Reviewing the high level panel on UN-civil society relations: successes and shortcomings in enfranchising civil society

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Abstract: This paper examines the work of the Panel of Eminent Persons on UN-Civil Society Relations, as well as the significance and shortcomings of their findings and recommendations. I argue that although the Panel's work is an important first step for promoting the enfranchisement of civil society actors, their findings and recommendations fall short of what is needed. The Panel does not adequately distinguish among the different organisational forms that civil society actors assume; a *typology* of civil society actors that specifies their forms, functions and tactics would greatly aid the Panel in addressing the problems it identifies. Such a typology would also allow a more precise identification of reforms needed to improve their input than is currently possible. This paper contributes to the beginnings of a typology by defining the characteristics of civil society enfranchisement, offering current examples, and suggesting ways to achieve this engagement in other UN fora.

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1 Introduction

The recent growth in both the size and impact of civil society – now accepted as a universal truth – has sparked a larger debate among governments, scholars, intergovernmental organisations and civil society about its appropriate role in international governance, and the mechanisms for facilitating its participation.

The evolving role of civil society in policymaking has also corresponded to its own growing expectations about involvement in state sponsored governance at the international, regional, national and local levels, particularly in discussions about environmental and sustainable development policy, where civil society participation has now become the norm. At the same time, civil society has begun to formulate its own agenda for social change, independent of government sanctioned discussions. This latter phenomenon is evidenced by the growing number of civil society meetings convened independently of official international processes, such as the World Social Forum.

In response to the emergence of civil society as a new force in global policymaking processes, there have also been a number of institutional reforms in recent years; many focused on sustainable development. In 1996, the UN Economic and Social Council (ECOSOC) standardised and streamlined accreditation procedures for NGOs wishing to participate in UN conferences and opened the process to nongovernmental organisations (NGOs) on the subglobal level (UN ECOSOC, 1996). The creation of the Permanent Forum on Indigenous Issues provided a new place to discuss and promote indigenous peoples' concerns related to economic and social development. In addition, existing processes have employed new mechanisms for engaging civil society, such as multistakeholder dialogues (Financing for Development), Type II Partnerships (Johannesburg Plan of Implementation) and most recently, through the Secretary General's Panel of Eminent Persons on UN-Civil Society Relations (hereafter, 'The Panel').

The Panel is thus the next step in a series of efforts to understand and improve the engagement of civil society in global governance, particularly in regimes related to sustainable development, where public participation is paramount. Convened by the Secretary-General in 2003, the Panel was tasked with considering a number of challenges with respect to the engagement of civil society, business and parliamentarians (Panel of Eminent Persons on UN-Civil Society Relations, 2003a). In particular, it examined the widely recognised problem of disproportionate influence and representation of civil society actors from the developed world, existing best practices and new mechanisms for participation (Edwards and Gaventa, 2001). And through the consideration of these matters, the Panel took on much discussed issues of accountability and legitimacy, and the contentious question of who comprises civil society. These critical issues must be examined in order to improve civil society's engagement with the UN, and policymaking for sustainable development.

This paper will examine the work of the High Level Panel, as well as the significance and shortcomings of their findings and recommendations. I will argue that though the Panel's work is an important first step for promoting the enfranchisement of civil society actors, their findings and recommendations fall short of what is needed. The Panel does not adequately distinguish among the different organisational forms that civil society actors assume; a *typology* of civil society actors that specifies their organisational forms, functions and tactics would greatly aid the Panel in addressing the problems that it has identified. The Panel overlooks the diversity of ways in which civil society may meaningfully engage with the policymaking process. A typology would also allow a more precise identification of the reforms needed to improve their input than is currently possible.

The paper will proceed as follows: First, I will discuss the four main sets of barriers to civil society participation that emerged from the Panel's consultations – definitional, structural, capacity and normative issues – and its proposals to address these barriers. Second, I will explain how the Panel's recommendations will contribute to improving the engagement of civil society actors with UN forums. Third, I will point out where the Panel's recommendations have fallen short. I describe what would constitute the 'enfranchisement' of civil society actors, and define the characteristics of this ideal. And finally, I will offer some examples of the enfranchisement of civil society in UN policymaking, and suggest ways for achieving this in other UN fora.

2 The panel discussions: barriers to civil society engagement

The consultation process devised by the Panel reached out to a broad range of civil society actors, and identified four sets of issues that policy remedies should address – definitional, structural, capacity and normative. These discussions are an important baseline for understanding the current relationship between UN policymaking and civil society, and therefore, for any proposals to improve it. They will be summarised below, along with the recommendations offered by the Panel.

