collaborator or constitutive source for the creation of a European public space, as summarized in Table 14.1.

Table 14.1 Two main political interpretations of the role played by civil society

	Collaborator in public bodies	Constitutive source for trans-European public space
Modes of interaction	Multi-stakeholder partnership	Deliberative Europeanization
Official documents	White Paper on Governance, 2001	Convention methods applied in the European Charter of Fundamental Rights 2000, European Convention 2001–2003, the Treaty on a Constitution for Europe 2003, and later on the Treaty of Lisbon 2009
Types of CSOs	Organized interests, interest intermediation and lobbying	Civil society as a whole, but also as a site of contestation
Functions	Partners, not expected to control accountability	Public sphere as both open participation and challenge to public authority
Activities	Service provision in a demand-offer scheme	Training for social and political virtues, producing social ties and social capital, and providing opportunities for mobilization and collective action
Composition	NGOs, experts, educated	Social movements, laymen

Source: Personal elaboration from (Heidbreder 2012)

Among European institutions, the European Commission has by far the greater role vis-à-vis CSOs. The European Parliament comes only second in this respect. The Commission deploys an activation strategy for inclusion of CSOs in the predominantly supranational policy formulation. Over the years, the Commission has tried to institutionalize NGO structures along policy areas (NGO families) by expanding the notion of civil society as provider of information and inputs in its policy-making. The highly developed system of comitology is characterized by extensive use of informal practices beyond intergovernmentalism, a type of problem-solving interaction, and the spill-over effect of socialization on participants (Curtin 2003; Joerges and Neyer 2006).

It is by now clear that the mode of interaction of the European Commission is highly biased towards CSOs rather than less well-organized grassroots movements. Institutionalized, professional types of CSOs are part and parcel of the functional mode of governance insofar as they act as governance partners in the implementation of sector-comprehensive strategies on different policy levels while at the same time providing alternative, deliberative paths for the re-legitimization of the EU. It is clear, however, that a difference remains between participatory governance (with stakeholders) and participatory democracy from below. In principle, participatory governance remains centred on an instrumental input legitimacy and an output legitimacy anchored on private-public partnerships (PPPs), whereas participatory democracy is based rather on a mode of intrinsic input legitimacy in which discursive involvement in policy formation is promoted by a growing transnational and European civil society. The Commission is currently implementing the first of these and is still only aspiring to realize the second.

Such disjunction between instrumental and intrinsic logic of legitimacy is also evident in the assessment of the (actual and potential) impact of CSOs on the EU system. At times CSOs are perceived as being a threat to input legitimacy based on formally institutionalized representative democracy. Often, CSOs are seen as an asset to increase the quality of policies and services delivered by the EU (outputs), but also as a pragmatic answer to shortcomings in input legitimacy that cannot be fully overcome due to the multi-level system of governance. More rarely, or rather in principle, CSOs are ideally perceived as carriers of an emerging EU order with a genuine EU public sphere and input legitimacy in its own right. The contrast between these differing readings also entails a serious political dilemma, possibly the most crucial disfunctionality in the relation between EU institutions and

civil society: 'the conditions civil society has to meet to participate limit the very virtues for which the Commission pursues its normative and material activation strategy' (Heidbreder 2012, p. 19). The more the Commission seeks professionalized NGOs, the less it will have bottom-up and contentious civil actors, which limits the potential for fulfilling the legitimizing and communicative role of civil society. It is a sort of catch-22 situation in which CSOs need to be highly professionalized in order to have a voice in Brussels, and yet at the same time are supposed to remain deeply rooted in societies in order to provide genuine legitimacy from below. It seems that all the attempts developed by EU institutions to engage with civil society and to bridge the EU with European citizens have simply created a pro-Brussels CSO elite working in the interests of deeper integration, and this has left behind all the other politically significant actors.

EU Foreign Policy through Civil Society

The EU's engagement with civil society is by now a constitutive and central element of EU identity (Marchetti and Tocci 2011, 2013). As analysed previously, the EU, especially its executive branch the European Commission, has a long history of consultation with non-governmental counterparts. In the 1960s and 1970s the Commission focused on 'consultation' primarily with economic experts. In the 1980s and 1990s the focus shifted to 'partnership' within the phase of social dialogue on specific policy areas; and in the 1990s and 2000s on 'participation' with the entrance of the idea of participatory democracy. In today's complex, multi-level system of European governance, societal actors play an important role. So much so that it is not uncommon to question the precise role of EU institutions vis-à-vis the different interest groups: are EU institutions masters of the fate of the plethora of non-governmental actors that try to influence EU decision-making processes, mainly through lobbying, or are they more simply victims of external pressure?

In the domain of EU external action service (i.e., EU foreign policy, in Brussels parlance), the relationship between EU institutions and civil society actors is intense. A politically sensitive dimension of this relationship is the policy field of democracy and human rights promotion, in which civil society actors constitute key partners for EU external action.

Some of the reasons why civil society has been selected as a key partner in this area are shared by the US democracy promotion program. As already seen in the American example, here also CSOs are ultimately

assumed to be carriers of virtue. They are expected not to have vested interests and to be able to promote reform more effectively from below. To this, the EU adds a robust argument on the link between democracy, human rights, peace, and civil society. CSOs are ultimately seen as schools of democracy and as generators of collective trust. They are expected fundamentally to generate social capital, i.e. links and connections between people that result in the creation of norms of cooperation, reciprocity, and trust. Further crucial elements derive from such components as a participatory civil culture, the articulation of citizens' interests, and an increased institutional responsiveness. From this, the way is then open towards a democratic and peaceful society.

The EU, historically conceived as a peace project, has considered peace promotion as a cardinal objective of its fledgling foreign policy. The Lisbon Treaty explicitly states that the EU aims to promote peace and that its role in the world should reflect the principles that inspired its creation, development, and enlargement. The treaty identifies the contribution to peace, the prevention of conflict, and the strengthening of international security amongst its foreign policy priorities. More specifically, the EU's conception of peace has been liberal in nature, including the principles of democracy, human rights, rule of law, international law, good governance, and economic development.

The promotion of 'liberal peace' has been prioritized above all in the European neighbourhood. This was made clear in the 2003 Security Strategy, which argues that the Union's task is to 'make a particular contribution to stability and good governance in our immediate neighbourhood (and) to promote a ring of well governed countries to the East of the EU and on the borders of the Mediterranean with whom we can enjoy cooperative relations'.

The EU views as critical 'indicators' of conflict transformation issues such as human rights, democracy, state legitimacy, rule of law, social solidarity, sustainable development, and a flourishing civil society. Underpinning the EU's objective of conflict resolution and transformation are thus the two cardinal principles of human rights protection and democracy promotion. These have slowly consolidated within the EU's foreign policy approach, and are now critical building blocks in EU external relations discourse.

The promotion of human rights was already present in the European Political Cooperation agenda of the 1970s, but it was not until 1986 that, under pressure from the European Parliament, it became a core principle of European foreign policy, then widely adopted in the post-Cold War

period. With the fall of the Berlin Wall, the EU began inserting human rights as an 'essential element' in its trade agreements, as well as within its aid programs and in the context of its Enlargement Policy (i.e., through the 1993 Copenhagen political criteria). Since then, human rights, together with democracy, the rule of law, protection of minorities, and market economic principles, have become cornerstones in EU policies of conditionality and political dialogue with third countries near and far abroad.

As for the justification of these policies, human rights and democracy have been promoted for two key reasons: on the one hand, instrumentally, as part of a broad security rationale whereby if human rights are violated and democracy not implemented then the EU's own security and stability are also assumed to be threatened and EU interaction with third countries to be more difficult, as based on the classical liberal theory of democratic peace (Doyle 1983); on the other hand, as part of the normative rationale whereby human rights have universal validity and represent a vital component of the EU's own identity. To these, we should add that human rights promotion is pursued by member states and the EU also for domestic reasons, related to the acquisition of domestic legitimacy by occupying an alleged moral high-ground in foreign policy.

The EU holds a specific understanding of human rights that is not fully shared by many other countries, be they democratic or authoritarian, or by all international organizations. EU priorities on human rights include the following: fight against death penalty, against torture, and in support of children's rights, women's rights, freedom of religion, LGBT rights, minorities' rights, indigenous peoples' rights, and rights of people with disabilities (European Commission 2010). It is easy to notice that depending on which aspect of human rights is picked up, a different alliance can be constructed. If the fight against the death penalty is at stake, Russia might be a good partner and the US a bad one. If the fight for LGBT rights is at stake then the opposite is true. As a consequence, controversies are generated almost every time the EU attempts to spread this specific understanding to third parties and to international organizations.

