

"Civil Society" is a term that has assumed a rare distinction in global political discourse: it has been so thoroughly overused and "stretched" that it has become increasingly difficult to define specifically what one means when they talk about it. This is unfortunate. While there is considerable debate about the definitional boundaries of civil society as a concept, there is remarkable agreement about the importance of civic associations in terms of their ability to build trust, minimize corruption, and develop strong community linkages among citizens. In their ideal form, such organizations are immensely helpful in reducing communal violence and extremism, in fostering economic growth at the local and regional level, and in building politically active and engaged publics. At the outset, panelists agreed on a fairly flexible definition of civil society, suggesting that as human beings we cannot easily choose our families, kith and kin, and our communal groupings. Similarly, we cannot specifically choose the states that govern us, even under the most democratic of rules. Civil society, then, is the space between these two ends under which we have freedom. It is the realm in which communication between free peoples is able to define issues, publics, and citizens. As one panelist noted, there is no example of human civilization where civil society was ever wholly absent. While some social systems are more tolerant of civil discourse and organization than others it is naive to suggest that the fundamental deficiency in post-conflict and 'failing' states is a lack of civil society. As Ashutosh Varshney has noted, civil society can be organized to commit decidedly intolerant and anti-democratic acts. What we are most interested in, it seems, is the formation and nurturing of civil discourse that generate incentives for broad participation. With these ideas in mind, panelists addressed a series of related topics.

The initial panel session was organized around the changing role of Non-Governmental Organizations in a rapidly globalizing world. In 2004, UN Secretary General Kofi Annan published a report in which he issued proposals for improving UN/NGO relations. The report was the result of a general acknowledgment that the work of NGOs within the UN has increased significantly. This raises a number of questions about both the institutional efficiency of NGOs and about representative and participatory law-making and their relationship to democracy. The role of NGOs in the context of democracy-promotion and civil society creation is not a trivial one, particularly in post-conflict states where the threat of 'state failure' is ever-present. NGOs, both foreign and domestic, assume critical roles in the process of governance, often at the expense of local engagement. Panelists were asked to consider both the normative and practical aspects of NGO activity in light of democracy promotion goals and along several important cleavages. First, if we consider NGO participation to be qualitatively different from the broad and full participation of civil society, what does this say about the UN's permissive posture towards NGO participation in many areas of its work? While NGOs arguably possess a number of qualities that make them excellent proxies for civil society, some critics suggest that they are also elite-driven and disconnected from the publics they ostensibly serve. According to this perspective, their influence may actually undermine the democratic project.

Does the equalizing nature of civil society continue to hold when NGOs become the voice of civil society? Some social movement scholars argue it does not. NGOs rely on

funding and this funding can have the effect of silencing huge swaths of civil society and can reinforce conventional lines of political exclusion. Others argue that the ability of some NGOs to garner funds while others languish is a good proxy for democracy since it can be argued that successful organizations are oriented around issues that are relevant to a plurality of citizens. Is this "marketplace of ideas" tantamount to democracy?

Panelists brought a number of different perspectives to bear on the issue of NGO activity and representative legitimacy, with some panelists disagreeing about the idea of legitimate representation in the first place. According to this view the general absence of effective governments in many states effectively precludes good measures for broadly - based legitimacy. While NGOs may not be ideal mechanisms for self-governance they at least can deliver on key policy outputs that might otherwise be unavailable. In this view, the larger question of democratic legitimacy may be secondary. Of course, this position begs two important questions. First, if we have democratic government as our long-term goal, is it not the case that NGOs that essentially supplant citizen-led involvement in favor of externally provided (at worst) or co-produced (at best) policy goods do a disservice to the democratic project? This critique focuses primarily on the Tocquevillian principle of effective local government as measured by a high degree of citizen involvement. It suggests that NGOs may be a short-term bromide for the lack of citizen-led associations that retards the long-term development of organic cooperation. In other words, the achievements of NGOs come at the cost of civil society growth. Second, to the extent that NGOs are neither elected nor accountable to the citizens of post-conflict states, the satisfaction of citizens' needs through decidedly non-democratic means does little to reinforce peoples' faith in institutions of representative government. Thus, we face a significant dilemma. On one hand, post-conflict states lack the appropriate infrastructures to produce necessary policy goods such as roads, courts, schools and the like. At the same time, such societies are often riven with deep communal divisions that exacerbate the troubles of policy production and hamper efforts at democracy-building. Further, these deep social cleavages make mutual trust and cooperation, the very foundation of associational civic life, virtually impossible to achieve in the short run. Ostensibly, NGOs help to fulfill this role by both satisfying the immediate public policy needs of local communities and, ideally, by providing a 'blueprint' for how citizen co-production can effectively work. Indeed, the vast majority of NGOs in the developing world list 'civil society promotion' as a key objective of their organizations. At the same time, however, there is little in the way of international standards for NGOs. Many states, particularly those in the developing world, have minimal ability to effectively monitor NGO activity. More importantly, as at least one panelist noted, many NGOs are doggedly exclusivist in both their mission and approach.

