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Civil society in times of change: shrinking, changing and expanding spaces and the need for new regulatory approaches

Helmut K. Anheier, Markus Lang, and Stefan Toepler

Abstract
The relationship between many G20 governments and organized civil society has become more complex, laden with tensions, and such that both have to find more optimal modes of engagement. In some instances, state-civil society relations have worsened, leading some experts and activists to speak of a "shrinking space" for civil society. How wide- spread is this phenomenon? Are these more isolated occurrences or indeed part of a more general development? How can countries achieve and maintain an enabling environment for civil society? The authors suggest that much of the current impasse results foremost from outdated and increasingly ill-suited regulatory frameworks that fail to accommodate a much more diverse and expanded set of civil society organizations (CSO). In response, they propose a differentiated model for a regulatory framework based on functional roles. Based on quantitative profiling and expert surveys, moreover, the paper also derives initial recommendations on how governments and civil society could find ways to relate to each other in both national and multilateral contexts.

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Keywords Civil society; NGOs; Closing Civic Space; nonprofit regulation; G20

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1 The Challenge

Civil society is a highly diverse ensemble of many different organizations that range from small local associations to large international NGOs like Greenpeace, and from social service providers and relief agencies to philanthropic foundations commanding billions of dollars. It is an arena of self-organization of citizens and established interests seeking voice and influence. Located between government or the state and the market, it is, according to Ernest Gellner (1994: 5) that "set of non-governmental institutions, which is strong enough to counter-balance the state, and, whilst not preventing the state from fulfilling its role of keeper of peace and arbitrator between major interests, can, nevertheless, prevent the state from dominating and atomizing the rest of society." For John Keane (1998: 6), civil society is an "ensemble of legally protected non-governmental institutions that tend to be non-violent, self-organizing, self-reflexive, and permanently in tension with each other and with the state institutions that 'frame', constrict and enable their activities." Taken together, CSOs express the capacity of society for self-organization and the potential for peaceful, though often contested, settlement of diverse private and public interests.

What is more, for several decades, most developed market economies as well as transition countries have seen a general increase in the economic importance of nonprofit and other civil society organizations (CSOs) as providers of health, social, educational and cultural services of many kinds. They account for 5-10% of GDP in most OECD countries (see Anheier 2014), and receive more attention in the context of civic participation and social engagement. In addition, CSOs are regarded as important sources of social innovations to address public problems. Indeed, these developments are taking place across many countries that otherwise differ much in their economic structures, politics, cultures and social fabrics. They are driven, in large measure, by broad perspectives that position CSOs in specific ways and allocate certain roles to them:

First, nonprofits are increasingly part of new public management approaches and what could be called a mixed economy of welfare with a heavy reliance on quasi-markets and competitive bidding processes (Salamon and Toepler 2015). Expanded contracting regimes in health and social service provision, voucher programs, and public-private partnerships are examples of this development as is the recent rediscovery of co-production (Verschuere et al. 2012; Brandsen et al. in preparation). In essence, this policy approach sees CSOs as more efficient provider than public agencies, and as more trustworthy than for-profit businesses in markets where monitoring is costly and profiteering likely.

- Second, they are seen as central to building, maintaining and rebuilding social cohesion, and for strengthening the nexus between the social capital of citizens and economic development. Attempts to revive or strengthen a sense of community and belonging, enhance civic mindedness and engagement, including volunteering and charitable giving, are illustrative of this perspective. With the social fabric changing in all G20 countries, civic associations of many kinds are seen as the glue holding diverse society together. The basic assumption is that people embedded in dense networks of associational bonds are not only less prone to social problems of many kinds but also economically more productive and politically more involved (Putnam 2001).

- Finally, there is the policy perspective that views nonprofits as a source of social innovation in addressing diverse public problems.[1] Indeed, nonprofits are assumed to be better at such innovations than governments typically are: their smaller scale and greater proximity to communities affected and to those concerned makes them creative agents in finding solutions. They are the operating ground for social entrepreneurs. Governments are encouraged to seek a new form of partnership with CSOs aimed at identifying, vetting and scaling up social innovations to build more flexible, less entrenched, public responses.

Importantly, these perspectives cast CSOs in strikingly different roles. At one level, they become parallel actors that may substitute, even counteract, state activities. At another, the state and CSOs are part of ever more complex and elaborate public-private partnerships and typically work in complementary fashion with other agencies, public and private. Civil society harbors significant potentials in terms of social innovations, resilience, service-delivery and giving voice to diverse interests and communities otherwise excluded. However, CSOs operating locally, national and across borders have also experienced many changes in recent decades. The current decade has brought about a particularly complex and challenging environment (Anheier 2017). Specifically, there are growing indications that the "space" for civil society organizations is shrinking worldwide as a result of increased regulation, greater reporting requirements, but also curtailing of CSO activities, and even harassment of staff and threats of violence among growing authoritarianism (Carothers and Brechenmacher 2014; Civicus 2018; ICNL 2018; USAID 2017).

2 Approach, Data and Findings

To assess the state of civil society across the G20 countries, and, particular, to probe how wide-spread the shrinking of civil society space has become, we use data available from the international social sciences project Varieties of Democracy (V-Dem). Specifically, we chart the space for civil society organizations over time along three dimensions (Coppedge et al. 2018):

- Control over the formation of civil society, which measures government discretion in granting legal status to CSOs (CSO Entry and Exit);
- Control over the operations of civil society, which measures bureaucratic harassment and repression of existing CSOs (CSO Repression); and
- Degree of Self-organization and Participation, which measures CSO diversity and voluntary participation (CSO Participatory Environment)

[1] This was most prominently exemplified by the Obama Administration's Social Innovation Fund and other high-level partnerships between the federal government and philanthropies to identify social innovations through CSOs (Toepler 2018).

