Contested Organizations and Contested Terms: Civil Society Accountability, Legitimacy and Transparency

It is helpful to examine the three concepts -- accountability, legitimacy and transparency - that are often used together and sometimes, interchangeably.

Accountability:

For most organizations, accountability has meant legal and fiscal accountability. Generally accountability lines run upward to boards or donors. Commonly, we understand that there are two dimensions of accountability – answerability and enforceability. Answerability means that power-holders are obliged to explain or justify their actions. Enforceability refers to sanctions that can be applied when illegal actions have taken place. Goetz suggests that accountability systems are shorthand about how power works in any system. They tell us who has to answer to whom and who can punish somebody for making a bad decision.

Recent thinking on accountability in the civil society sector has expanded this concept in useful ways. Ebrahim, who has done an extensive review of NGO accountability mechanisms, points out that traditional approaches to accountability enable upward accountability – generally to boards and externally to donors. Mechanisms to enhance accountability downwards to constituencies being served remain comparatively underdeveloped. Citing Cornwall, Lucas and Pasteur, he builds on the notion that accountability is not simply about “being held responsible” but also about “taking responsibility”. Civicus adds a third dimension, horizontal or peer accountability. The OSANGO (Organizational self-assessment for NGOs) tool developed by CSOs in South Asia and Latin America is an example of building up an internal organizational culture about the effectiveness of CSOs’ in achieving their mission.

According to Civil Society Watch published by Civicus, accountability refers to the obligation to justify words and deeds to society in general, and to a specific set of internal and external stakeholders. It embraces the actors, mechanisms and institutions by which civil society organizations are held responsible for its actions. It includes financial accountability and performance accountability more broadly. There is an increasingly

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1 The long paper can be retrieved from resources under the website.
5 Civicus: World Alliance for Citizen Participation, Civil Society Watch, August/September 2003
more powerful dimension of accountability which goes beyond serving a functional purpose to focusing on long term impact and ultimate added value. Ebrahim points out that most reporting requirements and frameworks are biased in favor of easily measurable and quantitative assessments of progress which essentially undervalue long-term qualitative assessments of the real impacts of development activities.  

The question about how to develop and retain public trust and credibility has plagued many CSO activists over the last two decades. A range of accountability mechanisms are being used by CSOs to proactively and self-critically take responsibility for their organizational structures, operations, policies and activities. These tools are far from mutually exclusive and, in many instances, combinations of these techniques are integrated in order to meet the different demands of ‘upwards’ and ‘downward’ accountability. These include:

- **Self-regulation mechanisms:** this has been by far the most predominant response by CSOs in attempting to improve the regulatory environment governing their institutions as well as exploring complementary self-regulation efforts. The challenge has been met in some instances by the formation of national coalitions of NGOs who develop their own code of ethical practice in an effort to improve transparency and public accountability. In other cases we have seen formal initiatives such as the Philippine model of certification driven from within the NGO sector with government recognition for the process. In South Africa, in 1997, the NGO community developed a code of ethical conduct. Similar efforts are underway in about forty countries around the world and are growing. At the global level, we see efforts now to develop similar guidelines for human rights organizations led by the International Council for Human Rights Policy and the Humanitarian Accountability Project in Geneva, to explore the challenges facing relief and humanitarian organizations operating trans-nationally.

- **Governing boards** comprised of individuals external to the organisation, which are selected by and operate according to clearly defined and transparent procedures: The specific tasks of governing boards vary, but they are generally intended to act as guardians of the interests of the organization’s membership or constituency, while also ensuring that the organization operates in a way that is in compliance with both statutory obligations and in accordance with its own mission and values.

- **Standards for disclosure and public reporting,** are determined in some countries by national legislation, but are adopted by CSOs in other contexts on a voluntary basis. Means such as annual reports, organizational or project evaluations, strategic plans based on external assessments, and regular communications (newsletters, updates, briefs) can provide channels for public access to information about the organization’s work, financial status, governance structure and operational impact.

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6 Alnoor Ebrahim, op. cit., p. 826
Consultative and participatory mechanisms, that allow for the meaningful involvement of diverse constituencies (including beneficiaries) in the organization’s work, from project planning to evaluations.