2.1 Definitional barriers

The Panel has clearly wrestled with the 'definition' question from the outset: who, exactly, is civil society? The Terms of Reference call on the Panel to draft recommendations to enhance 'interaction between the Organisation and civil society, including parliamentarians and the private sector' (Panel of Eminent Persons on UN-Civil Society Relations, 2003a). The first report of the Panel agreed that the private sector is distinct from civil society, and that a classification of nonstate actors would be appropriate. A background document, 'The diversity of actors within the UN System' was subsequently drafted, and divides actors into four categories – state or governmental, private business sector, civil society and global public opinion – with distinctions among actors within each category. The second meeting of the Panel noted that the terms 'civil society, NGOs, private sector, etc' must be clarified beyond their current treatment in the background paper. This attempt at clearly defining the terms of the discussion is paramount, yet the Panel's treatment of the issue is incomplete. In the end, the Panel simply noted that some of their recommendations are focused on civil society, while others embrace a number of different nonstate actors. They note that, "when…messages [about engagement] relate to all these actors, the broader term 'constituencies' is used" (United Nations, 2004, p.9). Therefore, the recommendations acknowledge that there are differences between these groups, but fail to define them.

Despite the fact that the Panel has chosen to group these actors together in some of its discussions and recommendations, this paper focuses exclusively on civil society, which it treats as a group that is distinct from the other 'constituencies' which they consider.

As I will argue in subsequent sections, there are many differences among civil society actors themselves that are not sufficiently distinguished.

2.2   *Structural barriers*

Civil society actors consulted by the Panel have also pointed to a host of structural issues – current mechanisms and practices that either help or hinder their participation. Through the course of the consultations, civil society organisations pinpointed a number of areas that could be reformed to enhance their participation; the majority of the discussions focused on accreditation procedures and access to information.

The current system for the participation of civil society actors is extremely fragmented, with different accreditation procedures and varying practices across regimes and UN processes. ECOSOC is still the focus of many conversations about civil society participation, in large measure because it is the only body to specify this relationship in the UN Charter (United Nations, 1945, Article 71). Moreover, consultative status is only accorded to nongovernmental organisations (NGOs), as is specified in the Charter. Currently, ECOSOC's three accreditation groups – general, special and roster – accords each category different levels of participation. NGOs can participate in other fora in the UN system, but these often have their own accreditation systems, thus further contributing to the fragmentation of rules for participating in various UN forums. For example, to participate in the climate change negotiations, NGOs must be accredited through the climate change secretariat.

Fragmentation also breeds complexity. For those civil society groups not already accredited with ECOSOC, a separate process was put in place for the World Summit on Sustainable Development (WSSD). Though this accreditation was expanded to permit these groups to participate in subsequent sessions of the Commission on Sustainable Development (CSD-11 and CSD-12), any further involvement with processes within ECOSOC would require a separate accreditation (UN ECOSOC, 2002). It is easy to see through these examples how accreditation (both securing and sustaining it) can quickly become a time consuming, if not onerous task for those NGOs that wish to participate in UN for a – particularly those with limited human and financial resources (Fisher and Green, 2004).

The Panel's findings acknowledged the fragmentation of the current system and as a remedy, proposes, 'joining all existing United Nations accreditation processes into a single mechanism under the authority of the General Assembly' (United Nations, 2004). This proposal is made not only to ensure that accreditation remains merit-based, but also 'to widen access of civil society organisations beyond the Economic and Social Council forums' (United Nations, 2004, p.54). It also notes that the current accreditation system is 'essentially restricted to NGOs' (United Nations, 2004, p.32). To remedy this bias, the Panel proposed revising the categories now in place, possibly by adding more classifications. The question of revising these categories is an important point that will be revisited in subsequent sections.

2.3   *Capacity barriers*

Capacity issues are also at the core of increasing civil society engagement, and are closely tied to correcting the underrepresentation of civil society actors from the developing world (see e.g., Rajan, 1997). Proposals to remedy this imbalance, discussed in the consultations, focused largely on providing funding and building capacity, and cultivating bodies within the UN to carry out these two tasks. Civil society actors consulted by the Panel have called for increased funding for the Non-Governmental

Liaison Service and other liaison and support bodies; increased funding to ensure the attendance and participation of Southern civil society organisations at conferences; more international meetings held in the developing world; and assistance from the UN in obtaining visas to attend such meetings. There were a variety of proposals for funding mechanisms to supplement existing ones, including: a system of taxation for business organisations, trust funds on the national and regional levels, earmarking a portion of the Tobin tax (if implemented) for supporting participation of civil society actors, and greater coordination between existing trust funds.

In the end, the Panel proposed appointing 'constituency engagement specialists' to 'enhance engagement with a diversity of constituencies', and notes the need for funding to support this reform (United Nations, 2004, pp.65, 66). It encourages more involvement at the national and regional level; this redirection of efforts would not only lessen the need to travel to New York or Geneva to represent its constituencies, but would also enhance civil society impact within smaller more decentralised fora.