We also differentiate the G20 member countries by political regime type, using the Economist Intelligence Unit's (EIU) Democracy Index:

- Full Democracies (Australia, Canada, Germany, United Kingdom);
- Flawed Democracies (Argentina, Brazil, France, India, Indonesia, Italy, Japan, S. Korea, Mexico, South Africa, United States);
- Hybrid Regimes (Turkey); and
- Authoritarian Regimes (China, Russia, Saudi Arabia).

The purpose here is to show how the space of civil society has changed in the course of the last decade, i.e., from the global financial crisis of 2008 to 2016. In a second step, we look into the policy context to gauge how countries manage to balance the potential civil society offers with the mandate of government of state and international organizations to serve as keepers of peace and arbiters between major political and economic interests. Among the results, as presented below, several stand out:

- The V-Dem data do indeed suggest a general, but mostly gradual erosion of civil society space: values measuring freedom from government control over the entry or formation or exit or dissolution of CSOs are, on balance, lower in 2016 than they were in 2008 (Figure 1). The same holds for government repression and self-organization and participation as well (Figures 2 and 3). While these values are lower, they are not lower in the sense that they would have dropped suddenly or by much. Nonetheless, the overall trend suggests some gradual erosion rather than dramatic decline. The main exception is Turkey, the one hybrid regime in the G20, where the situation for CSOs rapidly deteriorated after 2010 (B panels in Figures 1-3).

Figure 1: Government Control over CSO Formation

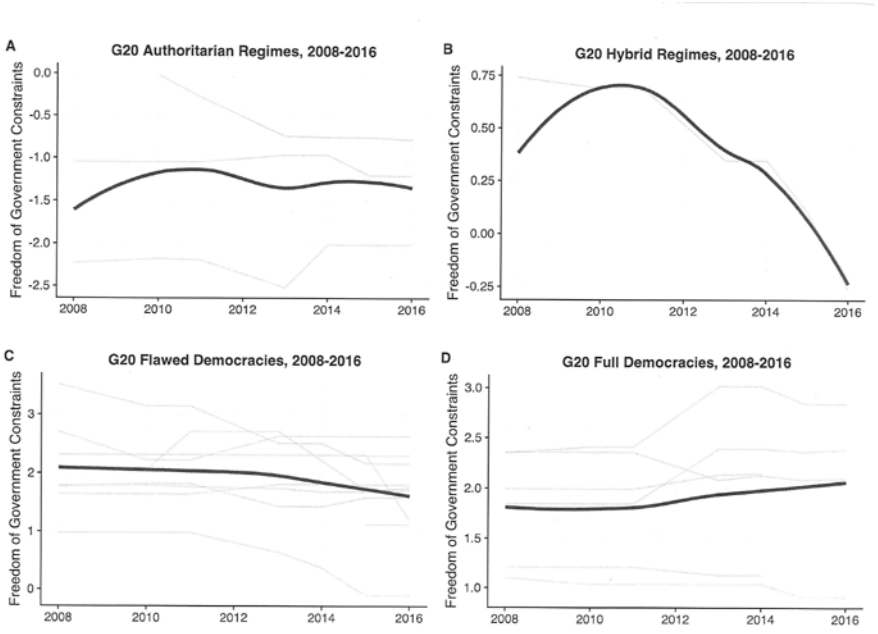


Figure 2: Government Repression

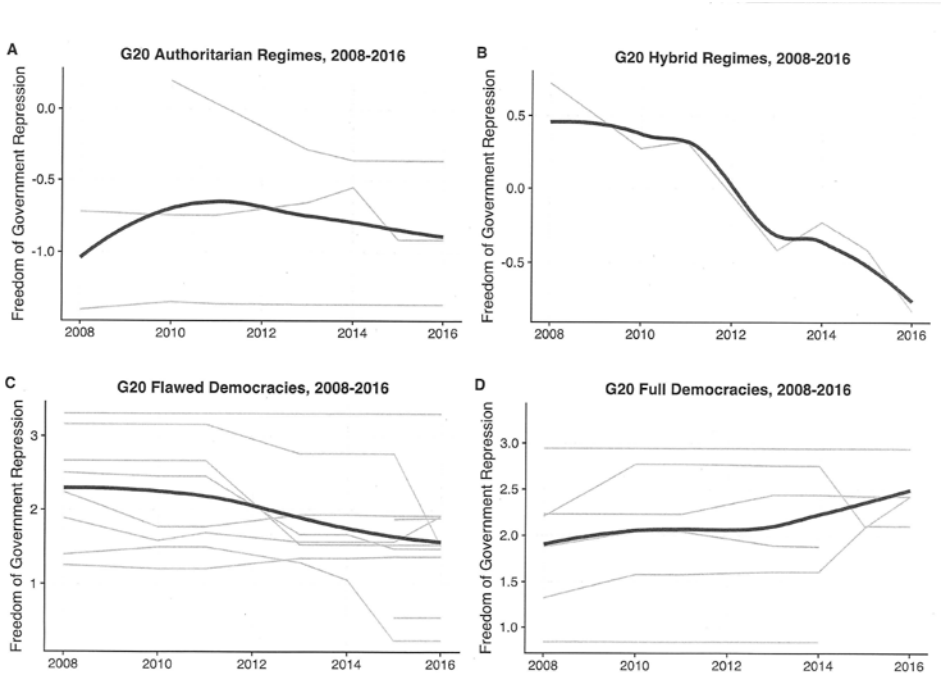
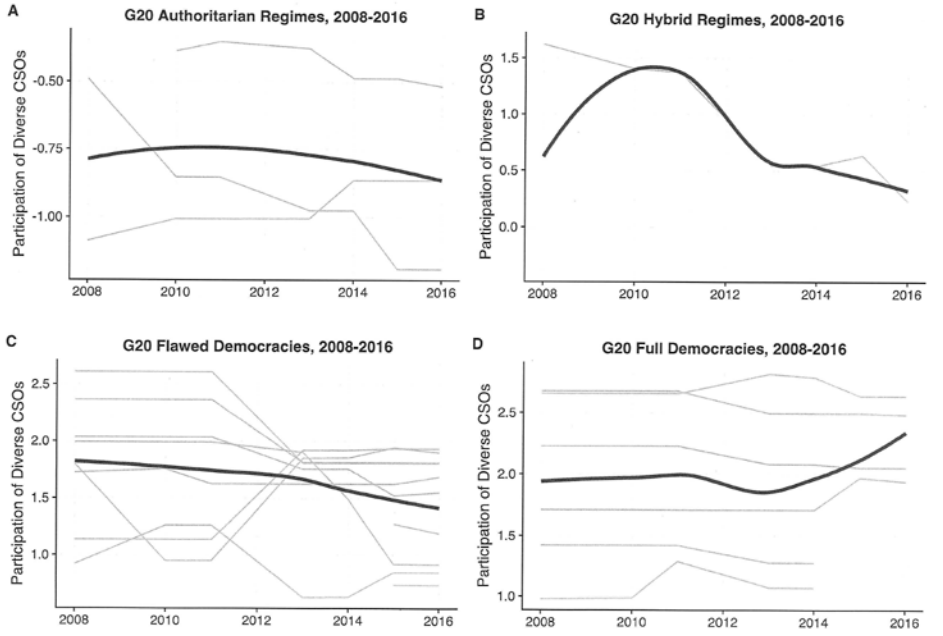