The EU promotes human rights in large part through its 'constructive engagement' with third parties. By constructive engagement EU actors have encouraged the deployment of a rich variety of measures of cooperation, which are normally specified in contractual agreements with third countries. These contractual relations take different forms, entailing different degrees of integration into and cooperation with the EU. They range from the accession process aimed at the full membership of a

candidate country to looser forms of association, which envisage measures of economic, political, and social cooperation with EU structures short of full membership.

In terms of policy mechanisms used to pursue these structural changes, the EU deploys positive and negative conditionality, aid for human rights programmes, and diplomatic instruments such as declarations, *démarches*, and political dialogue (including specific human rights dialogues). Two much discussed cases of such mechanisms are those of Turkey, that has its accession to the EU conditioned on the abolition of death penalty, and of Moldova, that had its visa-free regime conditioned on the introduction of new legislation in favour of LGBT rights.

Yet another critical component in the EU's foreign policy vision is regarding the role of civil society in human rights promotion. Civil society is viewed here both as an aim to be promoted in and of itself, as well as a means through which the EU can pursue more effectively objectives such as the promotion of peace, democracy and human rights.

The EU has approached civil society and impacted on its nature and functioning in indirect and direct ways.

Indirectly, the EU can contribute to democracy and human rights promotion through civil society by altering the *structure* in which CSOs operate, for example by raising the interconnectedness between CSOs and the state on the one hand, and CSOs and the grassroots on the other. By covering a wide range of sectors such as institutions, law, infrastructure, health, education, trade, and investment, EU policies can thus shape the overall environment in which CSOs operate. This assumes that the potential for civil society to influence a country depends fundamentally on the space the state leaves open to civil society activity. If this space is limited or non-existent (i.e. in authoritarian and illiberal contexts, often found in conflict situations), then civil society is less likely to exert a visible impact on political dynamics. Hence, unless the EU exerts effective pressure on state actors to engage in political reform, thus altering the political opportunity structure in which civil society operates, EU policy is unlikely to induce democratization and conflict transformation through civil society. Within the context of accession policy and the European Neighbourhood Policy (ENP), for example, the EU can shape the policies and institutional features of third countries, influencing the overall environment in which civil society operates. More specifically, the European Commission (European Commission 2006) has openly suggested enhancing civil society participation in the ENP by encouraging neighbourhood governments

to seek civil society involvement in monitoring the implementation of ENP action plans. To this end, the European Commission organized for the first time an ENP conference in September 2007, bringing together governmental actors and CSOs from the EU and the neighborhood.

Directly, the EU would enhance the *agency* of CSOs engaged in democracy and human rights promotion. This direct targeting can take three principal forms. First, it can limit itself to forms of dialogue with and on CSOs: publicly expressing appreciation/condemnation for particular organizations, attending their activities, and facilitating access to contacts and information exchanges between CSOs as well as between CSOs and international actors. The underlying aims of these different forms of dialogue include gaining a deeper understanding of the local context, socializing CSOs into adopting different positions or engaging in different activities and raising the prestige, morale, and status of particular CSOs. Second, EU actors can engage with civil society through training, for instance by providing scholarships and technical material and training courses to CSO representatives in fields such as communication (e.g., political debate, public relations, and advocacy), substantive issues such as international law, human rights, and Community law, as well as in building organizational and financial capacity and in recruiting supporters and members. Third, the EU's direct engagement with CSOs can take the form of financial support, including directing funding to organizations or to specific programs and projects. Some of these funds are channeled through the intermediation of official institutions in third countries. Others are instead directly delivered to CSOs. Funds allocated within contractual relations, such as these instruments, are primarily channeled through the intermediation of official institutions in third countries, and only through the latter do they reach civil society. In view of the limits of this approach, the EIDHR is of particular relevance.

The program that is most active on this direct financing of NGOs on issues of democracy and human rights is the EIDHR. This is a major financing instrument used by the EU to support CSOs worldwide and, through them, to provide aid for human rights and democracy. The overall funding for the EIDHR is small in proportion to the total EU external relations budget and even smaller when matched against the whole EU budget, but it has decisively increased over the years. This proves that democracy and human rights are increasingly viewed as necessary aims of foreign policy to be pursued, *inter alia*, through civil society.

The EIHDR prioritizes cooperation with civil society organizations (and international organizations) around the world without limiting itself to the cooperation and consent of host governments. The EIDHR builds on work done with and through civil society organizations aimed at defending the fundamental freedoms which form the basis for all democratic processes and helping civil society to become an effective force for political reform and defence of human rights.

The EIDHR is intended to act as a soft policy instrument—non-prescriptive, grassroots, and focused on social development. Underlying this approach is also the recognition of the need for 'local ownership'. According to the EU, this is difficult to achieve when relations with partner countries are limited to government-to-government contacts. Hence the continuing importance of support to civil society and human rights defenders to help empower citizens, to allow them to claim their rights, and build and sustain momentum for change and political reform.

While other means of action are considered unwarranted, this soft, reactive, grassroots, non-coercive and allegedly non-prescriptive approach is justified. However, what is often overlooked or taken for granted in this official discourse is that, despite being focused on CSOs, this approach is highly political. Expected results and performance indicators of the projects funded by the EIDHR include, for instance, the following political priorities:

1. Parliamentary agreement, after concerted CSO campaigning, to legislate on gender equality, on rights for indigenous people, on abolition of the death penalty, on prevention of torture, on new constitutional provisions for overseeing the military, on the enforcement of provisions on child labour, or on the independent composition of the electoral commission.
2. Regular reports by a consortia of civil bodies on the implementation of a ENP action plan; an independent detailed diagnosis of challenges to human rights and democracy, endorsed by leading civil society stakeholders.
3. Broad consensus between groups with opposing interests on directions for legislation on land reform and compensation, on the terms of reference and resources for a truth and reconciliation commission; regular dialogues established between CSOs divided on religious or ethnic grounds and the launching of some common activities.

4. Multi-party agreement and the formulation of draft legislation, after CSO dialogues, for quotas of women on party lists; for party platforms to include commitments to make changes in the penal code; creation of an ombudsman; combating discrimination on any grounds; greater decentralization.
5. Formation of new CSOs, membership developed and activities begun by people with disabilities; for AIDS orphans organization to play an active role in the CSOs' umbrella body; special women's officer and women's section created within the main trade union, liaising with women NGOs and the media; launching of campaigns for promotion of anti-discrimination legislation. (European Commission 2007, p. 20)

From this list, the political nature of CSO funding emerges in full force. As opposed to former funding for development CSOs, which was mainly devoted to technical assistance, in this new strategy the EIDHR aims at transforming the societies in which it operates towards democratization through civil society. By moulding party preferences, proposing new legislation and constitutional reforms, and inducing land reform and decentralization, the EU approach intends to have a deep impact on the political opportunity structures within third countries through support for civil society. These policy aims and means have been cloaked in highly normative language, which often hinders both a lucid debate regarding the actual desirability and legitimacy of this approach and a detailed empirical account of what the EU actually achieves in practice. Indeed, once declarations of intent are translated into policy practice, we note how the EU, rather than being anchored within the broad tradition of conflict transformation, adheres to a far stricter interpretation of (neo-)liberal peacebuilding (Richmond 2006). This approach is not without critiques for many of the general reasons cited above. EU engagement with civil society within the liberal peacebuilding tradition may be detrimental to conflict transformation. This is not simply because the EU misidentifies CSOs, thus inadvertently strengthening securitizing CSOs and/or weakening de-securitizing ones. It is rather because by engaging with CSOs the EU might contribute to the two seemingly contradictory distorting effects discussed above: de-politicization and excessive politicization. EU support for civil society can lead to the de-politicization of CSOs by supporting technical and professional NGOs to the detriment of more overtly political ones such as trade unions, social movements, religious charities, or community-based organizations (Belloni 2001). Smaller or

more political organizations would thus either be shunned by the EU or fail to meet the necessary technical/bureaucratic requirements to be allocated EU funds. As such, the potential for the constructive mobilization and politicization of society would narrow, diminishing the prospects for grassroots actors to alter the structural conditions of violent conflict. At the same time, EU support for civil society could also lead to the excessive 'politicization' of CSOs. The EU would thus fundamentally shape the nature of civil society into a dependent functional substitute within the liberal paradigm of EU foreign policy, detaching and delegitimizing it in the eyes of the public (Chandler 2001). In doing so, a limited and distorted form of civil society would mushroom, while existing local capacity would be harmed or destroyed (Richmond and Carey 2005). Civil society would lose its autonomy and become politically accountable to, and an acquiescent instrument within, the hands of EU donors. It would respond to the EU's political priorities, and in turn tend to focus on short-term, outcome-driven and quantifiable projects, which may be far removed from the long-term, dynamic, process-driven, and multidimensional needs of conflict transformation (Vukosavljevic 2007).