Does organization through the UN serve as a method of addressing these concerns? Panelists note that NGO growth is as much a response to pecuniary incentive as it is an expression of goodwill. As one participant noted, a sizeable minority of NGOs effectively serve as 'get rich' mechanisms for members and cannot credibly claim to serve any beneficial role. In this regard, some set of internationally accepted rules of oversight may be, *prima facie*, a good method of reining in those organizations that engage in malfeasance. Indeed, many NGOs already register with the UN simply as a means of

receiving consultative status. Again, however, the key dilemma is that UN recognition is no substitute for true legitimacy. Several panelists argued forcefully that there is, ultimately, no real source for procedural legitimacy. It can neither be granted by the UN nor given by national governments. It is, in effect, a prodigal son of civic organization detached from full citizen engagement and deprived of credible oversight, a key topic of the second session. While having neither a master nor a constituency may prove fruitful for some NGOs, it does little to satisfy the democratic agenda many NGOs profess to pursue.

If, as many panelists agreed, NGOs are a poor substitute for civil society, how can civic associations be promoted? Again, it is necessary to differentiate between exclusionary civic groups that can harm the nation-building project and inclusive associational groups that can effectively redress communal division and foster cooperation. Successful democracies require the latter and must minimize the former. Panelists generally agreed on an ideal type of civil society. Such a civil society would be "free, associational, peaceful, inclusive, and voluntary." Striking a particularly Habermasian notion of civic associational life, several panelists also argued that civil society must reflect a 'free space' in which issues relevant to collective life can be discussed by co-equal citizens without fear of punishment or retribution. Panelists ultimately arrived at a general consensus that effective civil society is not defined in terms of its relations vis-à-vis other citizens. Rather, it is defined in terms of its relations to the state. The range of civil society lies between those that have a contentious relationship with the state, to those that work closely with the state in some sort of semi-corporatist arrangement. In between these two poles sits a civil society that merely co-exists with the state. A number of panelists also suggested that in its ideal form civil society can serve as a 'voice of the people', capable of effectively transmitting policy preferences on a range of issues. This, of course, begs the question of what such an ideal form of civil society's role would be in terms of procedural democracy. From a Lockean perspective elections cannot serve as a test of collective will owing to the decidedly non-liberal character of majority rule. At the same time, most conceptions of procedural democracy view elections as a barometer of collective satisfaction with government. Where does civil society sit in this debate?

The second panel session began with this question and moved into questions of legal frameworks governing NGO activity. For good or for ill, NGOs tend to dominate many discussions of civil society development in many states. Moreover, as previously discussed, extant legal frameworks guiding NGO activity are often insufficient to adequately address the ways that NGOs interact with host societies. As noted by the session's discussion leaders, the Johns Hopkins International Fellows in Philanthropy Conference, held in Nairobi in 2004, issued a statement arguing that "establishment of an enabling legal framework is one of the most important contributions governments can make to the development of civil society organizations." This statement obviously causes us to ask what precisely constitutes an "enabling legal environment." More onerously, and of special significance for any discussion of democratization, who other than the state should be involved in determining these legal standards? Must these standards be both constitutional and statutory, ensuring an appropriate balance between safeguards that

protect associational liberties on one hand and laws that protect public interests on the other?

