

20 Civil Society and the State

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What is civil society? Today almost everyone agrees that civil society refers to uncoerced associational life distinct from the family and institutions of the state. Civil society is also often thought to be distinct from the economy. Where to draw the line, however, is a matter of some dispute. Some thinkers, particularly liberals and especially libertarians (Walzer 2002; Lomasky 2002) include the economy in civil society. Others, especially but not exclusively those on the left, exclude the economy (Cohen and Arato 1992; Keane 1998). Still others include economic relations only to the extent that they are folded into associational life, so for example, professional associations and trade unions might be included but GE or Microsoft are not (Post and Rosenblum 2002).

Despite differences in definitional boundaries, contemporary interest in civil society focuses predominantly on associational life rather than market or exchange relations. Few theorists of civil society, even libertarians, are interested in studying GE or Microsoft as loci of uncoerced civil activity. This represents a significant shift from classical theories of civil society found in the work of Ferguson, Smith, or Hegel for example (Ferguson 1995; Smith 1976; Hegel 1991). For both classical and contemporary theorists, civil society

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is understood as a sphere distinct from, yet in a particular relationship with, the state. In the eighteenth and nineteenth centuries, however, it was the hard won freedom of the economic sphere vis-à-vis the state that naturally begged to be studied, analyzed, investigated, and criticized. Today it is not so much economic freedom that interests theorists of civil society (although such freedom is often presupposed); rather, it is the power and role of associational freedom vis-à-vis the state that, for reasons we touch on below, begs to be studied, analyzed, investigated, and criticized. What sort of associations are we talking about? The kinds of associations that scholars concentrate on—whether they are choral societies, NGOs, or social movements—reflect different understandings of the relation of civil society to the state. In what follows we take up six such relations in order to illustrate the range of contemporary debate surrounding civil society:

1. civil society *apart from* the state;
2. civil society *against* the state;
3. civil society *in support of* the state;
4. civil society *in dialogue with* the state;
5. civil society *in partnership with* the state;
6. civil society *beyond* the state.

These six perspectives on society/state relations are not mutually exclusive nor do they necessarily compete with each other. As will become clear, it is possible to hold to a number of these views at the same time. What they do represent are different ways of answering the question: “what is important or interesting in the relationship between civil society and the state?” In each case we identify the empirical questions that are correlative to the theoretical articulation of this relationship.

1 Civil Society apart from the State: Freedom of Association

Civil society is a sphere apart from the state. It is a sphere in which individuals come together and form groups, pursue common enterprises, share interests, communicate over important and sometimes not so important matters.

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Churches, bowling leagues, service associations, chess clubs, and public interest groups are part of civil society. Legislatures, the army, police, government administration, and courts are not (Kymlicka 2002). In thinking of civil society as apart from the state three features stand out: the voluntary nature of participation; the plural quality of activities, and the negative character of civil society's boundaries. Civil society is not just characterized by membership; it is characterized by voluntary membership. Joining a church, attending a PTA meeting, donating money to flood relief, forming a book club—these are things we choose to do; they are not mandated by law. In contrast, we are born into a state and governed by coercive laws. Although exit is sometimes an option, it is more often an option in the meaningless sense that jumping out of a ship at sea is an option (Hume 1972, 363). Of course we can also think of ourselves being born into churches that levy high costs for exit and some of us do in fact jump ship and hand in our passports. From a sociological point of view the voluntary/non-voluntary distinction can be tricky. But as a legal matter, the distinction is somewhat easier to maintain: on the one hand, while living within a state, with very few exceptions, we may not opt out of legitimately enacted laws; on the other hand, associations may not use coercion and force to retain members.

The second characteristic of civil society is pluralism. While the state is burdened with the job of pursuing collective ends and public

goods, in civil society individuals come together to pursue particularist ends and group-specific goods some of which may very well also be public goods. Thus we might think of the Sierra Club as pursuing a public good while a science fiction book club pursues a particularist good. But from the point of view of civil society as a whole, each good, protecting the environment or enjoying a good time-travel novel, are group specific goods.

The final characteristic of civil society understood as something apart from the state is that it is conceived in spatial terms. What is most important is establishing the boundary, not establishing what ought to go on within the boundary. The boundary is essentially negative, designed primarily to keep the state out, not to keep anything in. This raises an interesting question for the growing research on civil society.