What emerges from this logic is that, since military intervention is not a feasible option for the EU, or, some would argue, a desirable option given the EU's self-proclamation as a soft, civilian, or normative power, the EU's approach has privileged acting through civil society. Hence, not only does the EU claim to promote universal normative values such as democracy and human rights, but the means through which it does so—civil society—is viewed by the EU as a legitimate way to influence domestic affairs within third states. While other courses of action are considered unwarranted, this soft, reactive, grassroots, non-coercive, and allegedly non-prescriptive approach is considered fully justified.

However, what is often overlooked in official discourse is that this approach remains highly political. As opposed to former funding for development NGOs, which was mainly devoted to technical assistance, the EIDHR aims at transforming the societies in which it operates towards democratization through civil society. Despite being mediated by civilian actors, this external influence is perceived by many countries as an illegitimate because it artificially changes societies from the outside through the infiltration of foreign ideas and interests backed by money and political support.

The EIDHR is not the only instrument that provides direct funding to CSOs in third countries. Recently, in 2013, the European Endowment for

Democracy (EED) was created as a private law foundation. This is not part of the EU, though it is considered a 'joint effort of the Member States and European Union institutions', and has links to the ENP, together with the Civil Society Facility (CSF). Poland was a main sponsor, and funding comes from the European Commission, some European member states, and private actors/foundations. The goal here is to provide direct grants to pro-democracy activists in the European neighbourhood and beyond, complementing official EU action. It is meant to be flexible, non-bureaucratic, and quick to react. The logic of the mission moves away from classical modernization theories (prerequisites for democracy including economic, social, or cultural factors) towards human agency, that is, civil society. The mission statement talks about fostering, not exporting, democracy and readiness to assist democratic change in the spirit of solidarity and partnership especially in the European Neighborhood. One of the first initiatives was to provide a €150,000 grant to support Maidan demonstrations in Kyiv, in particular for those who were injured or in need of legal support.

Controversies

These kinds of indirect policies, however, remain controversial. While public diplomacy, intended as the action carried out by a government in order to engage with the citizens of another country so as to promote their foreign policy objectives, is widely practiced, it is increasingly contested insofar as being seen as an illegitimate infringement of state sovereignty. At stake here is the classical dichotomy between proclaimed universal values of human rights and democracy, on the one hand, and national prerogatives of self-determination and foreign non-intervention in domestic affairs, on the other. We live in a post-Westphalian order characterized by high interdependence and porousness of national boundaries. It is a world in which, as already stated, ideas, people, money, political support, and weapons float almost freely. And yet, it is also a world of suspicion, censure, boycott, and control in the name of homeland security. Foreign action is often perceived as foreign infiltration and considered a national threat. Let us consider two EU examples.

The death penalty. The EU is committed to promoting the anti-death penalty campaign at the global level. Funds have been provided and actions carried out in order to persuade governments to abolish or at least adopt

a moratorium on executions. A historic result has been achieved with the 2007 UNGA resolution in favour of the moratorium on the death penalty. This was a consequence of intense lobbying by the EU itself and by many (mostly European) NGOs to retentionist countries. What is striking is its top-down strategy. Rather than trying to persuade local populations through a necessarily long-term effort, what the campaigners aimed at was rather at the persuasion of targeted governments to vote for the moratorium. It was more a matter of convincing prime ministers and ministers of justice quickly than of changing public opinion through a long-term and sustainable process.

Democracy promotion. As observed above, the EU has an articulated program of democracy promotion with general (e.g. ENP) and specific instruments (e.g. EIDHR). This kind of external policy is often implemented through partnership with international and local CSOs. These kinds of public diplomacy initiatives almost by definition bypass the national government in question and enter into conflict with national sovereignty. Funding (large or small) is provided in many countries around the world. This move is welcomed by those with a liberal perspective insofar as societies are conceptualized as open, and it is expected to maximize the opportunity for citizens to exercise their freedom of choice. However, this approach is also considered a threat from a realist position, insofar as it is perceived as an attempt to impose foreign influence on national affairs. If this position is held, usual countermeasures include censorship and limitations on foreign CSOs.

Currently we are witnessing a global backlash against foreign funded NGOs (Christensen and Weinstein 2013; Dupuy et al. 2015, 2016). Forty-three states have imposed sanctions on foreign-funded CSOs and the trend is increasing in the last two decades, in parallel to the booming of international CSOs and international aid to CSOs. If we take western countries, which are in fact the main funders of NGOs worldwide, out of the equation we may easily see that limitations to foreign-funded CSOs are present in a large number of countries experiencing such phenomena. Also the intensity and breadth of restrictions is increasing. They concern the receipt, amount, mechanisms, use, reporting, and taxation of funding received from foreign donors. What matters is the political distance between the funding and the hosting country. At the same time, we should also recognize that, as a matter of fact, NGOs with foreign funding also create an opportunity for states to strike back and censor CSOs (Fig. 14.1).
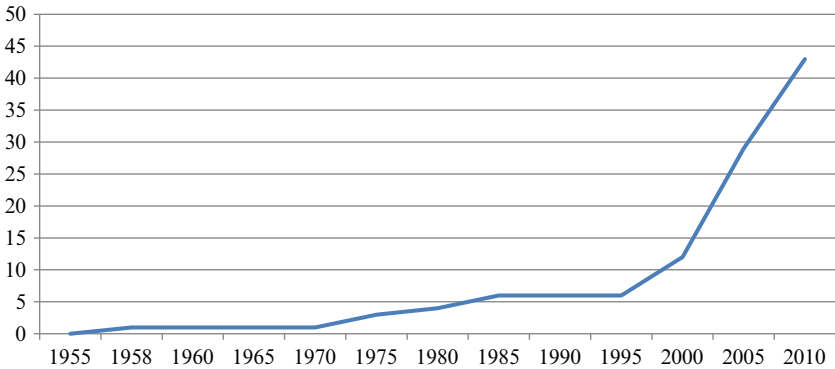
Fig. 14.1 Number of countries with restrictions on foreign funding for NGOs. *Source*: Authors' elaboration on Dupuy, Ron, Prakash dataset

The cases of Ethiopia, Russia, and Bolivia are illustrative of this tendency. In Russia in July 2012, legislation was passed which requires NGOs that receive foreign donations and serve as the instrument of a foreign power to register as 'foreign agents'. The same year, USAID was expelled from Russia. In Ethiopia, in order to be eligible to deal with issues of human rights and democratic participation in the country no more than 10% foreign support is allowed. In Bolivia, USAID was expelled in 2013.

Conclusions

A number of lessons can be learnt from this analysis: (1) the significance of civil society's role into the political system should not be underestimated; (2) the (international) system is changing towards forms of interdependence and transnational interactions that are ever more intense and difficult to tame and control; and (3) significant opportunities and risks are intermingled within the relations between public institutions and civil society.

Note

1. In 2009, there were 1316 EU-level interest representatives on the EC register, with approximately 60% stemming from business and trade associations and the rest representing diffuse or public interests.

References

Belloni, R. (2001). Civil society and peacebuilding in Bosnia and Herzegovina. *Journal of Peace Research, 38*(2), 163–180.

Boronska-Hryniewiecka, K. (2011). Europeanization of non-state actors: Towards a framework for analysis. In D. Armstrong, V. Bello, J. Gilson, & D. Spini (Eds.), *Civil society and international governance. The role of non-state actors in global and regional regulatory frameworks* (pp. 73–91). London: Routledge.

Chandler, D. (2001). The road to military humanitarianism: How the human rights NGOs shaped a new humanitarian agenda. *Human Rights Quarterly, 23*(3), 678–700.

Christensen, D., & Weinstein, J. M. (2013). Defunding dissent: Restrictions on aid to NGOs. *Journal of Democracy, 24*(2), 77–91.

Council of the European Union. (2012). *EU strategic framework and action plan on human rights and democracy*. Luxembourg (11855/12): Retrieved from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

Curtin, D. (2003). Private interest representation or civil society deliberation: A contemporary dilemma for European governance. *Social and Legal Studies, 12*(1), 55–75.