Figure 3: CSO Diversity and Participation



- The few G20 countries that show overall improvements along the three indicators are the four full democracies in the EIU index (D panels in Figures 1-3). The great majority, however, reveals a pattern of either relative stability or gradual decline across the dimension of civil society space. While this is not surprising for the authoritarian regimes (A panels), which were at low levels already, more worrisome is that civil society space contracted in several flawed democracies to significant degrees in recent years, which contributed most to the overall slow erosion.
- This suggests that some democracies may at least not actively seek to develop civil society space through reform efforts. Instead, they more or less passively let civil society space slowly erode either through the impact of other policies (mostly anti-terrorist, anti-corruption, and national security related legislations and measures) or lack of reform. It also suggests that hybrid and authoritarian regimes are the clearest case of a shrinking (e.g., Turkey) and shrunk (e.g., Russia) civil society space, whereas for flawed democracies, it would be better to speak of a slow process of erosion.

Of course, the relationship between civil society and government is complex and multifaceted. What are the policy rationales why government and CSOs develop some form of relationship? Economic theory offers three answers to this question, each casting CSOs in a different role (see Steinberg 2006; Anheier 2014, Chapter 8, 16). Young (2000) in particular has suggested a triangular model of government – civil society relations of complementarity, substitution, and adversarity. He argues that to varying degrees all three types of relations are present at any one time, but that some assume more importance during some periods than in others. It is the task of policy to balance this triangle.

The notion that CSOs are supplements and substitutes to government rests on the public goods and government failure argument first advanced by Weisbrod (1988): they offer a solution to public goods provision in fields where preferences are heterogeneous, allowing government to concentrate on median voter demand. CSOs step in to compensate for governmental undersupply. The theory that CSOs are complements to government was proposed by Salamon (1995), and finds its expression in the third-party government thesis whereby CSOs act as agents in implementing and delivering on public policy. Indeed, we find that even hybrid and authoritarian regimes have developed a strong interest in involving CSOs in service-delivery with state support (eg, Benevolenski and Toepler 2017). CSO weaknesses correspond to strengths of government (public sector revenue to guarantee nonprofit funding and regulatory frameworks to ensure equity; and CSO strengths (being closer to actual needs, more responsive) complement government weaknesses.

The theory that CSOs and governments are adversaries is supported by public goods arguments (see Boris and Steuerle 2006) and social movement theory (Della Porta and Felicetti 2017): if demand is heterogeneous, minority views may not be well reflected in public policy; hence self-organization of minority preferences will rise against majoritarian government. Moreover, organized minorities are more effective in pressing government (social movements, demonstration projects, think tanks) than unorganized protests; however, if CSOs advocate minority positions, the government may in turn try to defend the majority perspective, leading to potential political conflict. To an extent, a similar dynamic also underlies the current global

backlash against foreign funding of mostly social justice and rights-focused advocacy NGOs that has been at the heart of the shrinking space phenomenon (Christensen and Weinstein 2013; Dupuy, Ron and Prakash 2016)

To probe deeper into these issues, we asked a group of civil society experts (see Appendix 2) three questions:

- What are the main challenges for CSOs, both domestically and in terms of cross-border activities, and what opportunities present themselves?
- What are likely trajectories for CSOs over the next five to ten years, especially with changing geo-politics?
- From a policy perspective, what could be the roles of national governments and international organizations in that regard? Are reforms and models of state - civil society relations being discussed?

We also asked if, in the course of the past five years or currently, changes to, or new, laws and regulations have been put in place or are being passed or envisioned that either facilitate and improve or complicate and worsen the establishment and operations of:

- domestic CSOs;
- international CSO headquartered abroad and working in the country;
- domestic CSOs working internationally.

Appendix 1 presents a synopsis of answers received along three dimensions: the state of civil society, the implications for its expansions, stability or contraction, and the need for reform and dialogue. While Appendix 1 offers a rich portrait of the diversity of civil society, its relationships with governments, and its trajectories across G20 countries, there are also four overarching results:

- the general trajectory of a slow erosion in most consolidated democracies is confirmed, as are the developments in hybrid and authoritarian regimes, although the expert reviews add important nuances;
- few countries have open, proactive dialogues in place to review civil society – government relations; the most common pattern is the absence of a policy engagement rather than some form of contestation;
- fewer countries still have reform efforts under way, even though a general sense of reform needs prevails among expert opinions;
- most countries seem to do little to stem the erosion, perhaps out of unawareness, lack of civil society activism and organizational a capacity to find a common voice, or the absence of political will on behalf of governments.