Are the boundaries of civil society to be understood along legal, conceptual, or sociological lines? Social scientists often talk about civil society in contexts lacking strong legal boundaries. In China, for example, individuals get together and form groups all the time, from karaoke clubs to intellectual salons (Huang 1993). These groups are voluntary in the sense that no one is

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forced to join them; they represent a plurality of interests on the part of citizens; they are often quite autonomous from the state; and finally these groups perform important functions not performed by the state. From a sociological point of view, it makes sense to talk of Chinese civil society. And indeed there is a large literature on the subject. But from a legal point of view it does not make sense. Civil society, to the extent that it survives, exists not by design but by default and on state sufferance. For civil society to be apart from the state in a strong sense, the state must be bound by a rule of law that limits its interference in a meaningful way. This meaning of "apart" has clear liberal roots.

The implicit model that most theorists of civil society work with is drawn from the particular historical experience and developmental sequences of the West, especially western Europe (Ehrenberg 1999). In that model, the creation of civil society required first the separation of private and public spheres of authority. In the case of Europe, the creation of public authority separate from private authority involved a move from feudal rule in which all authority was in some sense "private" or at least personal, to the absolutist state in which the locus of authority was gradually separated from the person of the ruler and his retinue. The creation of distinct official and private realms left room eventually for the rise of civil society, that could demand specific protections and juridical guarantees from interference by the state (Poggi 1978). The appearance of a sphere of activity between the family and the state was intimately joined with the legal recognition of that sphere.

Does this mean that it makes no sense to speak of civil society outside of a liberal constitutional setting? On the one hand, associations develop even in the most legally inhospitable and insecure settings. In this sense, civil society as a behavioral phenomenon can be said to exist in virtually all modern societies. Yet, if this behavior only exists at the sufferance of states, if this behavior is tolerated by default rather than by design, if associations have no guarantee that the state will not stifle their activities in an arbitrary fashion, if only associations perceived as friendly towards the state are tolerated, then civil society as a bounded sphere with identifiable limits becomes less plausible. The model of civil society as a sphere apart from the state is very much tied to the liberal constitutional order. Those who are interested in the *apartness* of civil society are often interested in constitutional guarantees of freedom of association (Lomasky 2002; Kateb 1998). Here the debate is all about boundaries but it is a debate that is limited to liberal democracies. While associational life is ubiquitous, strong legal boundaries for such a life

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are not. But thinking of civil society as essentially a sphere apart from the state is only one way to conceive of the relationship between civil society and the state. In moving away from the spatial metaphor we also move away from (but are never completely free from) the juridical definition of civil society.

2 Civil Society against the State: Politicizing the Nonpolitical

The revolutions of 1989 are often appealed to as the events that triggered a renaissance in civil society literature. In this role, civil society is not simply a sphere apart from the state; it is or can be seen as an "agent" that interacts with and indeed opposes the state. The story told is that of a totalitarian state dependent for its stability on a depoliticized citizenry. State interests lay in actively discouraging the formation of civil society organizations even of seemingly innocuous sorts. Thus, to the extent that regimes remained stable, there was little or no civil society.

Under the most tyrannical regime, civil society is hardly even a sociological category let alone a juridical one. The case of the East European dissidents under Communism is highly instructive. George Konrad's celebrated concept of "anti-politics," in which people within totalitarian societies attempt to carve out small niches of autonomy, was a call for citizens to live as if the state did not exist (Konrad

1984). Konrad considered a normal civil society both in a sociological and juridical sense to be beyond the realm of the possible. Similarly, Vaclav Havel's seminal essay on "the power of the powerless" spoke of the capacity of isolated individuals to resist the state through "everyday" actions, not through associational life (Havel 1985). Although both Konrad and Havel hoped that these small acts of autonomy and resistance, acts that amounted to "living in truth," would in the long run be subversive of totalitarian rule, they did not foresee any short-run impact of society on the state in the Communist world. "Living in truth," as a personal and individual disposition, attached to little or no organization, stands at the outer extreme of what is normally thought to be civil society.