Della Porta, D., & Caiani, M. (2009). *Social movements and Europeization*. Oxford: Oxford University Press.

Doyle, M. W. (1983). Kant, liberal legacies, and foreign affairs (parts I and II). *Philosophy and Public Affairs, 12*(3–4), 205–235 (I); 323–253 (II).

Dupuy, K. E., Ron, J., & Prakash, A. (2015). Who survived? Ethiopia's regulatory crackdown on foreign-funded NGOs. *Review of International Political Economy, 22*(2), 419–456.

Dupuy, K. E., Ron, J., & Prakash, A. (2016). Hands Off My Regime! Governments' restrictions on foreign aid to nongovernmental organizations in poor and middle-income countries. *World Development*. doi:10.1016/j.worlddev.2016.02.001.

Economic and Social Committee. (1999). *Opinion of the Economic and Social Committee on 'The role and contribution of Civil Society Organizations in the building of Europe'*. Brussels.

European Commission. (2001). *European governance: A white paper*. Brussels.

European Commission. (2006). *Non-Paper expanding on the proposals contained in the communication to the European Parliament and the Council on "Strengthening the ENP": Strengthening the civil society dimension of the ENP*. Brussels.

European Commission. (2007). *European Instrument for Democracy and Human Rights (EIDHR). Strategy Paper* 2007–2010. Brussels.

European Commission. (2010). *European Instrument for Democracy and Human Rights (EIDHR). Strategy Paper* 2011–2013. Brussels.

Heidbreder, E. G. (2012). Civil society participation in EU governance. *Living Reviews in European Governance*, 7(2). doi:10.12942/lreg-2007-2.

Hooghe, L., & Marks, G. (2009). A postfunctionalist theory of European integration: From permissive consensus ot constraining dissensus. *British Journal of Political Science, 39*(1), 1–23.

Joerges, C., & Neyer, J. (2006). *Deliberative supranationalism*. Florence: EUI Working Paper LAW-20.

Kaya, A., & Marchetti, R. (2014). *Europeanization, framing competition and civil society in the EU and Turkey.*

Marchetti, R., & Tocci, N. (2011). Redefining EU engagement with conflict society. In R. Marchetti & N. Tocci (Eds.), *Civil society, ethnic conflicts, and the politicization of human rights* (pp. 181–203). Tokyo: United Nations University Press.

Marchetti, R., & Tocci, N. (2013). The European Union approach to peacebuilding via civil society. In J. Boulden & W. Kymlicka (Eds.), *International approaches to governing ethnic diversity* (pp. 169–197). Oxford: Oxford University Press.

Quittkat, C., & Finke, B. (2008). The EU commission consultation Regime. In B. Kohler-Koch, D. De Bievre, & W. Maloney (Eds.), *Opening EU-Governance to civil society: Gains and challenges* (pp. 183–222). Mannheim: Connex Report Series #5, University of Mnnheim.

Radaelli, C. (2003). The Europeanization of public policies. In K. Featherstone & C. Radaelli (Eds.), *The politics of Europeanization* (pp. 27–56). Oxford: Oxford University Press.

Richmond, O. (2006). Patterns of peace. *Global Society, 20*(4), 367–394.

Richmond, O., & Carey, H. (2005). *Subcontracting peace: The challenges of NGO peacebuilding*. Aldershot: Ashgate.

Vukosavljevic, N. (2007). Training for peacebuilding and conflict transformation. *Experiences of the Centre for Nonviolent Action*. Berlin.

Feeding the Trojan Horse: International Aid Policies in support to NGOs (1990–2015)

Igor Pellicciari

Background

From the perspective of classical international relations, non-governmental organizations (NGOs) have often been accused of acting as hidden agents of foreign states in their effort to protect their own national interests abroad and in particular when trying to be present in crisis scenarios.

As a consequence, several critical analyses have claimed that behind the flag-waving of universal values these NGOs were actually instrumental to the promotion of specific power policies and interests of those states that were supporting them financially.

To consider critically the support given by a foreign state to a non-governmental sector of a beneficiary country in crisis or transition does not signal an effort to discredit the actions of NGOs, nor the meaning of their existence, nor is it an effort to criticize their choice to accept funding from abroad.

It helps, however, to contextualize the political dimensions which shape the motivations and interests of the public donor when it decides

I. Pellicciari (✉)
University of Salento, Lecce, Italy

to support the non-governmental sector in a third country. This point is even more critical when the country in question is resistant to the notion of receiving aid through formal means.

Examining the issue from the perspective of the donor's 'political motivation' is of critical importance as this focus is often missing from the predominant approaches that practitioners and scholars take. For example, we to refer to aid in the international sphere as *foreign aid*, a definition which clearly betrays an approach almost fully focused on the beneficiaries' perspective (it is by definition *foreign* in that it comes to somebody from outside).

On the contrary, it is our contention that, in order to fully understand the political significance and impact of aid, it is important to emphasize what forms of assistance fall under the less considered and yet crucial in our view category of *international aid* among sovereign states, intended as an open multi-level relation that puts in a dynamic and often political dimension the relation between a donor and a recipient.

This chapter is divided into two parts. The first section is structured as an introduction to aid as it has historically developed after the fall of the Berlin wall, with a focus on the development and scope of aid's evolution as an effective political tool on international relations, especially in the hands of nation states. This section is also used as an opportunity to introduce the use of the concept of *International Aid Public Policies* (*IAPP*), instead of the conventional one of foreign aid.

Second, the chapter lists some of the strategic rationale and most frequent tactics that have animated the public donor when it has decided to support NGOs financially, with a particular focus on the two most dramatic examples of aid intervention since the beginning of the nineties, namely the post-war transitions in the Balkans and the post-communist ones in the former Soviet countries, starting from Russia.

Aid as a (New) Tool of (Traditional) International Power Politics

Our starting point for any discussion on the recent history of aid is the end of World War II, and therefore aid in its current form has existed for a period long enough to represent a consolidated historical trend.[1] International relations have been defined by the increase in International Aid Public Policies as a measure by which the quality of bilateral and multilateral relations among sovereign states can be defined.

But International Aid Public Policies have become progressively more important and they have also become more sophisticated with the simultaneous end of the Bipolar system following the collapse of the Berlin Wall and the increased presence of potential state donors in the international arena, each of which have developed their own autonomous ambitions. These ambitions often translate to a desire to have a presence in various emerging scenarios where there is crisis and transition.

It would be incorrect to posit the idea that there were no aid relations among states before World War II (one need only look at the rich rhetoric that surrounded colonialism in 'Old Europe'), but it is our conviction that aid relations have recently come to take on a new central role and have acquired a systematic nature which makes them an instrument of legitimate international governance—equal to if not stronger than other traditional instruments of exchange or conflict.[2]

The primary reference points here are states that attempt to influence each other through *aid*—rather than through *war* or *trade*.

Public expenditure aimed at activating and managing aid and its respective administrative structures have been growing uninterruptedly since Truman's program of assistance to developing countries announced in year 1949, without any periods of real slowdown.

The actors involved have become institutionalized, their policies enhanced, and the types of interventions more refined. The main recurrent relationship dynamics among donors and beneficiaries follow patterns that can be organized into descriptive and recurrent models.

In recent decades, the desire to be at the forefront of aid delivery in areas of geopolitical interest or significance has become the primary political motivation for international donors seeking to enhance their prestige, in particular if they belong to the public policy sphere. Only relatively recently have governments sought to morally and rhetorically justify and link their policies to universal unassailable values.[3] In what seems to be an urgent need to popularize their foreign policy stances in the face of growing public opinion as a result of the extension of the political participation rights in the twentieth century (an example was the rush by governments to rename their War Ministries as Defence Ministries after World War II)—aid has quickly become a useful new category for those (mainly governments) looking to justify international actions actually attributable to classical ambitions of political dominance of nation states.

Institutional public communications remained anchored in universal norms (often religious or moral) that still dominate much of the common narrative on the issue of aid.

Through the guise of aid, donors have the opportunity to reproduce geopolitical strategies linked to the traditional political-theoretical framework of *rasion d'état* and national interest in the modern era, where to the larger participative public such an approach is seen as being outdated and difficult to justify.