Building on these questions, how do we define the parameters of NGO activity? The discussion chair noted that virtually all states with a well-developed civil society are still hampered in their pursuit of the right balance between legal freedom and restrictions by some normative assumptions about the role of civil society. These assumptions can be misplaced or wholly false. For example, in the United States, citizens and legislators alike tend to assume that all private tax-exempt organizations are charities (which they are not) and treat all charities as serving the disadvantaged (which they also are not). This is due to the broad definition of "charitable activity" under which these organizations are legally permitted to operate. Observers who expect all NGOs to be "charitable" and all NGO activity to be innocent are bound to be disappointed. Thus, extending this lesson to other states, how should we define charitable activity and what should we expect from NGOs?

Panelists noted a number of issues related to these questions. First, many states have implemented laws aimed at governing NGO activity. This has particularly increased as states have become aware of the potent policy role played by NGOs. Panelists suggested a set of principles that should be applied to NGOs and foundations operating in foreign countries. First, they note the importance of transparency, both in terms of NGO activity but also with donors who contribute to them. This is particularly important given the ever-growing scope of what constitutes 'charity'. This leads to the second recommended principle; the insistence on positive public impacts. In contrast to exclusionary outputs aimed at bettering specific communal groups at the expense of other societal segments, panelists agreed that statutes should attempt to more carefully outline the ways in which NGO activity might hurt associational life. One way to do this is through a larger focus on educational activity, particularly in terms of civic education that advances the principles of responsible representative government. This principle requires two key attributes of NGO activity. First, it necessitates a commitment to non-violence that, while ostensibly common-sensical, can be overlooked when NGO activity is aimed at particular communities at the expense of others. In post-conflict states such exclusivist activity can raise the stakes of group competition. Second, NGOs, especially those based in other countries, should engage citizens with common courtesy.

In many ways, the discussion of legal frameworks hearkened back to discussions from the morning session. In particular, panelists suggested that the question of legitimacy can be more easily addressed under a rubric that stresses certain values. More importantly, in terms of democracy-building, panelists stressed a need for locally-based NGO activity. Noting that a significant portion of NGO activity is urban-centered and rarely involves direct contact with most citizens, several discussants suggested that local level engagement aimed at empowerment and community-building is vastly more important than current models of NGO activity aimed at government cooperation and elite engagement. This necessitate a fundamental change in terms of the ways that foundations, NGOs, governments, and private enterprises engage one another. Specifically, the costs associated with local engagement can often be high, necessitating that NGOs cooperate with foundations in order to secure sufficient funding. Beyond this, the transaction costs

that accompany citizen engagement can be onerously high. Nevertheless, panelists argued that this is one strategy that may prove successful in mitigating the stultifying effects of NGO activity on civil-society development. According to this perspective empowerment and community building provides the incentives necessary for citizen-based solutions to policy dilemmas to emerge.

A key dilemma is that such collective action runs into substantial coordination difficulties. Linking myriad actors with divergent interests and constituencies is no small task, a fact verified by the generally poor track record of many countries with high numbers of active NGOs (witness Bangladesh). Ultimately, panelists generally concluded that regulatory frameworks, to be successful, need vastly improved measures of NGO accountability coupled with stronger means of enforcement. Accountability is not equivalent to legitimacy, but it is certainly a step in the right direction. More significantly, to advance a truly empowering framework that allows for civil society development NGOs must be able to cooperate with foundations and governments in a transparent way that allows relevant actors to play to their particular comparative advantages. NGOs often bring technical expertise, governments bring a means to regulate and enforce laws that ensure an appropriate balance between liberties and public interests, and foundations bring funding that can move NGO activity beyond its ostensibly limited urban environments.

These issues were brought to the foreground in the day's final session. Instead of focusing on a particular topic, the discussion leader took an innovative approach by asking both academics and practitioners to place themselves in the role of a foundation seeking to improve civil society development in a semi-hypothetical case. Panelists were given the following scenario: The Palestinian Territories (PT) is a semi-self governing region with a population of 3.8 million, a life expectancy of 71 years and a per capita GDP of US\$1,120. The Territory's primary export is citrus and it has a rather large percentage of its population under the age of 14, suggesting that a combination of economic hardship and political turbulence might manifest itself in a future generation characterized by extreme frustration. Into this scenario, the Frangipani Foundation (FF) approaches the Indiana Democracy Consortium with a proposal aimed at "promoting civil society" which it defines according to the principles outlined in session two, namely that civil society be associational, peaceful, inclusive and voluntary. The Frangipani Foundation sees the prospects of civic engagement in the Palestinian Territories and understands the currently no third sector institutions exist aside from those that fundamentalist and exclusionary, qualities that disqualify them from the Foundation's consideration. The Indiana Democracy Consortium is charged with task of promoting civil society in the Palestinian Territories, with a particular emphasis placed on engaging youth.