More specific results are:

- There are characteristic "pendulum policies" in a number of G20 countries with more pronounced differences between center-right and center-left governments that tend to politicize the relationship with civil society and contribute to inconsistencies over time;
- Several G20 countries have seen the need to respond to the hybridization of CSO, especially around service-provision, and established new forms like social enterprises or public benefit corporations as part of an effort to modernize regulatory frameworks;
- Government bureaucracy is seen as a major stumbling block to more efficient relations, especially in middle-income countries; there is a need to simplify registration processes and reporting requirements in particular; in some countries, registration is also used as a tool to control CSOs and restrict their activities;
- Few countries have umbrella organizations for CSOs, which leads to disjointed civil society voices, and decreases advocacy capacity;
- Some countries establish dedicated government agencies for CSO oversight, control, and also development.

3 A Need for New Regulatory Approaches

Thus, CSOs find themselves in contradictory policy environments across the G20 member countries, and subject to a 'push and pull' along the different directions by the challenges and opportunities the perspectives above harbor. This situation is made worse by the limited and outdated policy approaches and regulatory framework in many countries (Phillips and Smith 2011). In essence, no G20 country has an explicit, normative approach concerning civil society to guide regulatory frameworks which help realize CSO potentials. Instead, regulation is either almost exclusively fiscal in nature and rests on some notion of public utility CSOs serve; or is controlling in the sense that state authorities oversee nearly all aspects of CSO operations and governance. While the former typically implies some form of a 'light' hands-off regulatory framework with few general government supports other than tax benefits as typified by the US, the latter is a stricter hands-on regime, albeit with more financial and other contributions by the state for qualifying CSOs. Emerging exemplars of this approach are the dual government postures towards NGOs in Russia (Benevolenski and Toepler 2017) and China (Zhang 2015).

For the fiscal regulatory regime, the key governance question becomes: is the organization entitled to preferential tax treatment; and for the control regime, it is: does the organization fit into government policy and set priorities? Clearly, most G20 countries fall somewhere in between but are closer to the fiscal framework. Yet, they share three key deficiencies in view of the policy approaches above, and hence the developmental potential of CSOs:

First, CSOs have different organizational forms and governance structures:

- The membership association, based on some shared interests of members that as demos form the basis for its internal governance;

- The non-profit corporation based on set capital and limited liability, where a board substitutes for owners and represents their interests; and
- The foundation, an ownerless asset dedicated to a set purpose, and a board functioning as trustee.

Social entrepreneurs cut across these forms and provide the 'active ingredient' for innovations and development (Brewer 2016; Young et al. 2016).

Second, CSOs, and the entrepreneurs and employees as well as members and volunteers operating in them, perform different functions or roles that allow them to realize their comparative advantages (Kramer 1981):

- Service-provider: substituting or complementing services offered by government and businesses, often catering to minority demands, and providing of trust goods (high information asymmetries and high transaction costs), thereby achieving an overall more optional level of supply;
- Vanguard role: less beholden than business to the expectations of owners demanding return of investment, not subject to shorter-term political success, and closer to the front lines of many social problems and needs, CSOs can take risks and experiment, thereby increasing the problem-solving capacity of society as a whole;
- Value-Guardian role: fostering and helping express diverse values (religious, ideological, cultural etc.) across a population and within particular groups when governments are either constrained by majority will or autocratically set preferences, thereby contributing to expressive diversity and easing potential tensions;
- Advocacy role: when governments fail to serve all needs and groups in the population equally well, and when prevailing interests and social structures can disadvantage certain groups while given unjust preference to others, CSOs can serve as public critics and become advocates, thereby giving voice to grievances, reduce conflicts and possibly effecting policy change.

While NGOs can bring advantages, they also have inherent weaknesses, including (Anheier 2014):

- Resource inadequacy, whereby the goodwill and voluntary contributions cannot generate resources adequate and reliable enough to cope with many of the problems facing member states.
- Free-rider problems, whereby those who benefit have little or no incentive to contribute, stand in the way of sustainable resourcing, too.
- Particularism, whereby CSOs focus on particular subgroups only while ignoring others, which can lead to service gaps; conversely, if CSOs serve broader segments of the population, they encounter legitimacy problems.
- Paternalism, whereby CSO services represent neither a right nor an entitlement but are at the discretion of particular interests that may not necessarily reflect wider social needs or the popular will.
- Accountability problems, whereby CSO, while acting as accountability enforcers and pushing transparency, are themselves inflected by such insufficiencies.

The challenge is clear: how can the advantages CSOs bring be strengthened while minimizing any disadvantages? What is the right policy framework to balance the respective interests of governments and civil society while realizing the potential of civil society? Current frameworks seem unable to achieve such a balance. Specifically:

- In the large and growing fields of education, health and social care, CSOs, mostly as corporations, face many fiscal problems and limitation in making business decisions in keeping with their nonprofit status, while businesses accuse them of unfair competition due to tax exemption. CSOs have virtually no access to capital markets for investments, and cannot compete for talent against businesses able to offer more competitive compensation packages. As a consequence, many CSOs push against regulatory boundaries that may threaten their tax status (Weisbrod 1998; Toepler 2004b, Eikenberry and Kluver 2004). The for-profit versus nonprofit border has to be revisited and replaced by a more differentiated system, especially given growing frequency of hybrid organizations that straddle the profit – nonprofit border (Brewer 2016; Abramson in preparation), and the rise of sharing economy and its principle of co-production. Reflecting this need, some observers have proposed the concept of a fourth sector comprised of "for-benefit enterprises" (Sabeti 2011).
- CSOs, mostly as associations, seeking to advance specific member interests frequently confront charges of putting their particular benefit above others, and see their beneficial tax treatment questioned and their motives challenged. This has been a particularly salient issue for economic associations, such as cooperatives and mutual societies (Salamon and Sokolowski 2016). What is needed is a regulatory framework that recognized different degrees of publicness versus privateness of the interest pursued: primarily public-serving objectives should be treated in a beneficial way, while member-serving may not. Many interests will fall in between, and these should only receive partial benefits. Importantly, financing of political parties should not be regarded as part of civil society and regulated separately, including the activities of political action committees and similar vehicles that channel private funds to the world of politics.