2.4   Normative barriers

Finally, the Panel's consultations have identified a set of 'normative' issues that hinder civil society participation. According to some civil society actors consulted, there is visible government resistance to their participation. In other cases, the resistance is perhaps less extreme, but with widespread consequences. For example, some consulted acknowledge that UN staff has varying levels of receptiveness to civil society. Thus, their participation, especially in field offices, may be dependent on individuals' beliefs about the value of civil society in policy creation and implementation. Those policymakers who are unenthusiastic about civil society may not consider their inputs carefully or on equal footing with other actors, or may not make efforts to incorporate their views into the dialogue. To address these problems, the Panel recommended appointing a new Under Secretary General in charge of a new Office of Constituency Engagement and Partnerships. This office would lead the UN through the process of equipping staff with the necessary skills and resources to interact more effectively with civil society. It would also 'monitor engagements throughout the UN system and provide advice and lessons of good practice' (United Nations, 2004, p.21).

3   The panel's successes

By making these initial recommendations and observations, the Panel has served an important function, and made some progress on addressing issues of civil society engagement. First, it has played an important normative role. With a mandate from the Secretary General, it has sent a clear message that the role of civil society in UN fora is important, and will only expand. Second, as highlighted in the previous section, the Panel has made concrete suggestions for improving the formal access to UN discussions, particularly through a proposed overhaul of the accreditation system. Though it has recommended depoliticising and expanding the accreditation system to include other organisational forms of civil society beyond NGOs, it has only suggested that a new consultation process be created to address this issue. Finally, it has called for organisational changes, to commit the human and financial resources needed to support increased civil society involvement.

Of course, with thirty proposals in all, this is only a snapshot of the Panel's recommendations. It is meant to highlight those recommendations that map clearly onto the problems identified by civil society actors themselves during the consultation process. Yet, by and large, these proposals – along with others to expand the number and types of fora in which civil society actors participate, and to enhance capacity at the national and global levels – are focused on the *participation* of civil society. They will not necessarily enhance the quality of their engagement.

For example, the Panel does not specifically address the Commission on Sustainable Development (CSD), the body created to monitor the implementation of Agenda 21 after the Rio Earth Summit. CSD meetings are, by UN standards, quite transparent and inclusive. Each of the nine Major Groups has a seat at the table, and can speak in plenary meetings. However, some civil society actors maintain that their engagement with this process is suboptimal, often relegated to brief interventions in the last few minutes of a session. Even the multistakeholder dialogues (MSDs), heralded as an innovative format for interactive exchange of views between state and nonstate actors, have fallen short of civil society's expectations of engagement. A study commissioned by the CSD Secretariat and conducted by the Consensus Building Institute (2002), found that in one set of MSDs, multiple issues raised and emphasised by the Major Groups' interventions were not reflected in the final CSD decision. Thus, in this example, as in many others, the participation of civil society actors does not necessarily translate to their enfranchisement (Green, 2004).

If the CSD, as a model for civil society engagement within the UN, suffers from this problem, then certainly, the rest of the UN faces equally large challenges ahead. Just as the Panel does not take on the specific problems of the CSD, it does not make explicit this distinction between participation and enfranchisement. The next section will explain the difference between these two concepts, and disaggregate meaningful engagement, or 'enfranchisement' into its constituent parts.

4   What is needed for enfranchisement?

How then, can we define the successful engagement of civil society actors in UN policymaking? Success, or what I will refer to as 'enfranchisement', means that civil society actors would have both the *opportunity* and the *capacity* to influence policymaking. Policymaking, as defined here, is not simply restricted to the negotiations process, but can be construed quite broadly to include agenda setting, norms, decision making processes and policy outcomes. Thus, civil society actors who have both the capacity and opportunity to be involved in any one of these dimensions of the policymaking process may be able to influence it.

There are several important points that can be derived from this definition. First, it is necessary to distinguish between the ability to influence, and actually effecting, influence. Enfranchisement does not mean that every civil society actor *does* influence the policymaking making process, but rather that such influence is possible. Second, this definition presupposes that civil society actors have adequate capacity to influence some part of the process (Fisher and Green, 2004). Clearly, this is not the case; there are many civil society actors that lack human resources, financial resources, access to policymakers or other civil society actors or simply the necessary political rights to organise and mobilise. In this sense, the Panel's many proposals to enhance capacity are an important

first step. Third, civil society actors must have the opportunity to engage with policymaking processes. In many instances (though not all), this requires formalised channels that permit access to policy discussions. In this sense too, the Panel's recommendations are headed in the right direction.