It is worth recalling, however, that both Konrad's and Havel's essays were written very early, when there appeared to be little hope of change in the

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region. The reforms in the Soviet Union initiated after 1985 by Gorbachev, policies that stopped short of the rule of law but still permitted greater freedom of association and speech, led some theorists to adopt an implicitly sociological as opposed to a purely juridical conception of civil society. Associations outside of the party might not be recognized by the state or even be formally legal, but as long as they existed, so the argument ran, they should be considered civil society.

In fact, some theorists and social scientists argued, the scope of the totalitarian state's power was never as complete as its claim (Moore 1954). Not only were churches in many of these societies able to maintain a degree of juridical autonomy, but groups ranging from Solidarity in Poland, to environmental groups in Hungary and East Germany, to youth groups and popular music clubs all over the region, managed to sustain their own group resources and even socializing functions. Once the regimes showed signs of weakness, especially during 1989, these groups quickly took center-stage and became the genuine *dramatis personae* of history, staffing not only the "barricades" but also the roundtable negotiations, and paving the way for the Communists' relatively smooth exit from power. In sum, the revolutions of 1989 were revolutions of civil societies asserting themselves against the state (Kenney 2002).

This is the strong version of the civil society against the state argument. The story it tells is that of resilient civic groups able under certain circumstances to assert themselves against the repressive formal institutions of the state. It is worth noting, however, that if scholars have attributed the overthrow of Communism to the power of civil society, other scholars have questioned the strength of civil society as a vehicle of the revolutionary breakthrough to democracy. Civil society might have undermined and challenged the totalitarian state but a legacy of organizational weakness and lack of trust now highlights the frailty of post-Communist civil societies *vis-à-vis* the state (Howard 2003). Could it be that civil society was strong enough to overthrow Communism but not strong enough to survive democracy? A further and even more interesting question is whether the kind of civil society-against-the-state dynamics that existed in late Communism is good for democracy? Street demonstrations helped bring down Communist governments in 1989. But the question remains: Is what is good for bringing down dictatorships also good for sustaining a democracy?

Theorists and social scientists do not agree on whether a contentious civil society is good for democracy. If working through formal state institutions is

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a sign of a healthy and stable democracy then civil society expressing itself in the form of street demonstrations and protests may not necessarily produce political stability or good public policy (Pereira, Maravall, and Przeworski 1993, 4). Others have maintained (using data from post-Communist transitions) that protest can serve as a dialogical medium between the state and civil society when conventional democratic institutions are discredited or do not function properly. Protest under these circumstances can become a regularized and authoritative pattern of behavior. When it is widely regarded as normal and legitimate, when it is routinized and even institutionalized, and when it does not involve violence or anti-democratic ideologies, "unconventional but institutionalized political participation is a sign of democratic vitality or democratic consolidation" (Ekiert and Kubik 1999, 194).

3 Civil Society in Dialogue with the State: Public Sphere

A growing number of democratic theorists suggest that it is useful to think of civil society as in a creative and critical dialogue with the state. This dialogue is characterized by a type of accountability in which the state must defend, justify, and generally give an account of its actions in answer to the multiple and plural voices raised in civil society. In this view of the relationship, one put forth most clearly by Jürgen Habermas, civil society as public sphere becomes the central theme. The public sphere is understood as an extension of civil society. It is where the ideas, interests, values, and ideologies formed within civil society are voiced and made politically effective (Habermas 1996, 367).

The historical struggle to carve out a sphere apart from the state has the result of producing public opinion that stands apart from the state as well. In the first instance the political function of public opinion is simply public criticism. But as state actors come to heed the voice of

public opinion, a new and stronger role is envisioned. "Since the critical public debate of private people convincingly claimed to be in the nature of a noncoercive enquiry into what was at the same time correct and right, a legislation that had recourse to public opinion thus could not be explicitly considered as domination"

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(Habermas 1993, 82). Critical debate in the public sphere becomes a test of legitimacy. The optimistic assumption at work here is that injustice and domination cannot survive the scrutiny of an enlightened and civic-minded public. This vision of the ideal relationship between civil society and state is used more often as a framework to criticize contemporary society/state relations than as an achievable goal. The question becomes how to promote and maintain a public sphere that performs the function of critical dialogue partner.