This occurs not only in bilateral relations but also—in a more sophisticated and less visible manner—multilateral relations as well. Assistance policies have consistently failed to ensure that they can operate on an assumption of non-interference by donor states within the recipient states. In practice, aid has been among the most important means that powerful states have used to overcome the basic principle of equal sovereignty and non-hierarchal status enshrined in the international legal system. And it allows them to do so in a less overt and coercive form.[4] The category of aid has often successfully helped to justify the *ex ante* or *ex post* right of donor states to exercise political authority and intervene in the foreign and domestic politics of recipient states.[5]

OPERATIONALIZING THE CATEGORY OF STATE AID

An analysis of state-funded assistance in all its various forms and its increasing role in international relations first requires a review of some of the most common approaches to the category of aid.

The need to both communicate and justify aid policies to increasingly interdependent societies has led to an emphasis and focus on the system of *values* inspiring the action of assistance rather than the *interests* related to actors on both sides of the aid equation. This shift in the narrative has been applied both to donors as well as to recipients. Communicating foreign policy and related intentions to a large population has become challenging when the political choice has been grounded in classic realpolitik considerations of state realism. Therefore states often have found it easier to couch their actions by recalling idealist values.

The category of aid has proven to be well suited to this purpose.

Aid as a means of achieving concrete initiatives for the state donor has helped construct a narrative that focuses almost exclusively on the (usually high) objectives declared *ex ante* rather than the actual (often poorer) results obtained *ex-post*, namely the political impact of aid. As a result, there has long been a resistance both in the predominant literature on aid, but also, in the *communis opinio*, to deciding what should actually be regarded as aid and what should be the terms of reference when the category of aid is officially used in discussions about international relations.

This is due to a prejudice about what the actual subject of aid intervention should always be; namely what should be at the centre of the transaction flow between two or more parties of donors and recipients? The prevailing idea, especially in Western countries, is that when it comes to assistance there are mainly two kind of flows which reflect two types of intervention: humanitarian and development aid.[6]

In the journalistic narrative (often the first and only source on these issues available to wide audiences) the two terms are often overlapping, and are even more often openly confused with each other, or used interchangeably.

In the case of humanitarian intervention, the subject of the aid transaction is what is expected to cover basic/primary needs, whether these needs are related to emergency crises or to charitable assistance. In development intervention, on the contrary, the subject of the aid transaction aims to narrow the gap in development between the parties involved, both in terms of the material (especially economy and infrastructure) and the political-institutional (governance and/or rights and standards) aspects of development.[7]

While the above meanings of aid constitute a very large and important number of concrete historical cases of aid and are vital components of the historical evolution after World War II, in reality, if we are to frame the *political scope* of aid, we should go further and consider other exchanges among donors and recipients as fully fledged forms of aid intervention. These other types of support are critical largely because they are often not treated as *aid*. However, they do play a fundamental role in shaping the political relations between the donor state and beneficiary state.

It is also important to stress that a minimum operational definition of aid must arise from the *parties* involved in the aid relation, rather than from the *object* of the transaction; that, even if important, should remain in the background of the initial analysis. Such a perspective should lead us to prioritize any asymmetrical *exchange flows*—whatever the transaction is—between a donor and a recipient—provided the two are distinct and identifiable.

Due to this approach it is possible to include in the initial picture forms and types of aid that are often excluded and not considered at all (such as energy supply, technology transfers, financial loans—but also direct military support).

Once the above is assumed, the next methodological step, however, takes the opposite approach—namely it limits the empirical frame of reference of our analysis by focusing on the aid delivered at an international

level and the types of intervention, which are clearly *public* in nature or source. The reason for this limitation is the need to define a coherent subject of research in reference exclusively to donor states' foreign policies; rather than getting overwhelmed in analyzing a great multitude of possible aid actions, involving any kind of donors, which would mean including also private and non-governmental actors.

Therefore our proposal is that in dealing with types and forms of mutual political conditioning and domination among sovereign states, the focus will remain on those relationships where:

(a) The donor and recipient clearly belong to different countries
(b) The proposed aid is clearly being funded either fully or partially by a public budget.

Finally, for the same reason cited above, it is important to limit this analysis strictly to *policies* of aid intended to operate as a series of continuous actions of assistance over a set period of time, each coordinated and planned with respect to a set of overall objectives in the medium–long run, defined by the donor. Single aid initiatives are to be considered relevant in this analysis only if they are enacted as part of an overall policy. Including any ad hoc aid initiative in the research, regardless of their connection to a foreign policy strategy, would force us to consider a much larger number of cases, which would risk losing sight of our primary concern: i.e., framing the policy objectives of the donor states.

By joining the four operational aspects indicated above the final reference in our analysis is to IAPP, as summarized in Table 15.1:

This approach based on *IAPP*s should be used primarily to provide a descriptive overview of historical and political aid developments occurring since the beginning of the nineties.

Table 15.1 International aid public policies

Aid	Any kind of transaction between a donor and a recipient
International	Donor and recipient belong to two different countries
Public	Financed through a public budget (related to central or local government)
Policy	Continous set of actions planned on mid- to long-term objectives

Author's own compilation

It has the advantage of incorporating a much larger number of cases, types of assistance and situations in the analysis that are often not covered in the classic references to humanitarian-emergency or welfare-development cooperation aid as framed by Official Development Assistance (ODA) indicators, that by definition do not include loans and credits for military purposes. The enlarged approach proposed here can, in our view, better explain how the relationship of obligation comes into place between donor and recipient states.

In other words, it allows for a better grasp of the political dimension of aid in the international sphere as intended in all of its forms, including those that refer to public support (or, on the contrary, legislative limitations) to NGOs.[8]

POLITICS OF INTERNATIONAL AID AFTER THE END OF BIPOLARISM (POST-WAR AND POST-SOVIET TRANSITIONS)

Such a politically based approach to the idea of aid interventions requires a critical review of several other related aspects, such as:

- the types of aid actors that interact in any intervention scenarios, both from the side of the donors and the recipients. This includes a great variety of *implementing agents*—and NGOs might often be considered one of them—that frequently mediate any type of donor-recipient relationship.
- the most recurrent practical political dynamics and mutual behaviours among aid actors;
- the types of intervention and types of assistance modalities, classified on the basis of the transaction object;
- the dynamics of organization, procurement and implementation of these aid/assistance modalities;
- types of intervention scenarios in which the various aid initiatives converge, based on the nature and evolution of needs, as well as on the stability of the institutional framework for the corresponding action;
- the historical periodization of aid policies phases.

* * *

On top of the above aspects, yet another initial working thesis should be underlined, namely that aid polices have undergone radical changes, particularly in the two decades following year 1989. This period began with the fall of the Berlin Wall and largely emerged through two specific international crises that were both unique and quite unexpected—the breakup of the Soviet Union and the wars in the former Yugoslavia.[9]

Both of these crises laid bare new features that did not emerge during previous intervention scenarios and which have played a central role in the evolution of international aid system operations and interventions, especially when compared with how this system developed over the preceding decades.[10]

There are three main features of aid that must be kept in consideration if we are to redefine it as a tool of international relations.

(A) On the one hand, the two crises led to a substantial increase—now irreversible—in the total number of directly active aid actors and in particular of state donors. This is primarily due to the end of the bipolar international system of relations, consolidated after World War II and has resulted in a multiplying of actors willing to play a bigger international role with greater visibility and independence compared to the past, when they were strongly limited in their international initiatives. Secondly, this increasing number of aid actors has been facilitated by the geographical proximity of new crises—primarily in Russia and the western Balkans—making them easily accessible to many donors, in particular those from Europe.

(B) Both scenarios marked the breakout of deep crises in countries that before the transition could boast generally high levels of socio-economic development. In the case of Russia—which inherited the international role of the USSR—there was the unprecedented case of a country which had been a great donor itself during the whole Cold War period suddenly needing assistance, while still being a permanent member of the UN Security Council. Their geopolitical weight, prestige, and importance to so many of the new aid actors, made projects in these countries a top political target for the large number of new donors.[11]

(C) A related point, is the circumstances under which these new aid and crises scenarios were emerging. The aid and types of assistance required by these states were more sophisticated mainly because their internal structure of needs was subject to rapid change, almost on a daily basis. This made aid planning an extremely challenging task, and

had the effect of showcasing the weakness of simply transferring models and forms of assistance that had been used up to then in developing third world countries to the nascent states from the former USSR and former Yugoslavia.[12]

***

The International Aid to NGOs in Transition Scenarios

In this framework, designed in an era in which *IAPP*s are spreading through intervention in countries that are *already* developed, a large share of state-funded assistance has been channeled through the non-governmental sector.