However, capacity and opportunity presuppose certain facts that the Panel overlooks, or at least, underexamines. The current institutional arrangements and practices of civil society participation in UN fora fail to distinguish adequately between the diversity of organisational forms and the tactics they employ. These biases privilege some civil society actors and disadvantage others. A coalition comprised of many different civil society organisations around the world will have more difficulty securing accreditation and attending global meetings than a nationally based NGO, not because it is (necessarily) less legitimate, but rather, because the current accreditation system is focused on NGOs. There are also biases against certain types of tactics used by civil society. For example, policymakers perceive protesters as less legitimate than other civil society actors because of the tactics they use. As will be demonstrated in the following pages, UN rules and practices are partial to formally constituted NGOs, and to those organisations that use insider tactics – such as lobbying, drafting language, making official interventions or sitting on delegations – to try to effect influence.

Despite these biases inherent in the current system, in reality, civil society actors assume a multiplicity of organisational forms, many of which are complex and composite. Thus, before improving the capacity of civil society actors, there must be a clear understanding of which actors lack which capacities, and what biases are inherent in the current system. The first step in undoing these biases is to understand and to classify the many differences among civil society actors, their organisational forms and their functions. This will require an understanding of:

- the organisational forms within civil society

- the relationships between these organisational forms

- the different functions of these organisational forms, i.e., the tactics they use to influence policymaking.

This understanding must begin with a *typology* of civil society actors, which categorises them by organisational form.

4.1 *Understanding organisational forms*

Despite the growing literature on global civil society (see, e.g., Lipschutz, 1992; Lipschutz, 2000; Anheier et al., 2001; Wapner, 1996), many discussions of civil society and international policymaking fail to differentiate between these types of actors, 'and do not adequately specify their relations with each other or with states and international institutions' (Tarrow, 2001, p.2). Indeed, much of the discussion about 'global civil society' is problematic due to the lack of description of these relations. Though there are gaps in the current literature, there is agreement on certain forms of civil society actors, and some of their functions. For example, the bulk of research and discussion about civil society focuses on NGOs and international NGOs (INGOs) – the most prevalent civil society actors in UN policymaking. Large INGOs perform such functions as policy research, education and awareness campaigns, monitoring and evaluation, and advocacy (see e.g., Finger and Princen, 1994; Raustiala, 1997; Fox and Brown, 1998; Boli and

Thomas, 1999; O'Brien et al., 2000). In addition, the increased flow of development funding through NGOs has given rise to a sizable NGO service sector (Weiss, 1999; Tussie and Riggirozzi, 2001; UNDP, 2002).

However, other organisational forms have had a large impact on the concept of global civil society. Social movements may 'share social change goals' and focus on a particular issue but do not have a fixed organisational form (i.e., the human rights movement) (Clark, 2003, p.5). They participate in international governance through both political and direct action, often impacting global policy agendas and public opinion (Smith et al., 1997; Guidry et al., 2000). Grassroots groups represent yet another organisational form within civil society. They tend to focus on local issues, and organise because of the direct impact of specific policies on them. Grassroots organisations lobby lawmakers on a national or subnational level, or try to raise awareness and draw attention to their issue. Even among grassroots groups, there are different organisational forms. Barbosa (2003) distinguishes between indigenous groups from Brazil who 'erupted spontaneously' in response to threats to their land, and others that were more formally constituted grassroots organisations.

There are also a number of civil society actors that are transnational in nature. Transnational advocacy networks (TANs), are comprised of activists who share 'principled ideas or values,' who work at both the domestic and international levels to 'bring new ideas, norms and discourses into policy debates' (Keck and Sikkink, 1998, pp.2, 3). Transnational campaigns, which often pursue political goals linked to those of transnational advocacy networks, have organised thousands of civil society groups around specific issues – notable examples include Jubilee 2000 (to promote debt relief), Campaign to Ban Landmines and against the building of the Sardar Sarovar Dam.

Yet, these examples do not constitute hard and fast categories. There is much overlap between them; indeed, both scholars and civil society actors alike use different terminology to describe similar types of actors and organisational forms. For example, the Landless Workers' Movement (MST), describes itself as 'largest social movement in Latin America and one of the most successful grassroots movements in the world' (Landless Workers Movement, http://www.mstbrazil.org/). Thus, though grassroots groups are primarily perceived to be locally based actors, the MST perceives these local groups to be connected to each other by their collective commitment to this issue. However, according to Jackie Smith et al. the MST might be considered a 'transnational social movement organisation', which they define not only as

> "[a] discrete organisation[], but also the broader, more ephemeral social movements of which they are a part and the processes through which those organisations and movements relate to both national and intergovernmental decision making." (Smith et al., 1997, p.13)

John Clark, by contrast, distinguishes between international civil society organisations, such as Human Rights Watch or Greenpeace; international civil society networks such as Friends of the Earth International or the International Confederation of Free Trade Unions, and social movements (Clark, 2003).