While freedom of speech and association are a necessary condition for a strong public sphere, they are not enough, "basic constitutional guarantees alone cannot preserve the public sphere and civil society from deformations. The communicative structures of the public sphere must rather be kept intact by an energetic civil society" (Habermas 1996, 369). Not the state, but members of civil society bear the responsibility of sustaining an effective democratic public sphere. Only when actors consciously try to enhance, expand, and transform the public sphere as they participate in it can the public sphere thrive. The contrast is between mere "users" of the public sphere who pursue their political goals within already existing forums and with little or no interest in the procedures themselves, and "creators" of the public sphere who are interested in expanding democracy as they pursue their more particularist goals.

Habermas, along with Cohen and Arato, identifies new social movements as the most innovative actors in the public sphere (Habermas 1996, 370; Cohen and Arato 1992). Social movements interested in developing a dialogical relation to the state deploy offensive and defensive strategies vis-à-vis the state. Offensively, groups set out to influence the state and economy. So, for example, environmental movements try to influence legislation, shape public opinion, and contain economic growth. But at the same time, the environmental movement has consciously contributed to the expansion of associational life, to the encouragement of grassroots participation, to the development of new and innovative forms of involvement, and to the extension of public forums of debate and deliberation. This sort of activity empowers citizens within civil society, helps maintain autonomy, and expands and strengthens democracy by giving citizens effective means of shaping their world. Thus, effective social movements not only achieve policy goals; the achievement of policy goals is tied to strengthening the role of civil society as a critical dialogue partner with the state. These movements "force" the state to answer to new voices, concerns, and interests. Social movements are poised between civil society as an opponent to the state and civil society in support of the state.

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The question that naturally arises, however, is: When does critical opposition strengthen democracy and its claim to legitimacy and when does it lead to democratic breakdown? When do contentious civic groups acting against the state instill civic virtues in people that help sustain democracy and when do they lead people to overthrow democracies as enthusiastically as they overthrow dictatorships? It is to the question of the relationship between civil society and public dispositions that we turn next.

4 Civil Society in Support of the State: Schools of Citizenship

In addition to the three strands we have so far identified as central to contemporary debate about the relationship of civil society and state, there is a fourth that has been particularly strong in the American context. This view centers on a neo-Tocquevillian analysis of the necessary conditions of stability. "Civil society builds social ties and a sense of mutual obligation by weaving together isolated individuals into the fabric of the larger group, tying separate individuals to purposes beyond their private interest. The reciprocal ties nourished in civil society are the wellspring of democratic life" (Eberly 2000, 7–8). Liberals and conservatives alike have embraced this idea and have championed the salutary effects of a robust civil society on the civic mindedness of individuals.

The relationship between civil society and the state to emerge from this view is complex and often reflects a love/hate dynamic. On the one hand, liberals and conservatives alike have come to realize that the viability of liberal democracy depends on reproducing the requisite democratic dispositions. Democracy without democrats is a precarious proposition. Contrary to what Kant thought, we cannot build a strong political community assuming a race of devils. Instead we need to be attentive to identity formation and the inculcation of values. From this point of view, civil society performs a function of underpinning and supporting the state. On the other hand, there is also a certain amount of hostility towards the state. For many people writing within this tradition, the state is one of the forces contributing to the

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decline of civil society as a place for civic renewal. Benjamin Barber notes "Americans currently face an unpalatable choice between an excessive, elephantine and paternalistic government and a radically self-absorbed, nearly anarchic private market" (Barber 1995, 114).

Occasionally these arguments merge into thinly veiled attacks on “big government” but even liberal and left-wing scholars are concerned with the ways the welfare state bureaucratizes the lives of citizens. Such bureaucratization is self-defeating. For the state to perform its functions, it requires citizens who are willing and able to take up the perspective of the public good. A state that is overly intrusive and overweening undermines citizens' competences to take on the civic responsibilities required of them.