While the amount of NGO assistance represents a smaller quantitative share in relation to the global amount of state-funded aid, it has nevertheless garnered an important and increasing visibility, which has allowed it to gain an outsized share of importance in the predominant political narratives associated with aid.

Moreover, since the nineties, the number of NGOs (local and international) has increased as have the sectors in which they operate. This includes areas that are at once highly technical and also have been traditionally linked to public sphere competencies.

It is therefore interesting to assess how support for these NGOs has become implicit and a structural instrument of sovereign foreign policies led at bilateral and multilateral levels.[13]

Given the above observations, the focus of the analysis should here be concentrated almost fully on the political motivations of the institutional donor—rather than (as is almost exclusively the case today) on those of the NGO recipient. By doing this, one should isolate the political motivations and foreign policy interests of the state donor that has been supporting the non-governmental sector, as these motives often go far beyond the set of values declared at the outset of a given aid initiative.

***

Before listing these political motivations of the state donor there are, however, a number of further background assumptions that should be pointed out:

(1) In the period (1990–2015) and cases (the transitions following the breakdown of USSR and SFRY) being observed, individual states have positioned themselves as independent actors in the international sphere, yet have hewed to political schemes that are directly inspired by realism.[14] Power politics, along with the effort to strengthen their role in international relations has been guiding states in determining many of their basic actions and decisions, probably more than in the past given the large uncertainty surrounding the global hierarchies and post-Cold War set-ups. As a result, donors—despite a very recurrent rhetoric of 'donors coordination'—have acted in hard *competition*, each seeking to take a leading role in crisis scenarios that were of geopolitical interest to them. Although this is applicable to most internationally relevant crisis scenarios that have arisen after 1989, the Bosnian case, especially in the period between 1995 and 2000, shows most clearly this conscious 'overlapping' of donor activities aimed at being present 'on-the-spot-at-any-cost', regardless of other donor activities or an updated assessment of the needs of the recipient side.

(2) Accordingly, aid channeled through NGOs during these transitions has been used primarily to respond to the general objectives set out in the foreign policy of the state donor in the particular crisis area and sector where the NGOs were operating. Again, Balkans post-war and Russian post-Soviet crises have demonstrated that state donors have often arrived in recipient countries with the sectors of their assistance already defined.

And accordingly NGOs have adapted their area of operations to these imported and already existing grants, rather than the opposite— to the extent that in several cases NGOs have even been constituted ad hoc in order to intercept specific grants. This circumstance has often triggered criticism towards the real civil society representativeness of NGOs operating in these grant schemes.

(3) In recipient countries going through post-Soviet transitions and primarily in Russia there have often been higher levels of sovereignty among the relevant public institutions rather than those registered in the Balkans post-conflict transitions. As a result, post-conflict transitions therefore tend to place the recipient side in a weaker position to negotiate with the institutional representatives of the donors and are unable to limit the degree to which international aid penetrates into the country and, more importantly, the conditions by which it is

allowed to operate. Applied to the development of the non-governmental sector, this has led to a great NGO presence in the Balkans post-war transitions, accompanied by a substantial freedom of action due to a lack of a regulatory frameworks and tolerant local political environments that did not dare to question the operations of NGOs that were openly supported by strong foreign state donors. The opposite is true in post-Soviet environments—where the support of foreign funding to NGOs has created an aura of suspicion around them, rather than of legitimacy, and has ultimately led to the production of legislation trying to regulate and limit the link between NGOs and state donors.

(4) Accordingly, the dynamic of the donor–NGO relationship has greatly depended on whether the relevant supported NGOs either originated and were headquartered in the country of the donor or instead first established and/or legally registered in the aid recipient country.[15]

In post-Soviet transitions recipient states such as Russia, domestic NGOs have always been seen suspiciously by local authorities both from a formal juridical point of view as well as from a political angle, as they were considered to represent the political interest of foreign donors.

***

All that said, we can try to list below a selected number of different rationales and political motivations that have characterized institutional donor support of NGOs. In examining again the Balkans post-conflict and also post-Soviet transitions it is worth underlining the following elements that have been common to both cases:

(1) Donor states have often been offered both perfect justifications and simultaneously effective operational solutions to facilitate their *entry* and *presence* in countries and areas of primary geopolitical interest. This has been a valuable asset in states or regions where direct intervention was unlikely to be accepted by the local authorities in a recipient country. NGOs often came—and continue to come—as operators on behalf of the state donor in areas where these donor states would not dare to be formally present or would not be allowed to operate. Despite this reality, the dominant narrative supported by donors has stressed and often overestimated the political independence of NGOs, putting aside the examination of their financial dependence on their

donor.[16] For instance, NGOs that supported the promotion of human rights or, more specifically, better judiciary systems in recipient countries have rarely scrutinized with equal strictness the same issues in donor states.

(2) Such a guaranteed presence in a context of geopolitical interest gave the state donor an additional number of assets, among which these are worthy of mention:

- Access to first-hand observation and accurate analyses that get constantly updated on the areas of intervention and in strategic sectors;
- An influence on the policymaking and institutional development in the political system of the recipient country—achieved also thanks to the active political role played locally by NGOs. The latter has been more visible in the Balkans post-conflict scenarios. In the the post-Soviet cases, the stronger sovereignty of the recipient state has actively affected the political and legislative effort to limit the range of political action of local NGOs, and strengthened support for the development of domestic pro-governmental NGOs (GONGOs) instead.

(3) An additional interest of donors has been their ability to influence the selection of local elites to work on their behalf during a scenario of intervention. This ability was made easier as, finding themselves in a period of crisis transition, the analyzed countries were structurally more exposed to internal changes within their political society. Moreover, NGOs that were established in transitional recipient countries and that have received external support have been more likely to get institutionalized both in their structure as well as future domestic leadership. The donor state therefore has proved to have successfully influenced the evolution of the political landscape of the recipient country based on how critical selected financial resources have been allocated and granted to NGOs during the transition period.[17] Consequently, these institutionalized new elites had an advantage when running for political leadership in recipient countries and after these elites eventually won local election contests they have continued to be potentially influenced by the NGOs that supported them, as well as by the respective donor state backers which supported them at the outset of their political career. The landscape of political elites born in the Balkans in the post-war period has been heavily influenced by the aid that they have individually received while getting ready for their direct political involvement. The most illustrative case has probably been the NGO G17 Plus in Serbia which later transformed itself into a

political party that became part of several ruling coalition governments throughout the 2000s and early 2010s. Moreover, a number of politicians have individually benefited from financial support from foreign donors at an early stage of their career (it is worth recalling here the case of the strong impact achieved by the Open Society Foundations of George Soros, that had a crucial role especially in the Balkans). They have often been considered by the donors as a political investment that would eventually pay off in terms of control and influence on the emerging elites in the recipient countries.

(4) *Visibility* and *legitimacy* associated with a leading role in these crisis scenarios also has worked towards the fundamental interests of the donor states both internally and domestically. The primary benefit has been the international prestige which came to the donor from having (or at least appearing to have) a presence in the mentioned crisis scenario. This role allowed them the ability to grant themselves a future leading role in negotiations of international community interventions in these particular areas.[18] An example of this behaviour has been the usual contest among donor states to be the-'first-to-come on the field' of the crisis, as this has usually guaranteed a leading role in the donor's conferences that follow at the end of the crisis. In addition, donor states often received legitimizing feedback from national elites of recipient states (that has been most welcome, as it usually arrived during moments of when the donor was undergoing a political crisis of legitimacy and popularity stemming from other internal policy issues). Once again, the post-war scenarios in the Balkans played an evident role in granting a new political legitimation to several western leaders who were at the time rather weak in their domestic political systems—by associating their images with peace-building and other types of highly visible humanitarian intervention. This has been the case in all western countries after the end of the bipolar phase, but was most evident in the case of the Italian period of '*mani-pulite*', which coincided with the post-Dayton peace process in the Balkans. Many Italian politicians sought to re-establish their reputation as credible leaders on the basis of their successes in being associated with the delivery of aid during the Balkan crisis.

This visibility and legitimacy was even more valuable for leaders of the donor state as it came from promoting universal and politically unassailable themes and values, which have easier and immediate appeal to domestic public opinion.

(5) Related to the previous point, most donor states have sought to com-bat criticism over their credibility by locking-in on a key sector of policy, on which supported NGOs were active in the recipient coun-try. This made donor states more immune to domestic criticism over their own governmental decisions on these very same policy issues. Western leaders and countries supporting NGOs in Russia, have typi-cally advocated for the freedom of information (which is one of the most targeted sectors of assistance in post-Soviet societies). In doing so they de facto made themselves less vulnerable to attack from inter-nal opponents and critics of how the issue is handled in their own political systems.