In addition, blurriness between categories of organisational forms is further accentuated by the fact that civil society actors – particularly transnational ones – are often comprised of multiple civil society actors with a variety of organisational forms. For example, the transnational advocacy network Climate Action Network (2004), which works to 'promote government and individual action to limit human-induced climate

change to ecologically sustainable levels' (Climate Action Network website) is comprised of NGOs, international NGOs, grassroots organisations, educational groups, professional associations and networks of organisations at the national and regional levels. As Cohen and Rai note, the relationship between these organisations is not necessarily hierarchical:

> " … smaller and more structured organisations like INGOs [are] imbricated within the larger global social movements. 'Within' rather than 'below', as the scales of a fish or the slates on a roof, are not hierarchically arranged."
> (Cohen and Rai, 2002, p.12)

The challenge then, for UN reform, is to conceive of ways that nonhierarchically organised groups within civil society can interact with a hierarchical entity such as the UN.

4.2   Understanding organisational functions and tactics

In a word, providing adequate opportunity and ensuring sufficient capacity to civil society actors first requires distinguishing between them. And as this discussion demonstrates, civil society actors cannot be identified solely by preexisting nomenclature, but must also be distinguished by their organisational forms. Also, because these organisational forms are often the subjects of debate, other characteristics should be used to describe and distinguish between different civil society actors. Thus, a typology of civil society actors should also classify civil society actors according to the tactics of engagement that they use to influence the policymaking process. The task of enfranchising civil society actors cannot be achieved without the understanding that different forms of engagement will be appropriate for different organisational forms. That is, because different types of actors use different tactics and entry points to engage in the policymaking process, *opportunities* must be made available to them in a number of different ways.

For example, INGOs and NGOs, as formalised, professionalised, often hierarchical organisations, use many 'insider' tactics, such as lobbying officials, providing draft text and even sitting on delegations. Friends of the Earth International (FoEI), for instance, is an INGO that often lobbies inside meetings of the Framework Convention on Climate Change, and occasionally serves in an official capacity on national delegations. Inside, it is often perceived as a 'legitimate' interlocutor for civil society at large, and/or as an expert on specific climate policy issues. As an international NGO, it uses its expertise and legitimacy to engage meaningfully in the decision making process by shaping consensual scientific knowledge, introducing policy proposals and providing research and information to government officials. At the same time, FoEI also attempts to influence public opinion and norms through the coordination of protests outside these meetings, as it did at COP6-bis in 2001. This division of inside and outside tactics serves to maintain the legitimacy of inside actors, while supplementing this with attempts to target a broader audience through protest and media coverage (Meyer and Tarrow, 1998). Thus, FoEI uses multiple tactics and entry points in its engagement.

Khagram's account of the campaign against the Sardar Sarovar Dam – a transnational coalition of groups opposed to the World Bank's support of the dam's construction – shows that some civil society actors use entirely different tactics to engage in policy debates. He points to the importance of domestic motivation and mobilisation as

a key factor in its success (2000, p.88). This was also the case in the Philippines and Brazil, where local and national civil society groups played a large role in opposing the construction of dams (Khagram, 2000). Tactics for engagement were focused on the national level and on exerting pressure from grassroots groups. Of course, the ability for civil society actors to organise successfully requires a domestic environment that is hospitable to civic action – one that permits basic rights and freedoms to all of its citizens. In other cases, transnational advocacy networks, grassroots or domestic level groups may appeal to coalition partners abroad to help them gain the influence or political attention when domestic actors cannot, for want of capacity of ability. This phenomenon has proven particularly useful in cases where domestic governments restrict civil society activity, in what Keck and Sikkink term 'the boomerang effect' (1998). In such a case, civil society tactics may not be directed at a specific policymaking process, but rather at shaping norms. Therefore, *capacity* to undertake these activities is a critical prerequisite for enfranchisement.

Protest represents an entirely different tactic for enfranchisement, and demonstrates how civil society actors need multiple entry points to try to influence policymaking. Certainly, protesters represent a diverse body of civil society actors who take to the street for very different reasons. Some choose to remain outside the official discussions, while others protest because they have been deprived of the *opportunity* to participate in the policymaking process (Fisher, 2004). For these civil society actors, protest, along with other 'outside' tactics such as direct action and media campaigns may be the main points of entry available. Thus, current institutional practices reflect the reality that states can carefully control when and how civil society actors participate in international policymaking for sustainable development (Clark et al., 1998). Moreover, the extent to which protesters influence policy through outsider tactics can be limited by the fact that they are perceived to be less legitimate than those civil society actors within the process. The lack of legitimacy is demonstrated not only by media depictions of protesters, but also the fact that they are likely to be dismissed as unaccountable, unrepresentative of civil society's 'true' opinions, or worse, anarchists whose only aim is sabotage.