Whereas in the view of civil society apart from the state, associational life is seen as the sphere of plural ends, in the view of civil society in support of the state, associational life is viewed as both a sphere of pluralism and a sphere that produces common values (Eberly 2000). The pursuit of plural ends *in association and cooperation with others*, has the result of creating a common civic culture that can transcend pluralism and create bonds of community. Some of the virtues acquired through associational participation are said to be toleration, cooperation, respect, and reciprocity (Warren 2001). The experience of associational life, so the argument goes, even though directed to different ends (bowling for some, religious devotion for others, a neighborhood fair for still others), is a lesson in citizenship. This experience translates into a commitment to the joint enterprise of liberal democracy (Putnam 2000). It is an invisible hand argument applied to associational life.

The debates and disputes within this view fall into four broad categories. The first dispute concerns the question of whether civil society in liberal democracies is robust or in a state of decay. This debate has centered on American culture more than any other but has also spawned a popular empirical research project measuring civic engagement across the globe (Putnam 2000; Verba, Scholzman, and Brady 1995; Skocpol 1999). A second area of dispute centers on what sorts of values need to be inculcated and how and where we ought to be promoting them. Here education policy becomes central as well as government support for such things as “faith based initiatives” (Macedo 1996). This leads naturally into the third area of contention: when does civil society as a school of citizenship run up against civil society as a sphere of freedom? When does the expectation (sometimes reinforced by the state in the form of subsidies and enabling policies) that associations will inculcate the right sort of values place intrusive limits on the freedom of

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association (Rosenblum 1998)? Should we only value associations that promote democratic citizenship or would such a bias undermine values of pluralism and associational freedom?

A final set of issues regarding the civic renewal literature questions what appears to be a basic premise of the argument. Much of the literature assumes that participation in civil society is a good thing. The enemy of democracy is apathy and self-absorbed individualism. Thus the stress is on *participation* and not on what sort of groups citizens are joining. The literature fails to take seriously the possibility that there is something called bad civil society (Chambers and Kopstein 2001).

The crucial difference between good and bad civil society is that the former fosters and the latter destroys one essential value for the stability and quality of democracy: the value of reciprocity. Reciprocity involves the recognition of other citizens, even those with whom one has deep disagreement, as moral agents deserving civility. Bad civil society challenges this value through the promotion of hate, bigotry, and the negative empathy inherent in such acts as ethnic cleansing and spectacles of civic violence. Bad civil society can, however, offer participants the “goods” of cooperation and trust. They acquire a sense of belonging and meaning in their lives. They may even develop the virtues of civility and sacrifice, at least among themselves. They are asked to rise above narrow self-interest and take on a perspective of the group. These goods are internal to the group, however, and do not always transfer across group boundaries (Putnam 2000).

Civil society is not always a good thing. Prior to the 1994 genocide, according to one commentator, Rwanda had the highest density of associational life in sub-Saharan Africa (Edwards 2004, 44). In the new democracies after 1989, a disproportionate number of civic groups preached hatred and created a great deal of bad social capital. Some scholars wondered whether democracy might be better served in the short run by the continued civic disorganization of these societies rather than the mobilization of so much hatred (Kopstein and Hanson 1998). Even within highly stable democracies, the idea of civic association being an unmitigated good has been questioned (Foley and Edwards 1996). A dense network of civic life may promote the quality of democracy when the content of the associations is supportive of democracy. As one commentator has recently noted, choral societies can be important pillars of a vibrant civil society, but one inevitably wants to know what these groups are singing (Edwards 2004, 42). It matters a great deal whether they are singing the *Marseillaise* or the *Horst Wessel Lied*.

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5 Civil Society in Partnership with the State: More Governance, Less Government

The sovereignty of the nation state is being challenged from many different directions not least of which is from the perspective of civil society. The idea of supplanting the functions and functionaries of the state with the *citoyen* of civil society harkens back to the classics of nineteenth- and early twentieth-century emancipatory sociology. In some ways, the new group of theorists and social scientists who