(6) By conditioning the timing of the activities of the supported NGOs, as well as the related communication to the public, donor states devel-oped the ability to influence the agenda of the international media, defining the mainstream official narrative in the recipient country according to its political needs and the timing of the political agenda. This has triggered the donor's capacity to activate specific public attention and opinion onto the supported geopolitical areas any time this was needed, regardless of the presence (or not) of real breaking-news events on the spot. Donor states have often been able to draw the attention of the public at appropriate and desired times on a spe-cific geopolitical area or policy, or more simply when there was a need for a diversion to draw international attention away from other issues more damaging for the donor.

(7) Financial support to NGOs has often allowed state donors to legiti-mize their increases in public expenditure in periods that have, on the contrary, been marked by a global decline in public support for gov-ernment spending in post-Keynesian economies. The rhetoric of the needs that had urgently to be solved in crisis scenarios has helped to overcome the internal opposition towards generous spending in aid and logistic initiatives. Furthermore, in a considerable number of cases the politically active society of the donors states has been the actual final beneficiary of financial support given to some NGOs which were only formally independent from the political-party system—but that were de facto closely connected to it through unresolved conflicts of interest among key individuals and its top management.[19]

<div align="center">* * *</div>

What remains very interesting is that most of the above-listed donor state political motivations and interests in supporting NGOs over the last decades have been almost absent in the formal storytelling, as these narratives have often been presented to the world through communications that were developed, disseminated, and financed by the donors themselves. The fact that the documents produced by the donors (final, monitoring, evaluation report, impact studies, or similar) were actually promotional rather than analytic is proven both by the fact that such assessments had very limited circulation in academic circles and were not used as source of information for further research, and also within the same donor organizations they have been institutionally forgotten and not systematized for future reference and consultation.

Instead, both in the Balkans and in Russia the emphasis has been placed on a great number of instant on-demand narratives centred on prescriptive, apologetic promotion of high-impact values, which were declared *ex-ante* by the donors. There has been, in a minority of cases, a number of critical comments on aid initiatives mainly made by journalists but only when there was a potential for clear sensational scandals to be brought to light, such as brutal evidence of the misuse or misallocation of funds. For the daily news, indeed, the visible *inefficiency* of aid has been and still is a more interesting story than its structural *ineffectiveness*.

In both cases, accounts have centred on values or those that 'reveal' scandals; the constant missing element has been the focus on aid as a legitimate and realistic instrument of foreign policy, which is up to today an element that remains largely an untold story.

As the values-inspired narrative has been strongly backed by the donor states controlling the mainstream media's coverage of the topic, the support given to the work of NGOs has not often become objectionable *in primis* in front of the donor state's public opinion. Less protected from criticism have been financially supported NGOs operating in those recipient countries—such as Russia—that were eager to leave behind their status as recipients as soon as possible and to end their subordinate position in relation to the traditional donor states in order to become new donor states themselves.

NGOs in these countries have often been referred to as 'foreign agents', a definition that started as a description of their formal role (implementing agents that receive foreign funding), but that has progressively re-assumed

the strongly negative political connotation it had during the Soviet period, reserved for quasi-foreign intelligence organizations, working with anti-patriotic goals if not against the establishment.

Accordingly, a raft of legislation on NGO activities has been drafted and adopted that was initially born out of the idea that NGOs' activities needed to be regulated and could no longer be allowed to take advantage of the extra-territorial, extra-legal, or very generous extra-fiscal privileges that most of them could benefit from during the transition period.[20]

Often, however, such legislation went too far and has been enforced to curb NGO operations and discourage their existence, especially when they are almost exclusively dependent on foreign funding.[21]

It should finally be noted here that this regulatory trend in the confused NGO sector in transition scenarios has been most visible and pronounced in the post-Soviet crisis scenarios, rather than in those of post-war crisis, where the NGO sector still remains largely de-regulated. In the first case, authorities in post-Soviet recipient countries have demonstrated a greater level of state capacity and in general stronger sovereignty in times of crisis and transition, and this has allowed them to successfully challenge donor states' efforts to establish greater freedom of action for NGOs in recipient countries. Conversely, in the Balkans post-war scenarios NGOs have long remained in a situation where their activities took place in extra-territorial and extra-legislative unregulated realms, a fact that has facilitated their objective to place themselves often outside of the taxation laws both of the recipient country and—interestingly—of the donor countries.

This is maybe one of the most disturbing and unexplored dynamics of NGO-led operations in areas of post-war transition to date.[22] However, it should perhaps first be carefully monitored by relevant state audit authorities before being analyzed by academics, as objective information on the management of their operations is extremely difficult to find from reliable, non-biased sources. Such information could be collected only through specific legislative requirements that too often are missing and therefore leave NGOs in a state of limbo, with very poor institutional (but also financial) records of their activities.

While the regulatory limitations introduced in post-Soviet countries against foreign funding to domestic NGOs have been often blamed to be an attack on civil society development and freedom, it is worth noting that the same countries that were former recipients and then became new donors themselves have recently developed a more pragmatic approach to the issue and actually started looking for NGOs to be supported

overseas—that could give a positive political return there where more is needed for them.

Not surprisingly, while trying to establish itself as the emerging donor state of recent years, as part of its plan to regain its traditional international relevance, since 2006 Russia has upgraded and relaunched more vigorously the effort to develop direct programs of support and funding to NGOs working in those scenarios where Moscow openly recognizes its clear geopolitical interest.[23]

Partially connecting to a Soviet tradition, which considered it as a duty for the USSR to help with all different means at its disposal friends and allies around the world—today's Russian support to NGOs overseas is technically more sophisticated and tailored to the features of new crises. But it comes with an open political reference made by the Kremlin to the need for the Russian diplomacy to make a larger use of 'soft-power' tools.[24]

Moscow's support to NGOs in Ukraine after the Maidan, in open competition with similar efforts undertaken by other traditional donor states, outlines a sort of 'war of aid' that will probably become a growing world trend that will be replicated elsewhere—as Moscow intends in the near future to be more and more involved as a global player in all major internationally relevant scenarios.

***

Approached from this perspective, which shows state donors in permanent competition among themselves in order to be present so that they can protect their narrower geopolitical interest, IAPPs become an active, first-choice and almost-routine instrument of foreign policy, a strong alternative to traditional tools such as war or trade in promoting the power policies of state donors. The constant financial support to NGOs falls completely into this scheme and represents nothing less than one of the instruments of increasingly sophisticated IAAPs, very effective in particular for entering those recipient countries that may resist external aid and assistance.

Seen in this light, though they may often not be aware of it themselves, NGOs do actually play the role of Trojan Horses, fed by state donors that operate to further political interests that are more important to them than the welfare of aid recipients.[25]

Notes

1. See Lancaster (2008). (*Note*: *Lancaster also contends that there are anteced-ents to foreign aid prior to WWII i.e. colonial "development", technical assis-tance, lend lease) But believes aid as we understand it today grew out of World War II and the Cold War. Therefore she begins her history with 1945.*
2. See Grilli (1993).
3. See Weber (1995).
4. See Krasner (1999).
5. Grilli, *The European Community*, 22.
6. See Grovers and Hinton (2013).
7. See Browne (2006).
8. Grove and Hinton, "The Complexity of Aid," 14.
9. See Robb (2013).
10. See Crawford (2001).
11. See Goldgeier and McFaul (2003).
12. See Mawdsley (2012).
13. Crawford, *Aid and Reform*, 22.
14. See Schweller (1999).
15. Ibid, 22.
16. Brown, *Aid and Influence*, 118.
17. See Barnett and Weiss (2011).
18. Mawdsley, *Recipient*, 147–148.
19. See Papavac (2006).
20. See Sundstrom (2006).
21. See Jo Crottya and Ljubownikowc (2014).
22. Pupavac, *Politics of Emergency*, 263.
23. See Pellicciari (2015).
24. See Pellicciari (2014).
25. This paper is largely the product of the research and writing I conducted as a visiting fellow at IDEAS, the London School of Economics and Political Science (http://www.lse.ac.uk/IDEAS/Home.aspx), in 2015.