Thus, enfranchising of civil society should begin with enhancing the capacity of those that are not able to influence the policymaking process, but then it must account for the diversity of tactics that are used. The Panel has focused primarily on building capacity and facilitating access. As stated earlier, though these are both important prerequisites for enfranchisement, they do not guarantee it, particularly in those cases where the organisational form of the actor makes 'outsider' tactics a more likely form of engagement.

4.3   *Overcoming the barriers to engagement: the benefits of a typology of civil society actors*

Given that enfranchisement requires both the capacity and the opportunity to participate in policymaking, how can UN policies and practices promote it? In this section, I explain how a typology of civil society actors will address all four sets of problems identified by the Panel. The structural, capacity and normative problems are all linked to the definitional question of who comprises civil society. A typology is a first critical step in unpacking this question, and thus, in addressing the related problems of engagement.

The structural, capacity and normative issues outlined through the course of the Panel's consultations are all linked to the definition of civil society. The Panel

and the UN community at large cannot overlook this topic if its proposals for reform are to be successful. It should, as the basis for its recommendations, develop a system of classification of civil society actors, their organisational forms and functions. This proposal has been made elsewhere, notably during the Panel's consultation with the Heinrich Böll Foundation on 13th December 2003 (Panel of Eminent Persons on UN-Civil Society Relations 2003b, p.3). One of the key recommendations from this meeting called for a typology of civil society organisations, using criteria to measure organisational legitimacy. But the typology should not be restricted to legitimacy; further insights will be gained from using a number of different classification criteria. The consultation with Local Authorities highlights the usefulness of employing multiple criteria; they emphasised that they are important actors in UN policymaking, since much programme implementation occurs on the local level. And though local authorities are by nature, governmental actors, they distinguish themselves from national governments because of this unique role in implementation (Panel of Eminent Persons on UN-Civil Society Relations, 2003c). A simple characterisation of local authorities as governmental actors would not capture the nuances of their functions in international policymaking; other criteria are needed.

The creation of such a typology of the organisational forms and tactics of civil society actors would address all three problem areas highlighted by the Panel's consultations. In terms of the structural issues, a typology would make clear which organisational forms are least compatible with current accreditation processes. For example, social movements, transnational advocacy networks and other civil society actors whose organisational form is not fixed (i.e., Jubilee campaign), are less easily integrated into the policy process. The Panel has recognised this problem, but appropriate reform proposals must include a variety of categories of civil society actors (some of which are proposed in the Panel's recommendations), which adequately distinguishes between them.

In addition, a typology of civil society actors would also allow an analysis of which functions would most enhance current policy discussions and thus should be targeted through new or existing mechanisms. For example, in some instances, it may be useful to solicit input from service organisations, with vetted experience implementing programmes on the local level. However, in cases where programmes have been shown to be ineffective, it may be more helpful to include a wide variety of grassroots groups and perhaps local authorities who could provide insight about local conditions which may contribute to success or failure of a specific programme.

Third, a typology of civil society actors could be an effective way to illustrate which organisational forms or tactics are underrepresented in regimes or UN processes. When compared with structural reforms implemented to enhance engagement, this typology may be an important tool to understanding capacity problems. That is, if civil society participation is lacklustre, despite rules and practices that allow for broad engagement, a dearth of capacity may be impairing their engagement. Classifying different tactics and functions of civil society actors would facilitate the evaluation of balancing the level of structural access with actors' capacity to capitalise on it.

The so called 'normative' issues identified by the Panel's consultations represent perhaps the most difficult challenge to the Panel's project and to the enfranchisement of civil society actors more generally. However, a typology of civil society actors and their organisational forms and tactics would help address this abstract problem in a number of ways. First, by understanding clearly and concretely the specific roles and functions of civil society actors – and the benefits that they provide to the policy process, from

conceptualisation to implementation – bureaucrats and governments alike are more likely to be receptive to civil society's presence, proposals and ideas. At the very least, they will have fewer bases for disputing the utility of civil society involvement.

Second, a typology would allow governments, policy makers and other nonstate actors involved in international policy making to gauge better, the extent to which increased civil society participation has successfully democratised the process. Simply increasing the number of civil society actors involved with a specific policy process will not necessarily make it more democratic. Rather, governments must recognise who these groups represent and what policy functions they perform; this understanding will contribute to ensuring that an adequate range of civil society actors are present and active in policymaking processes.