envision a decentering of public administration away from a distant, uncaring, and inefficient centralized state administration into a more proximate, empowering, if less tidy system of multilevel governance, subsidiarity, and new public management draw their inspiration from these classics. The contemporary theorists of civil society, however, claim that growing complexity poses new challenges to governance, democracy, and autonomy that the nineteenth- and early twentieth-century social theorists did not anticipate. The nation state is seen as inadequate on a number of fronts. For some, it simply cannot cope, as national and even regional policies founder on local circumstance and international interdependence. The state simply cannot deliver the goods without the help and mediation of non-state sector associations (Cohen and Rogers 1995; Hirst 1994). Others argue that the problem is really a problem of democracy and self-government. Legitimacy requires more citizen participation and input into policy decisions. This in turn requires the devolution of authority onto citizen associations. Citizens gain a sense of efficacy and control over their lives (Fung 2004). Still others argue from a standpoint of autonomy. Not only is the large paternalistic welfare state not delivering the goods, it is intrusive, controlling, and dehumanizing. The answer is not deregulation but rather self-regulation. When citizens can find ways to self-regulate, they can build the basis of autonomy and self-respect (Habermas 1996; Cohen 2002). All three of these reasons lead to the hope that civil society will be home to new forms of governance.

Sometimes civil society is empowered by default. The state is simply absent. Increasingly spaces and dimensions are emerging in which the answer to the question "who is in charge?" is unclear, and where no one is in charge, new forms of governance become possible. Mark Warren for example notes

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that sector differentiation often means that "the state is no longer 'head'; but rather, it functions as the most visible point of negotiation among sectors since it does not control the resources upon which it depends to organize collective action" (Warren 2002, 685). Alternatively, new governance models are sometimes conceived as hard-won victories on the part of citizens. The state is seen if not as the enemy then at least as an unwilling partner. Civil society activists must be vigilant, as state agents "often grow uncomfortable with the burdens of participation and seek to re-centralize or reinsulate their agencies from the finitudes of politics" (Fung 2003, 528). Finally, the state itself can initiate divestment of management and even decision-making authority. This is the heart of the Third Way initiative championed by Laborites like Anthony Giddens (2000). The stress here is on markets and states that cannot perform their function without citizens taking on responsibilities. But in order to get citizens to take responsibility they need to alter their expectation vis-à-vis the state: "the belief in the primacy of the nation-state ... deters responsible action by non-state actors. It encourages them to focus their energies on finding ways to get national states, their own or others, to provide services, to solve a crisis or act in some other way to address a particular issue rather than to look for ways the group can act on its own. It also reinforces the tendency of organizations to think in narrow, self-interested terms rather than to take responsibility for the broader consequences of their actions" (Clough 1999, 6).

Devolution, outsourcing to the third sector, and citizen participation and management all present risks. Privatization, loss of accountability, NIMBY (not in my back yard), and third-sector bureaucratization are only a few of the potential dangers when civil society partners with the state. As civil society takes on state functions, the boundaries between civil society and the state become complicated. The problem is not so much state intrusion; the problem is that in taking on state functions, civil society may begin to act and look like the state (Soroko 2003). The role of civil society as a check on the state is compromised if civil society supplants or even exists in partnership with the state. Ultimately this may point to a trade-off: as we have moved from the strong spatial conception of civil society as a sphere that stands clearly apart from the state, through conceptions of civil society as opponent, then critic, then supporter, and now substitute for or partner with the state, we have seen a growing rapprochement between civil society and state. Perhaps the pluralism of a healthy civil society can contain all these different roles for associational life. But it is unlikely to do so without conflict or tension.

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6 Civil Society beyond the State: Global Civil Society

Civil society is a global phenomenon. Many associations and non-governmental organizations cross state boundaries. But what is their role and significance? If civil society in the West arose as a sphere separate from and often in opposition to the state, global civil society can be said to have arisen in anticipation of rather than in response to (and certainly without the protection of) a global liberal constitutional state.

Global civil society theorists criticize what they term "methodological nationalism," by which they mean our tendency to think in terms of national rather than transnational categories (Kaldor, Anheier, and Glasius 2003). This is especially true of social scientists and other scholars who usually rely in their research on national level concepts and nationally collected data. The problem with "methodological nationalism" in the case of civil society is that it restricts our understanding of the phenomenon to comparing the qualities and quantities of civil society in different states. In fact, the argument goes, some of the most interesting developments within civil society are occurring among groups who view themselves as completely unbound by political borders.