Erratum

Partnerships in International Policy-Making

Civil Society and Public Institutions in European and Global Affairs

Raffaele Marchetti

The original book was published without the references in the print and online versions of the below chapters. The references are listed below:

The updated online version of the book can be found at

References

Chapter 5

Bezember, Dirk, and Derek Heady. 2008. Agriculture, development and urban bias. *World Development*, *38*(8): 1342–1364

Boettke, P. et al. (2008). "Institutional stickiness and the new development economics," *The American Journal of Economics and Sociology*, *67*(2): 331–358.

Boggs, C., & Thale, G. (2013). *Government investment in family agriculture: New opportunities in Mexico and Central America*, p. 2. Washington, DC: Washington Office on Latin America. Retrieved from http://www.wola.org/files/Government_Investment_in_Family%20Agriculture.pdf

Booth, D. (2014). *Agricultural policy choice: Interests, ideas and the scope for reform*. IIED Working Paper September 2014. London: International Institute for Environment and Development (IIED).

Booth, D. (Ed.). (2015). *Developmental Regimes in Africa: Initiating and sustaining developmental regimes in Africa – Synthesis Report*. London: Overseas Development Institute. Retrieved from http://www.institutions-africa.org/filestream/20150216-developmental-regimes-in-africa-synthesis-report

Dreher, A. (2006). "IMF and economic growth: The effects of programs, loans and compliance with conditionality," *World Development*, *35*(5): 769–788.

Driscoll, R. and Evans, A. (2005). Second-generation poverty reduction strategies: New opportunities and emerging issues. *Development Policy Review*, *23*(1): 5–25.

Fernandez, I., Berdegué, J., & Rosada, T. (2011). Diálogo de políticas para el desarrollo rural: Informe Regional, Apoyando la puesta en marcha de la Estrategia del FIDA. Retrieved form http://rimisp.org/wp-content/files_mf/1430878216InformeregionaldialogodepoliticasRIMISP.pdf

IFAD. (2014). *IFAD's emerging approach to country-level policy engagement*. Retrieved from http://www.ifad.org/pub/policy/policy-engagement.pdf

IFAD. (2015). *Policy case studies: Supporting public hearings on the East African Community cooperative societies bill*. Retrieved from http://www.ifad.org/clpe/case/case_eac.pdf

IFAD. (2015). *Policy case studies: Exchange on good practices for public consultation*. Retrieved from http://www.ifad.org/clpe/case/case_tajikistan.pdf

IFAD. (2016). *Country-level policy engagement in IFAD: A review of experience*. Retrieved from http://www.ifad.org/pub/policy/clpe.pdf

Jenkins, R. (1991). "The political economy of industrialization: A comparison of Latin American and East Asian newly industrializing countries," *Development and Change 22* (1991): 197–231.

Kydd, J. et al. (2004). "Agricultural development and pro-poor economic growth in sub-Saharan Africa: Potential and policy," *Oxford Development Studies*, *32*(1): 37–57.

Lipton, M. (1977). *Why poor people stay poor: Urban bias in world development.* Cambridge, MA: Harvard University Press.

Olson, M. (1965). *The logic of collective action: Public goods and the theory of groups.* Cambridge, MA: Harvard University Press.

Stasavage, David. 2005. Democracy and education spending in Africa. *American Journal of Political Science*, *49*(2): 343–358.

World Bank (2008). *World Development Report 2008: Agriculture for development.* Washington, DC: World Bank.

The updated original online version for this chapter can be found at
http://dx.doi.org/10.1057/978-1-349-94938-0_5

Chapter 6

Carothers, T., & Brechenmacher, S. (2014). *Closing space: Democracy and Human Rights support under fire.* Carnegie Endowment for International Peace, 61. Retrieved from http://carnegieendowment.org/files/closing_space.pdf

Chin, J. (2015). China cracks down on Foreign Nonprofits Beijing treats civic groups as security risks, considers stricter oversight. *Wall Street Journal*, Retrieved March 6, 2015, from http://www.wsj.com/articles/china-cracks-down-on-foreign-nonprofits-1425694223

Li, Y. (Ed.). (2011). *NGOs in China and Europe: Comparisons and contrasts.* Burlington, VT: Ashgate.

Mayer, L. H. (2011). NGO standing and influence in regional human rights courts and commissions. *Brooklyn Journal of International Law 1*(1): 911–946.

Naim, M. (2009). What is a GONGO?: How government-sponsored groups masquerade as civil society. *Foreign Policy*, Retrieved October 13, 2009, from, http://foreignpolicy.com/2009/10/13/what-is-a-gongo/

Pace, W. R., & Thieroff, M. (1999). Participation of non-governmental organizations. In R. S. Lee (Ed.), *The International criminal court: The making of the Rome Statute, issues, negotiations, results* (pp. 391–398). The Hague: Kluwer Law International.

Sunga, L. S. (2007). Dilemmas facing NGOs in coalition-occupied Iraq. In D. A. Bell & J.-M. Coicaud (Eds.), *Ethics in action: The ethical challenges of international human rights nongovernmental organizations* (pp. 99–116). Cambridge University Press.

Sunga, L. S. (2009). What effect if any will the UN human rights council have on special procedures? In J. Grimheden, G. Alfredsson, B. G. Ramcharan, & A. de Zayas (Eds.), *International human rights monitoring mechanisms* (2nd ed., pp. 169–183).

Sunga, L. S. (2011). What should be the UN human rights councils role in investigating genocide, war crimes and crimes against humanity? In M. C. Bassiouni & W. A. Schabas (Eds.), *New challenges for the UN human rights machinery: What future for the UN treaty body system and the human rights council procedures?* (pp. 319–349).

Sunga, L. S. (2015). Has the ICC unfairly targeted Africa or has Africa unfairly targeted the ICC?. In T. Mariniello (Ed.), *The international criminal court in search of its purpose and identity* (pp. 147–173). Routledge.

The updated original online version for this chapter can be found at
http://dx.doi.org/10.1057/978-1-349-94938-0_6

Chapter 15

Barnett, M., & Weiss, T. G. (2011). *Humanitarianism contested: Where angels fear to tread* (p. 91). New York: Routledge.

Browne, S. (2006). *Aid and influence* (pp. 9–10). London: Eahscan.

Crawford, G. (2001). *Foreign aid and political reform* (p. 65). New York: Palgrave.

Goldgeier, J. M., & McFaul, M. (2003). *Power and purpose*: *U.S. policy toward Russia after the Cold War*. Washington DC: Brookings.

Grilli, E. R. (1993). *The European Community and the developing countries* (p. 7). Cambridge: Cambridge University Press.

Groves, L. & Hinton, R. 2013. The complexity of aid. In L. Groves & R. Hinton (Eds.), *Inclusive aid: Changing power and relationships in international development* (p. 11). London: Routledge.

Jo Crottya, S. M. H., & Ljubownikowc, S. (2014). Post-Soviet civil society development in the Russian Federation: The impact of the NGO Law. *Europe-Asia Studies*, *66*(8), 1253–1269.

Krasner, S. (1999). *Sovereignty organized hypocrisy*. Princeton, NJ: Princeton University Press.

Lancaster, C. (2008). *Foreign aid: Diplomacy, development, domestic politics* (pp. 28–29). Chicago: University of Chicago Press.

Mawdsley, E. (2012). *From recipient to donor: Emerging powers and the changing development landscape* (p. 35). New York: Zed Books.

Pellicciari, I. (2014). *Война за право помощи* (War for Aid)—Международная жизнь (International Affairs), *III*, 64–67.

Pellicciari, I. (2015). *Aiuti come Armi. La Russia in cerca di soft power* (Aid as a weapon. Russia in seek of soft power), *LIMES*, *II*, 159–166.

Pupavac, V. (2006). The politics of emergency and the demise of the developing state: problems for humanitarian advocacy. *Development in Practice 16*(3/4), 258.

Robb, C. (2013). Changing power relations. In L. Groves & R. Hinton (Eds.), *Inclusive aid: Changing power and relationships in international development* (p. 30). London: Routledge.

Schweller, R. (1999). Realism and the present great powers system: Growth and positional confilct over scarce resources. In E. B. Kapstein & M. Mastanduno (Eds.), *Unipolar politics: Realism and state strategies after the Cold War* (pp. 28–68). New York: Columbia University Press.

Sundstrom, L. M. (2006). *Funding civil society: Foreign assistance and NGO development in Russia* (Stanford, CA: Stanford University Press).

Weber, S. (1995). European Union conditionality. In B. Eichengreen et al. (Eds.), *Politics and institutions in an integrated Europe* (pp. 193–220). Berlin: Springer-Verlag.

Index[1]

---

[1] **Note: Page numbers with "n" denote notes.**