  Beyond the problems resulting from interspersing party politics and charitable nonprofits, the regulation of political activities, such as advocacy and lobbying, is another major area of regulatory concern, especially in Anglo-Saxon countries. In the US, potentially draconian tax law penalties for possible violations of vague lobbying rules have for decades hindered the willingness of charities to even engage in legitimate advocacy activities despite clear evidence that high-performing nonprofits utilize service-providing expertise to leverage their advocacy and employ advocacy to improve services and the general policy environment for their clients and constituents (Crutchfield and Grant 2007). Here it is both the political activities and the party politics versus civil society border that needs better regulation.
- CSOs, across all forms (and increasingly also Internet-based advocacy platforms), active as social accountability enforcers (Fox 2015, Brinkerhoff and Wetterberg 2016) face themselves frequent charges of lacking transparency and of catering to special interests. They need a higher degree of accountability standard, including transparency

for themselves (Ebrahim and Weisband 2007; Gugerty and Prakash 2010). What is more, given the profound changes in conventional media and the cacophony of social media resulted in a loss of standards and professionalism, and brought with them a weakening of the public sphere in many countries, and a loss of trust in institutions. Here, regulation is needed that established minimum public transparency and accountability requirements while aiming at improving the quality of the public sphere.

- CSOs do function as innovators and vanguards yet they face fundamental problems in terms of replicability, diffusion and scaling up (Anheier et al. 2017). There is no systematic screening and vetting of social innovations, and many fail due to inadequate dissemination and information-sharing. As a result, the potentials of too many social innovations go unnoticed, and 'wheels are being reinvented,' so to speak. And even those innovations that do find resonance, do so in the absence of a social investment market. Unlike in the case of technological innovations, there is no pool of investors eagerly standing by to help grow social innovations. Impact bonds and related measures are one step in the right direction (Albertson et al. 2018), but more is needed.

The main proposal for finding proper policy responses to these issues is that a more differentiated approach to CSOs is needed, and one that goes beyond the one-size-fits-all of current regulatory frameworks. These are largely based on some notion of charity and public utility, and have a regulatory history reaching back to the late 19th and early 20th century, and in some cases even to mediaeval times. They are rooted in outdated notions of how organisation should to serve the public good, and they fail to consider the diversity of modern organizational forms and ways of collective action.

Instead, frameworks should be based on the functional differentiation embodied in the policy approaches above, and take account the prevailing organizational forms, especially in view of their comparative advantages and disadvantages.

The first differentiation is for *CSOs as service providers*. A future regulatory framework has to differentiate the entirely charitable, donative CSOs from CSOs that are part of public-private partnerships, from those participating in quasi market arrangements with competitive bidding for fee-for-serve contracts, and, more generally, from CSOs that operate in competitive fields alongside public agencies and businesses. Most CSOs here are *corporations* given the significant capital requirements rather than membership-based associations. The main regulatory issue is to establish workable ways of oversight in relation to the for-profit – non-profit borderline, and hence to facilitate access to capital markets. New hybrid legal forms are currently being devised to solve some of the underlying issues. The L3C and the benefit corporation in the US or the public benefit corporation in the UK are steps to fix various shortcomings of both the nonprofit and for-profit forms, but arguably attempt to seek leverage at the wrong end: Most of the regulatory challenges that CSOs face are not rooted in their basic legal forms, but in the nature of tax and fiscal regulations superimposed on them.

A second differentiation addresses the function of *CSOs as an expression of civic engagement*, and typically in the form of an *association*. Here the main regulatory issue is between primarily self or member-serving activities, on the one hand, and ensuring accountability on the other. Democratic legitimacy frequently gets called into question here

when representation issues arise. Many of the democratic legitimacy issues being raised about both local and international CSOs have to do with membership and community representation (Brechenmacher and Carothers 2018). In addition, even in the West, there is a troublesome decline in active association membership, as members frequently chose not to participate in the 'schools of democracy' aspects of democratic decision-making, including internal elections and attendance at membership meetings.

A third differentiation is about *private support for the public good*, which foregrounds the roles and potential contributions of philanthropic *foundations*. Foundations endowed with income-generating assets are generally considered to be among the most unconstrained institutions in society, as they are neither beholden to market expectations nor to the electoral booth. This dual independence from economic and political considerations allows them to address complex, controversial, even unpopular issues, and seek solutions where government and business are likely to falter, let alone risk taking them on in the first instance. Foundations can take the longer view and operate without regards to shorter term expectations of market returns or political support. Accordingly, foundations are primed to pursue a set of special societal roles, including pursuing change and innovation, redistribute wealth, build out societal infrastructure and complement, or substitute for, government action (Anheier and Hammack 2010; Anheier and Leat 2018). Unfortunately, governments often fail to understand appropriate foundation roles and primarily look to them as mere 'cash machines' to fill emerging gaps in public budgets (Abramson et al. 2014; Toepler 2018) or tend to overregulate them (Leat 2016; Toepler 2004a). Prewitt (2006) has argued that foundations, in liberal societies allow attaching private wealth to the pursuit of public goods with only limited interference in economic choice and political freedoms. Striking a balance between the two is a key regulatory challenge.