Third, a typology would aid discussions about accountability, legitimacy and rights to participate. Although the Panel has made clear that it is not appropriate for the UN to define a code of conduct for civil society, clarity about the roles and functions of specific civil society actors would go a long way toward elaborating rights of participation. Large INGOs, which have sparked much of the conversation about legitimacy and accountability, lobby governments at the highest level; accordingly, their responsibilities may be different from a grassroots organisation that wishes to share its concerns or experiences with the international policy community about a specific project or programme. This idea is somewhat reflected in the three categories of ECOSOC accreditation, but is more focused on rights than elaborating responsibilities.

The Panel has wisely noted that it must avoid a 'one size fits all' approach to civil society engagement. One way to begin to contextualise the issues they identify is by attaching them to specific types of actors within civil society. Defining the organisational forms and tactics of civil society must be a first step in defining and evaluating successful civil society enfranchisement. For, without a clear understanding of the distinctions among different civil society actors, policy remedies cannot be targeted appropriately. More specifically, the Panel cannot ensure that the prerequisite conditions for enfranchisement – capacity and opportunity – are fully available to all the different types of civil society actors.

In addition, a comprehensive typology could provide the basis for reformulating the accreditation system within the UN. Accreditation processes could be developed to compensate for current shortcomings, by providing opportunity for those less formally constituted civil society actors or those using outsider tactics. For example, the current information requirements for civil society actors seeking accreditation with ECOSOC might be considered quite onerous. Those NGOs accredited in the special and roster categories have to submit an application for accreditation, which includes a letter of intent, the constitution or charter of the organisation, its statutes, recent financial statements and publications samples. This information must be updated quadrennially. In addition, in order to even be eligible to apply, the NGO must demonstrate that its work is relevant to ECOSOC that it has been in existence for two years, that its decision making practices are democratic, and that the majority of its funding comes from contributions of members or other NGOs. Given the diversity of organisational forms described in the previous sections, some of these requirements automatically disqualify certain civil society actors. Clearly, a screening process is needed, but the current accreditation mechanism can no longer accommodate the breadth of different types of civil society actors who wish to participate in UN fora.

A more flexible accreditation system, based on a typology of civil society actors, should recognise the diversity of their forms and tactics. One possible alternative is to keep the current requirements in place, but restrict them to INGOs, national level membership NGOs, transnational campaigns, and, to borrow Smith's term, transnational social movement organisations. These larger, more formally constituted organisational forms could speak on their own behalf and/or allow smaller or less formalised civil society actors to participate through their accreditation. This would require collective self-regulation among all the civil society actors functioning under one accreditation. It would also reflect the reality succinctly characterised by Cohen and Rai, that these multiorganisational actors are not hierarchically arranged. Thus, pursuing and maintaining accreditation would be the duty of only one actor within a network or coalition. This approach would also help address legitimacy and accountability issues that are often raised in discussions of civil society participation, and emphasise the need for regulation, through some mutually agreed collective self-governance.

5 It can be done: examples of enfranchisement

Thus far, the definition and discussion of enfranchisement has remained relatively theoretical and abstract. In practice, what does the requisite capacity and opportunity to influence the policymaking process look like? Let me offer a few examples.

A number of transnational advocacy networks have been successful in their engagement, often influencing the policy process. As mentioned earlier, the transnational coalition opposed to the Sardar Sarovar Dam successfully blocked further work on the project. In addition, it was part of a larger trend to sensitise the World Bank to the social and environmental costs of large dam projects. These are just part of a large and growing body of literature documenting the successes of civil society actors – particularly transnational civil society (see Edwards and Gaventa, 2001; Keck and Sikkink, 1998; Khagram et al., 2002; for a discussion of the role of local groups, see Rodrigues, 2004).

However, the bulk of this work focuses on the ways in which civil society actors successfully influence policy processes and outcomes. There are other success stories where civil society actors have engaged meaningfully in policymaking discussions, even if their influence was not necessarily reflected in the final outcomes. For example, the Arria Formula of the Security Council, named after Ambassador Diego Arria of Venezuela, allows the Security Council to arrange for informal briefings with NGOs at the request of member states. Though this practice has, at times, been a contentious issue for the Security Council, it has allowed civil society actors, primarily international NGOs dealing with humanitarian issues, to contribute their expertise and on the ground knowledge and experience – often during emerging crises. For example, one of the most recent Arria Formula briefings convened CARE International, Oxfam, Human Rights Watch, Medecins Sans Frontieres, the International Crisis Group and World Vision to share their views on the situation in Sudan (Paul, 2004). Though their intervention cannot be directly linked to UN decision making on the issue, subsequent actions on the crisis included major media coverage, placement of the issue on the international agenda, and most recently, a UN Security Council Resolution. These groups were given the opportunity, and possessed the capacity to engage in a meaningful and substantive way with the Security Council. It should be noted that these informal practices raise serious questions about the legitimacy and accountability of organisations that do

brief the Council, but these are beyond the scope of this inquiry (but see e.g., Fox and Brown, 1998; Jordan and van Tuijl, 2000).