Despite the wide array of academic knowledge and practitioner expertise, the exercise quickly began to exhibit deep problems. In particular, the exigencies of the Palestinian case made the quest for civil society promotion difficult. One panelist with considerable personal experience in the region noted that the key problems were not financial or even one of human infrastructure. In contrast, he noted that the population of the PT were especially well-educated and already had a thriving extant civil society. Indeed, civil society is strong in the PT precisely because it lacks a formal state. The key problem is

the absence of hope for an improved future. This directly relates to the issue of military occupation and its attendant lack of political liberty and autonomy. In this regard, the exercise already generated a significant lesson. Specifically, the very task the FF gave the IDC was already taking place in the Territories. What was missing was the tangible evidence we normally associate with functioning civil society. Of equal importance was the deficiencies this observation exposed in the IDC's approach to the scenario. Specifically, many panelists were willing to accept the Foundation's mission with only marginal reflection. In part, this reflected the general lack of area-specific knowledge possessed by participants. When one participant with extensive knowledge in the PT case exposed the internal inconsistencies in the project mission other panelists were compelled to reassess their assumptions.

Given this observation panelists were better situated to temper their strategies. First, participants suggested that it might be better to replicate already successful programs instead of attempting to reinvent the civil society-building process. Given the expertise of one panelist with experience in the region it was possible to identify that the key problem was not a lack of viable programs, but rather the limited scope and scale of such programs. Moreover, panelists all agreed that the process of how civil society arises is vastly more important than programmatic responses. Specifically, one panelist argued that the capacity of stakeholders (NGOs, foundations, citizens, government) to come together in meaningful ways provides a more valuable goal than overly optimistic plans to radically remake civil society in the PT.

One participant noted that the FF's stated mission was not realistic. Instead of building civil society institutions that already exist, it might be more useful to focus on the following items:

1. Focus on improving ways for citizens to have some degree of agency over their own lives. There are marked differences between addressing humanitarian needs and addressing civil society needs. We know that civil society exists already. What we don't know is how to enable these extant civic associations to empower their constituents more effectively.
2. Do not focus on dramatic changes. It is citizens, not outsiders, who will make the most marked improvements. NGOs can, however, help to keep the situation from worsening. In this regard, NGO activity can help suffering population maintain a 'holding pattern' while they seek ways to improve self-governance.
3. Focus on civic education. This suggests that small steps coming from a variety of directions is more realistic (and fruitful) than trying to find one overarching solution.

Significantly, the exercise exposed the many dilemmas of civil society promotion. On one hand, panelists quickly recognized the fundamental limitations imposed by the Frangipani Foundation's requirements. Simply put, the Foundation's general lack of on-the-ground knowledge coupled with its stringent requirements fundamentally limited what could be accomplished. This is reflective of the problems discussed in session two, especially the discussion related to coordination difficulties between funders and practitioners. Funding organizations bring their own normative judgments to bear when deciding how to distribute monies, yet their perspectives are often not consonant with

extant realities on the ground. To this end, panelists agreed that it is sometimes necessary for practitioners to challenge the assumptions of funding agencies, despite the obvious risks. Of equal importance, panelists (especially the practitioners) noted that academics had considerable expertise on an array of issues that NGOs simply do not have. Stronger partnerships between universities and practitioners were necessary. Similarly, one panelist suggested that academics should 'report back' to the places where they conduct research. The consequences of academic research are not merely related to tenure and promotion. Rather, there is much to be learned by the people who are being studied. Practitioners noted that local citizens are not blind to their dilemmas. What they often lack is a way to relate complex problems together in a way that allows them to understand effective solutions. The duty of academics is to make knowledge useable or to impart some substantive significance to new knowledge.