The fourth differentiation is about *social investments*, and applies to corporations, associations and foundations alike. Many innovations in civil society can harbour significant profitability for investors and owners as well as significant potential for the wider public – but in what direction the potential of a particular innovation will realize in terms of replicability and scalability - and for whom - is often uncertain. Therefore, a platform or clearinghouse to assess any such potentials is needed, and a regulatory frame that would help social innovations to be tested. The organizational form and legal status of a platform or agency can be varied but should aim at establishing a social investment market next to the investment and venture capital markets for businesses.

4 Conclusion and Recommendation

CSOs have long outgrown their regulatory frameworks, and it befalls to policymakers to provide adequate environments. The policy challenge is clear: How can the goals, ways and means of governments, and civil society be better coordinated and reconciled? What is the right policy framework to balance their respective interests while realizing the potential of civil society while taking account of the functional differences among CSOs and the various organizational forms underlying them? What rules and regulations, measures and incentives

would be required? How can the profoundly adversarial relations be transformed into complementary or supplementary ones without endangering the fundamental independence of civil society?

Civil society, challenged in many ways, yet harboring huge potential, finds itself at a crossroads in many G20 countries. Against the backdrop of the erosion of civil society space, it is time to act and chart a way forward. Fifteen years after then Secretary General Kofi Annan initiated the first ever expert panel to examine civil society in a broader, international context (United Nations 2004), it seems urgent to revisit the role of CSOs in a geopolitical environment that has radically changed. There is an urgent need to cut through the cacophony of policies regulating CSOs and find ways to counter-act even reverse the general deterioration of civil society space.

Therefore, we propose an independent high-level Commission to examine the often-contradictory policy environments for CSOs, and to review the increasingly complex space civil society encounters domestically as well as internationally. Working closely with, but independently of, the Civil-20 (http://civil-20.org), the Commission is to make concrete proposals for improvements. The charge to the Commission would be to:

- Review the policy environment for CSOs and identify its strengths and weaknesses across the G20 countries;
- Propose model regulations for different legal and political systems, and reflective of levels of economic development;
- Point to areas for legislative reform as to the regulatory and enabling functions of the state;
- Identify best practices in government - civil society as well as business – civil society relations.

What is more, it is time to explore the possibility of an independent future observatory of civil society, especially at the international level, perhaps linked to the Civil-20. The process for such an independent commission should be initiated under the Argentine Presidency of the G20, and to be taken up by Japan, as it prepares to take over the Presidency for 2019. At the G20 summit in Japan that year, the Commission is to report to G20 member states.

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Appendices

Appendix I: Summary of Expert Assessments of Civil Society Status and Trajectory, G20, 2018

Country	CIVIL SOCIETY STATUS			Trajectory	Emerging issues, Reforms needs, Reform agendas, Potential policy models
	Overall characteristic	**Main domestic issues, developments**	**Main international issues, developments**	**Implications for civil society space**	
Argentina	Developing yet unsettled relations with state ("pendulum swings"); lack of representative bodies providing voice for CSOs	New Civil Code unifies legal treatment of CSOs, and lowers demands on small organizations, while actual regulation remains overly complex	Cross-border activities likely to increase; OECD admissions process helpful, and comes with push for greater transparency	Expanding domestically and internationally	Need for cooperation-complementary model based on simpler regulation
Australia	Well-developed, established relations with state that can be strained based on ruling government policy preferences	CSOs seen as service providers, part of quasi-markets; some regulatory issues of CSO advocacy role in context of elections and lobbying	Greater control of financial in-flows and out-flows; greater burden (registra-tion, disclosure) on ICSO; declining international aid budget	Stable domestically, but slightly shrinking internationally	Need to decouple policy and politics through nonpartisan commitment to value of CSOs for democracy, while aiming at improved regulation of lobbying, and better self-regulation
Brazil	Major reform in legal environment for CSOs since 2010 advanced relationship with state, provided access to public funding, brought higher scrutiny in procurement procedures and overall reporting, including tax exemptions	Political and economic uncertainty plus austerity measures present a challenge to implementing reforms and establishing improved state-CSO relations	Anti-corruption and anti-terrorism measures plus the economic and political crises weakened democracy domestically and civil society relations interna-tionally; foreign CSOs in Amazon region face great scrutiny and suspicious; some states passed tax laws imposing tax of foreign grants	Stable to mixed internationally; expanding domestically but unevenly	Many reforms yet to be fully implemented and acted upon; reform measures are held back by low governance capacity as well as by weak economic and fragile social conditions.
Canada	Well-developed, established relations with	2015 Trudeau mandate to Minister of Finance to	Canadian CSOs cannot make grants to non-	Stable	Need for policy reform seen; better alignments to

	state, while at the same time undergoing a period of change and policy review	modernize governance of CSO, with formation of federal task force, as current framework seen as outdated and overly restrictive; Senate decided to do own review of charity law	Canadian CSOs without adequate "direction and control," for which only larger CSOs have resources to comply with; concerns of future of NAFTA and spill-over of US politics into Canadian debates		leverage both state and civil society assets while keeping independence both domestically and Internationally; need for stronger formal CSO representation at national level to complement provincial level; attempts to modernize CSO governance and regulation, openness for reform
China	2016 Charity Law provides more enabling environment, but increases regulatory burden; major push for government contracting to CSOs as service providers; national security-related laws (Counter-espionage Law (2014), National Security Law (2015), Counter-terrorism Law (2015), Cyber-security Law (2017) signify-cantly enhance state's power over civil society, restricting space for CSOs, esp. rights-based activism and advocacy	Fast-changing regulatory environment under state tutelage; lack of organizational resources and capacity-building; inability of CSOs to effectively respond to critical social issues or individual citizens due to controlled political space	More cross-border international; no specific legislation for domestic CSOs for working abroad and no restrictions on using domestic funds for activities abroad, at the same time more conflicts between government and international NGOs; Overseas NGO Law (2016), clearly shaped by national security concerns	Stable for domestic CSOs working abroad; expanding for domestic CSOs providing services in China; restrictive for ISCOs operating in China, and for domestic advocacy CSOs	Need for new model for clear and comprehensive relationship between commissioning government and increasing number of service-providing CSOs; Need for "government-platform-society," based on new communication technologies to allow for more diverse voices; Need to review domestic – international interface as international CSOs face increasing limitations, and domestic CSOs working abroad few.
France	Well-developed, established relations between strong, centralized state and dynamic,	Cuts in public budgets affect many CSO operations; reforms under way and being implemented	Overall favorable conditions for cross border CSOs activities; some concerns	Expanding domestically as well as internationally	Active government policy advances reform agenda with supply side tools (grants & subsidies, contracts, loans &