The two most visible components of global civil society are issue-centered social movements and NGOs (Keane 2003). Globalization itself has put a number of issues on activists' agendas that clearly transcend borders: landmines, human rights, climate change, AIDS/HIV, and corporate responsibility are some examples (Kaldor 2003, 588). Activists form loose networks tied by the Internet and punctuated by action across the globe. These activist networks are amorphous and slippery but their impact is keenly felt, especially during meetings of the key institutions of economic globalization such as the World Trade Organization and the G8.

Alongside social movements and often coming out of these movement are non-governmental organizations (NGOs). Mary Kaldor calls NGOs tamed social movements. Successful social movements transform themselves into established NGOs that reemerge in politics as "respectable" negotiating partners. NGOs are the key agents while social movements are the key messengers. NGOs also frequently mirror the ideological fault lines within social movements as participants set up organizations that reflect their particular sets of concerns, interests, and interpretations of the problem at hand.

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Few scholars interested in global civil society are content with identifying actors. The real debate surrounds what to make of this phenomenon. Some enthusiasts argue that global civil society is nothing less than a harbinger of a new form of global governance: "a system of global governance has emerged which involves both states and international institutions. It is not a single state, but a system in which states are increasingly hemmed in by a set of agreements, treaties and rules of transnational character. Increasingly, these rules are based not just on agreement between states but on public support, generated through global civil society ... global civil society is a platform inhabited by activists ..., NGOs and neoliberals, as well as national and religious groups, where they argue about, campaign for (or against), negotiate about, or lobby for arrangements that shape global developments" (Kaldor 2003, 590).

Primarily global civil society works on the dialogue model; that is, through a global public sphere. Its most prominent weapon and resource is publicity. Human Rights Watch does nothing but publicize human rights abuses. Its primary target of influence is the media. But getting the world community to take notice and condemn abuses can and does influence behavior. John Dryzek notes that "the politics of transnational civil society is largely about questioning, criticizing and publishing." Such action can "change the terms of discourse, and the balance of different components in the international constellation of discourses" (Dryzek 2000, 131). Its weapon is publicity and its dialogue partners are mostly standing IGOs (UNESCO, UN Human Rights Commission, World Trade Organization, and the International Monetary Fund) and ad hoc international meetings and commissions. These form, in a sense, the state analogue particularly in this sector's capacity to generate and articulate international and cosmopolitan law.

The most common criticism of this view centers on a democratic deficit argument. Within democratic nation states, the relationship between civil society and the state is mediated by representative institutions. This is not true at the global level, at least not yet. Although social movements and grassroots activism can and indeed have been central in shaping both established and emerging democracies, one would not want global social movements and NGOs to be the only source of democratic expression and accountability. As two critics have put it, "Citizens do not vote for this or that civil society organization as their representatives because, in the end, NGOs exist to reflect their own principles, not to represent a constituency to whose interests and desires they must respond" (Anderson and Rieff 2004, 29). Indeed social

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movements and associations have played the creative, critical, and innovative role in shaping modern democracies precisely because they have been relieved of the "possibility, the obligation, and indeed the temptation to regard themselves as representatives or intermediaries" (Anderson and Rieff 2004, 30).

The appearance of global civil society before the appearance of a global state and a global rule of law in effect reverses the sequence of civic development in the West. Global civic organizations do not have a single, clear object whose power they are attempting to limit and from whom they are demanding a sphere of legal protection. Civil society is decentered without a clear other to give it a contrasting boundary. The boundary problem is both external and internal. Not only is there no state as counterpart, but there appears to be no society as well. Even defenders of global civil society note that "the weakness of social bonds transcending nation, race, and gender" make talk of global civil *society* somewhat premature (Falk 1999, 136). This in itself does not render the concept meaningless, nor does it mean that global civil society is powerless. What it does mean is that it is an extremely amorphous concept that is often normatively over-burdened. Despite encouraging us to think outside the nation state box, global civil society still cannot do without the state and the nation state at that. The vast majority of organizations, associations, and movements that make up global civil society have their homes and headquarters in countries that offer them the protection and predictability of an established liberal legal order.


We are back to where we started, civil society as a juridically defined and protected sphere of freedom. Even the most "post-state" conceptions of civil society rely to some extent on freedoms that can only be guaranteed by a state. No doubt both global and domestic

civil society will continue to constrain, challenge, and discipline the state in important ways, but they are unlikely to supplant the state in the near future.

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