Legitimacy:

Legitimacy is a more contested term. It usually implies that an organization is authentic and is justified in its actions. Legitimacy could be derived from many sources, including membership or constituency, legal recognition, experience, or relevant knowledge of the issues at stake. Civil society organizations face a critical challenge in their justifications to voice their opinions or speak on behalf of others, especially vulnerable or marginalized communities. A distinction needs to be made between legitimacy and representation. Few CSOs, with some notable exceptions such as trade unions, or professional associations, claim to formally represent their members. This does not however, diminish the legitimate right of CSOs to bring citizens concerns into the public sphere.

The concept of legitimacy refers to perceptions by key stakeholders that the existence, activities and impacts of CSOs are justifiable and appropriate in terms of central social values and institutions. For example, Edwards has defined legitimacy as “the right to be and do something in society—a sense that an organization is lawful, admissible, and justified in its chosen course of action.” Legitimacy is lost or gained in the eyes of stakeholders, and different stakeholders may of course differ considerably in their standards and perceptions of the legitimacy of a particular CSO.

CSOs may be concerned about their legitimacy as institutions that seek to play credible and accepted roles in society. Institutional legitimacy can be grounded on regulatory, normative or cognitive bases. CSOs may gain regulatory legitimacy by conforming to rules and regulations, such as meeting state standards and procedures for organizational registration and reporting. They can build normative legitimacy by exemplifying values and moral obligations, such as cultural expectations for protecting children, supporting the poor, or delivering safe goods and services. CSOs may also gain cognitive legitimacy by aligning their activities with shared meanings and definitions that define—often tacitly—“the way things are.” Many civil society organizations recruit eminent trustees and follow the reporting examples of well-regarded agencies to enhance their own credibility. From this perspective, CSOs might emphasize quite different bases for their institutional legitimacy, depending on the extent to which their fields of operation have well-defined rules and regulations, shared values and moral perspectives, or widely held-meanings and accepted explanations for how the world works.

CSOs may also seek to define their legitimacy with respect to particular issues. For example, CSOs that seek to influence the actions of other actors, such as government agencies or private firms, need to establish their credentials as appropriate and accepted voices on the issues in question. In seeking to influence discussions on particular issues, four bases for legitimacy have been identified. These bases are related, but not identical, to the bases for institutional legitimacy.

- **Legal Legitimacy:** Legitimacy can grow from compliance with legal and regulatory requirements, such as meeting state registration requirements or
delivering goods and services that meet professional standards. Sometimes CSOs gain legitimacy from their support of regulatory standards that constrain the activities of their advocacy targets, such as policies of the World Bank that it fails to follow in its projects.

- **Political Legitimacy**: Some civil society actors claim issue legitimacy on political grounds, such as democratic representativeness, participation, transparency, and accountability to their constituents affected by the issue. Democratic legitimacy depends on decision processes that allow those represented to understand decisions and consequences, participate in decisions, influence results, and hold organization leaders accountable.

- **Moral Legitimacy**: CSOs can ground their claims to legitimacy by action on behalf of widely held moral values and norms. Bringing food to the victims of a famine or campaigning to stop mutilation of children by land mines are activities grounded in widely held values. Such moral legitimacy is often important to CSOs, whose missions spring from value and visions of a better world.

- **Technical or Performance Legitimacy**: A fourth basis for legitimacy is expertise, knowledge, information, or competence relevant to the issues in question. When a coalition of international relief and development agencies lobbies the UN on actions to cope with complex emergencies, their claims are grounded in years of experience with providing relief and development support in similar circumstances. When an alliance of senior environmental scientists takes positions on climate change, they rely on scientific expertise as a basis for legitimacy.

- **Institutional Legitimacy** is a long-term attribute of a CSO, typically gained over years of activity with and observation by many stakeholders. Issue legitimacy refers to credibility on a particular issue. General institutional legitimacy is not a guarantee that a CSO will be seen to have legitimacy on a particular issue: A grassroots CSO known for representing the interests of its members will not necessarily have legitimacy on the best way to deliver rural health care. But issue and institutional legitimacy do interact: Stakeholders may well give institutionally legitimate CSOs the benefit of the doubt on particular issues, and credibility on the issues over time builds institutional legitimacy.

**Transparency:**

Transparency refers more to processes, procedures and values, which ensure accountability. They are prevalent in civil society’s method of work and the existence of appropriate systems and how these relate to the functioning of civil society organizations. They can be fairly and accurately judged by stakeholders by using benchmarks which measure the levels of openness about such issues as program approach and content, from who and where resources are raised from, and how are they spent. To facilitate transparency, processes such as “public hearings” at the community level and “social audit” processes are gaining momentum.

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1 Edwards, 2000, op. cit. 20.