	growing CSO sector	including the 2014 Law on Social and Solidarity Economy; openness for reform	about effects of anti-terrorist and anti-corruption legislation		loan guarantees, tax exemptions & tax credit), demand side tools (vouchers) and improved public regulation to encourage civil society, the social economy and philanthropy
Germany	Well-developed, established relations between public sector and CSOs in the context of a decentralized state, with extensive system of cooperation in service delivery, and active civic life	Commercialization of service delivery system; Access to capital market and long-term planning hindered by tax exempt status, minor improvements in regulatory environments; lack of reforms	Overall favorable conditions for cross border CSOs activities, some concerns about effects of anti-terrorist and anti-corruption legislation (2017 Money Laundering Law); some pushback for German CSOs working in autocracies and anocracies	Stable domestically and internationally	Need for basic review of framework (legal form and tax exemption), access to and modes of financing (less bureaucracy, availability of seed money and loans), both for domestic and international levels; low propensity for actual reforms could threaten future relations
India	Dynamic, diverse and long-standing CSO tradetion, with legal framework dating back to colonial era, and broad definitions of legal entities; growing collaborations between governments and private business in social development agendas reduces CSO scope; increasing focus on terrorism prevention and national security	New laws proposed by central government on orders of supreme court to favor light regulation of CSOs	2010 Foreign Contributions Regulation Act established high regulatory requirements for CSOS involved in political activities to receive foreign funding; Increased reporting requirement for ICSOs	Shrinking for ICSOs, stable for domestic CSOs	While the domestic environment for CSOs is stable, even slightly improving, it is becoming more complex as far as international activities are concerned; need for consultation seems high, a response is the multi-stakeholder platform "Forum for India Development Cooperation" to focus on south-south cooperation
Indonesia	After authoritarian government in the 1980s, when	Complex legal framework for CSOs remains, despite new Law No. 17 in 2013,	ICSOs need written agreement with Indonesian govern-	Uneven but generally shrinking for both domestic	Need for broad dialogue as current situation puts CSOs at mercy of

	the CSOs were highly controlled, the legal environment opened up and improved but remains unsettled and volatile	which remains contested: President Joko Widodo signed emergency regulation which gives government power to disband societal organizations without court process if organizations threatens unity of country	ment; otherwise, the same rules and regulations as to domestic CSOs apply, in addition ICOS are prohibited from intelligence gathering, politi-cal activities, raising funds from the Indo-nesian society, and using government facilities.	and international CSOs	government; there is strong opposition to opening up space for CSOs for fear of radical ideological movements
Italy	Well-developed, established relations between state and CSOs sector; lingering impact of austerity policies and high dependency of CSOs on public funds	Regulatory complexity and high levels of bureaucratic burden remain; at the same time new laws enable some CSOs, e.g.: Legislative Decree 155/2006 on social enterprises, Law 221/2012 on CSO start-ups access to capital markets, Law 208/2015 on benefit companies	Overall favorable conditions for cross border CSOs activities, some concerns about effects of anti-terrorist and anti-corruption legislation	Stable internationally, slightly expanding domestically	Need to re-evaluate government-CSO relationship to innovate social and political life; need to cast CSOs in innovative rather than service-provider roles primarily; better implementation needed
Japan	Gradual growth of CSO sector overall in recent decades as part of a move away from a statist model with high regulation and extensive control	Continued fragmentation of regulatory environment; hybridization due to lack of overarching model; social enterprises growing rapidly	Overall gradually more favorable conditions for cross border CSOs activities, some concerns about effects of anti-terrorist and anti-corruption legislation; CSOS to medi-ate in tense re-lations among North Asian states	Expanding domestically and internationally	Many reform efforts under ways but in a cautious, stepwise fashion without overarching concept as to the role of CSOs in society; despite ODA cuts, Japanese CSO more active aboard
Mexico	Legal framework generally considered favorable and enabling for	Barriers that inhibit the operations and financial sustainability of CSOs remain;	Overall favorable conditions for cross border CSOs activities,	Stable but with contradictory swings towards expansion and contraction	Need to address the hiatus between laws and regulations on the one hand, and the practices on the