Another important example of the enfranchisement of civil society actors can be seen in the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters, also known as the Åarhus Convention. The Åarhus Convention has been heralded by the Secretary General as 'the most ambitious venture in the area of environmental democracy' so far undertaken under the auspices of the United Nations' (UNECE, 2004). It is a unique legal instrument in a number of ways, and particularly with respect to the ways that it provides opportunities to engage civil society actors. The Convention obligates its members to provide, collect and disseminate environmental information; to enact procedures for public participation in environmental decision making; and to provide access to justice in instances where persons have been denied requested information. The Åarhus Convention has a broad definition of 'the public,' and thus affords rights to any individual, not just citizens whose governments are signatories to the treaty. In this sense, the citizenry enjoys certain rights under the Convention.

Second, all aspects of the decision making process are open to civil society actors – from plenary sessions to Bureaux meetings. Moreover, the accreditation process does not distinguish between NGOs and other types of actors, as is currently the case with ECOSOC. Since there is no formal accreditation process, civil society actors of all organisational forms, from the international NGO to the lone citizen, can attend any of the Convention's sessions. It is worth noting that although this 'open door' policy has been successful with the Åarhus Convention in part because of its scale (it is a regional, not global convention), and because an umbrella group, called the European ECO Forum, has been the primary mechanism for facilitating the interaction and participation of civil society actors with the Åarhus Convention Secretariat.

Third, civil society actors – most often in the organisational form of environmental citizen organisations – are invited into prenegotiating discussions, so that a substantive exchange of views can occur before the politics of negotiating texts is underway. Finally, and perhaps most interestingly, civil society actors are empowered to trigger the compliance mechanism. If, for example, an environmental citizen organisation feels that its government (or another government, for that matter) is not abiding by the terms of the Convention, it can prompt the examination of that government's compliance (Pitea, 2003). Thus, civil society actors, and even citizens, can have a palpable impact on state compliance with the Convention.

Though this is only a very brief overview of some of the provisions within the Åarhus Convention, this example does illustrate that enfranchisement of civil society actors can be more than an abstract concept. Indeed, it shows how civil society actors can and have had a substantive influence on the norms, agenda setting, decision making and policy outcomes surrounding the Convention. First, the very existence of the Åarhus Convention is testimony to the ability of civil society to influence societal norms; now, environmental protection and conservation is the European norm rather than the exception. The Convention also demonstrates how civil society has shaped the policy agenda; similar provisions could have easily been included in an international instrument that did not grant such far reaching rights to citizens and to civil society actors. They could have been cast in terms of obligations of the state rather than rights of the citizens, yet this was not the case. Third, the unfettered access to the policy discussions ensures that civil society actors – irrespective of their organisational form or function – have the

opportunity to engage in the negotiations process. Finally, the provisions outlined in the compliance mechanism also indicate that civil society actors will have an impact on policy decisions, as their input can trigger the process of examining state compliance.

6 Conclusion

As the Panel itself noted,

> "[Panels] can serve a useful purpose, providing they are publicly respected.
> This depends on their inclusiveness, the realism and courage of their proposals
> and the degree to which their proposals are acted upon." (Panel, 2004, p.12)

This Panel has the potential to serve a very important purpose: assessing and reorienting UN policies toward civil society at a time when its participation is growing faster than ever. Yet, to achieve this goal, the Panel must be realistic, and therefore methodical, in its proposals. The best way forward, as the UN looks toward implementing the Panel's work, is to begin with a typology of civil society actors. In order to ensure that civil society actors are afforded sufficient opportunity and possess adequate capacity to participate in policymaking, the UN must first develop a clear understanding of their organisational forms, functions and tactics. Furthermore, a typology will help resolve the problems already identified in the Panel's work – the structural, capacity and normative problems that create obstacles to civil society actors' enfranchisement. A typology – collaboratively developed by the UN, civil society actors, other policy practitioners and diplomats as well as academics – should serve as the basis for revamping the accreditation process. This change will provide more opportunity for civil society actors that have not fit into the UN mould, and lessen capacity requirements for smaller, younger or less formalised organisations who would be able to obtain their accreditation through other organisations.

This is no doubt a difficult task, but there are successful models to help guide the reform process. In particular, the Åarhus Convention, which provides access to information, public participation in decision making and access to justice in environmental matters, offers some instructive lessons about providing opportunity for civil society engagement through various stages of the policymaking process.

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