	CSOs, esp. the 2004 Federal Law for the Promotion of the Activities of CSOs; in practice, complex and contradictory environment prevails; growing concern about erosion of rule of law; increased crime and violence against activists in name of national security	several reforms and new laws been put in place to give more legal certainty and expand the range of CSO tax exempt activities; other laws and regulations increase reporting (Anti-Money Laundering Law, Transparency and Access to Public Information Law)	some concerns about effects of anti-terrorist, antidrug, and anti-corruption legislation, few Mexica CSOs operate abroad		ground; Need to harmonize state and Federal law, and improve tax treatment of CSOs
Russia	Restricted environment for CSOs generally; declining number of registered domestic and international CSOs; unclear role of CSOs	Complex registration and reporting requirements; unfavorable tax treatment; some state-CSO cooperation in terms of service delivery	According Federal Law 129-FZ, foreign CSOs can be declared as undesirable if activities threaten constitutional order, national defense or state security, limitations to financial activities	Shrinking, and basically only tolerated as service providers and extended arm of the state	Need for a major review of state – CSO relations to create more enabling environment at least in the field of service delivery to reduce multiple regulations, esp. at local levels
Saudi Arabia	CSOs truly local in terms of funding, programs and activities, no international funding and very limited work internationally; growing role in service delivery	Despite improvements (2015 law regulating CSOs), there are still multiple regulatory agencies involved in establishing, monitoring CSOs; lack of umbrella organizations; highly individualized field	Foreign CSOs are prohibited from opening branches in Saudi Arabia or to provide funding for local CSOs; strict financial restrictions adopted after 9/11; Saudi CSOs cannot fund projects abroad unless they have foreign branches or are registered	Domestically cautious expansion, little change internationally	New strategy needed for activating civic engagement and grow civil society in the context of political and social change
South Africa	Legal framework for establishment	2012 Non-profit Organisations Law	Registration of foreign CSOs	More or less stable	Proactive policy stance towards

	and operations of CSOs generally enabling; After Apartheid, CSOs played critical role in reconciliation, improving participation, providing services, and acting as watchdog over the ruling ANC	further improved CSO environment and established The South African Non-profit Organisations Regulatory Authority responsible for e.g. monitor registration and use of public funding, ensure accountability; capacity of state agencies and departments to ensure speedy registration and effective implementation still limited	compulsory considering the risk of money laundering and financing of terrorist activities		CSOs; Need to review relationship between domestic and foreign CSOs, esp. large foundations; decrease in funding from abroad challenges resource base of advocacy CSOs
South Korea	After two decades of more supportive relations between government and CSOs, more unfavorable policy attitudes prevail; continued uncertainty about role of CSOs in Korean society	CSOs need government permission to start new initiatives; change of Individual Income Tax Law decreased donations; new transparency measures meant greater burden due to inefficient services; limitations to, and strict regulation of, fundraising-activities	Few Korean ISCOs exist; ICSOs follow the same regulations as for domestic CSOs, but face strict controls over fund-raising and donations	Slight declines domestically and internationally	Need for legal reforms seen, with two different, partially contradictory bills proposed: one advances the establishment of government committee with jurisdiction over CSOs to unify registration process and regulations for more CSO autonomy, flexibility; the other bill focused on preventing misuse, tightening control on finance
Turkey	Rise of authoritarian regime since 2013, with consolidation of centralized government power and erosion of fundamental rights and freedoms for	Closure of organizations, arrest of activists; implementation of legislation against money laundering and terrorism; greater control of existing CSOs, with blocking of websites and social media outlets; some CSOs	Rise of cross-border activities due to refugee crisis; ICSOs start facing constraints; Changes in priorities of donor organization to avoid political backlash; new	Dramatic shrinking in recent years	What is the role of CSOs under auto-cratic regimes other than service provi-sion? Continued political uncertainty in region could provide opening for CSOs to build stronger ties with constituencies abroad

	sake of national security and unity, and public order	become more resilient, finding new ways to work under repression	alliances among CSOs and donor organization towards more flexibility in supporting cross border activities bypassing government		
United Kingdom	Stable democracy with vibrant domestic and international CS sector; active governmental and sector reform agenda	Legal measures which potentially restrict domestic advocacy work (e.g. Lobbying Act 2014, counter terror measures); new public management approaches put pressures on service-providing CSOs; erosion in trust and legitimacy of CSOs through aggressive fundraising, incompetence, high CEO salaries; introduction of Social Value Act and new legal forms e.g. Community Interest Company; government supports new forms of finance, e.g. Social Investment Strategy	Overall favorable conditions for cross border CSOs activities, some concerns about effects of anti-terrorist and anti-corruption legislation; need for UK and other western governments to set highest standard of policy and practice in interaction with CSOs	More or less stable, with some signs of erosion and expansion	Need to remove legislation and contractual arrangements that discourage or limit advocacy and campaigning Need to ameliorate effects of new public management approaches on CSOs' identity and autonomy; need for understanding of mutual responsibilities and respect of state and CSOs; Implications of Brexit remain unclear and bring uncertainties (e.g., loss of EU funds)
United States	Vibrant and highly developed civil society in a threatened democracy facing many challenges but also opportunities for renewal	Politicization through increased involvement in partisan politics makes CSO less independent (*Citizens United vs. Federal Election Commission* (2010), *Speechnow.org v. FEC* (2010); under-enforcement of tax law by Internal Revenue Services in relation to tax-exempt organizations; Tax Reform 2017	Overall conducive environment for nonprofits headquartered abroad and working in the US; stricter implementation of the Foreign Agents Registration Act; sanctions: in some cases, CSOs require license from Office of Foreign Asset	Gradual erosion domestically, shrinking internationally	Current U.S. government rejects most previous goals of state-CSOs relations; need for strict separation of campaign financing and the role CSOs; continued commercialization pressures in education, health care, social services; major review effort needed as to the role of CSO in US society;

		can lead to drop in donations; Right to Assemble threatened: since Nov. 2016, over 50 laws in 28 states and Federal Level restrict right to assemble or protest	Control to operate in certain countries; access to financial institutions: banks disengage due to stricter enforcement of money-laundering, sanctions and terrorist financing laws; Financial Action Task Force (removed label of nonprofit organizations as particularly vulnerable to terrorist abuse; ICSOs must certify to not perform or promote abortion to receive any U.S. funds, and must ensure compliance of sub-recipients		politicization of US-based ICSOs in context of changed geo-politics

CSO = civil society organization

ICSO= international civil society organization

Appendix II: Data Sources and Experts Consulted

Data Sources:

VDem Project (Version 8): https://www.v-dem.net/en/data/data-version-8/

Variables: v2cseeorgs (CSO entry and exit)

v2csprtcpt (CSO participation)

v2csreprss (CSO repression)

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