

The good governance agenda of civil society:

Implications for ACP-EU cooperation

Alisa Herrero Cangas

In June 2000, 77 African, Caribbean and Pacific (ACP) countries and the European Union signed the Cotonou Partnership Agreement. One of the main innovations of this agreement was its endorsement of participatory development. The Cotonou Agreement opened new spaces for non-state actors to take part in formulating, implementing and monitoring development programmes and projects. Though the Agreement does not address in detail the question of who can participate, it does include a set of basic eligibility criteria: only non-state actors that address the needs of the population, have specific competencies and are managed democratically and transparently will be considered legitimate partners (Article 6.2).

Early in 2004, the Government of Ghana issued an ultimatum to the thousands of non-governmental organisations (NGOs) operating in the country: failure to provide accurate records of activities and to submit annual reports and statements of accounts to the Social Welfare Department (as required by law) would result in blacklisting. The measure was an expression of the government's desire to promote a credible, transparent and accountable civil society. However, many civil society representatives interpreted it as a deliberate move to hamper participatory development processes.

During the CIVICUS World Assembly, celebrated in Botswana in March 2004, 700 delegates from 105 countries discussed 'the art of strengthening civil society'. Legitimacy, accountability, transparency, credibility and representation were major crosscutting themes. In recognition of the growing prominence of civil society organisations on the world stage, the Assembly explored new participative and accountable models for promoting individual and collective governance within civil society. The Assembly's message was clear: in a climate where civil society organisations must increasingly 'perform or perish', legitimacy is a fundamental concern that should be systematically addressed, to ensure that civil society organisations act effectively and with integrity for the public good¹.

These three examples - the Cotonou Partnership Agreement, the crackdown on NGO reporting in Ghana and the CIVICUS World Assembly in Botswana - illustrate how different actors are addressing the 'governance challenge' faced by civil society. This In Brief focuses on that challenge. It has four objectives. The first is to help clarify some of the concepts put forward in the academic and non-academic literature defining the 'good governance' agenda for civil society. The second is to present the main operational challenges that arise in implementing this agenda. The third is to present some strategies used by civil society actors to tackle the governance challenge. The final objective is to draw some implications for ACP-EU cooperation.

The rise of civil society in the political landscape

Participatory development has not introduced radical changes in terms of who holds the monopoly on decision making and power over resources. However, it has dramatically changed the established political landscape: public action is no longer the sole resort of public agencies and, by the same token, central states are no longer regarded as the only development agents.

Political liberalisation and the emergence of new institutional mechanisms for advancing the international poverty-reduction agenda have created spaces where civil society actors can influence and participate in policy processes. Poverty reduction strategy papers, budgetary support, the Millennium Development Goals and, in the framework of ACP-EU cooperation, the Cotonou Partnership Agreement, have opened new dialogue forums where governments and civil society actors are called upon to interact with official foreign development agencies in formulating, implementing and monitoring economic, political and social policies.

In this framework, most ACP governments have increased their efforts to include civil society in policy planning, often as a prerequisite for receiving external support. Citizens are also mobilising around broad political and socio-economic issues and are increasingly willing to hold their government to account for policies, particularly regarding good governance and poverty reduction. In step with these developments civil society organisations are boosting their numbers worldwide.

This evolution reflects a sustained trend since the late 1980s of donor agencies channelling more and more funds through civil society organisations as a means to promote democratic governance. The basic assumption hereby is that civil society and

Figure 1 Roles of civil society organisations

Welfare Service Delivery	Advocacy	Watchdog Role
<p>Civil society organisations can provide the necessary institutional basis for service delivery when questions of effectiveness and responsiveness of the state arise.</p> <p>At the local level, grassroots organisations can promote collective action to improve access to basic services (e.g., health and education).</p>	<p>Civil society organisations can play a role in political life by reiterating the legitimate right of citizens to make demands upon the state. Civic education programmes can help mobilise people and encourage previously marginalised groups to enter the political arena. Civil society organisations are effective vehicles for representing and negotiating citizens' interests vis-à-vis the state.</p>	<p>Civil society organisations can promote good governance and social equity by monitoring both state and market performance. Non-state organisations increasingly use the dissemination of information - on current legislation, public expenditure, policy implementation, achievements and drawbacks in promotion of the rule of law, good governance, and respect of human rights - as a tool to keep an eye on state performance.</p>

good governance are mutually reinforcing. On the one hand, the enforcement of good governance opens up new spaces for citizen participation, since freedom of association, expression and information are crucial to the emergence of a vibrant civil society and the acceptance of pluralism and diversity. On the other hand, an enabling environment is key to allow civil society organisations to become change agents that influence public policy in favour of democracy, popular empowerment and public-sector accountability. Civil society organisations are thus expected to fulfil several (non-exclusive) roles: as welfare service deliverers, as advocates and as 'watchdogs' (figure 1).

Main dimensions of the 'good governance agenda' for civil society

As civil society becomes more visible and powerful in the public sphere, national governments, international donor agencies, development theorists and civil society actors alike are coming to realise that civil society's credibility can no longer be taken for granted. Civil society organisations need to endorse the good governance agenda if they are to earn public trust. But what exactly does good governance mean when applied to civil society? Drawing from both academic and non-academic literature, this section disentangles civil society's good governance agenda, bringing clarity to the discussion, particularly regarding the following areas:

- ethics, performance and trust;
- representation and voice;

- in-house democracy;
- structured accountability mechanisms.

Ethics, performance and trust

Good governance can be regarded as a moral stance: a supreme value that maximises the common good and is therefore to be pursued in public and private spheres, including in civil society. In this framework, civil society organisations that claim to be credible change agents are obliged to operate according to specific civic norms.

As a result, the credibility of civil society organisations depends much on the perception that they uphold the values they claim to represent, such as democracy, social justice, equity, transparency, accountability, effectiveness and the rule of law. All of these values are key components of the wider good governance institutional agenda.²

Clear standards of governance can contribute to ensure coherence between a stated mission, values and goals; and the processes followed and outputs achieved, all of which contribute to ensuring public trust.

Representation and voice

One of the most important factors determining the legitimacy of a civil society organisation is its degree of embeddedness in society. Associations that have a clear constituency and the capacity to advance the interests of their members have the greatest chance of becoming key political players. At the same time, ability to enter the policymaking terrain depends on organisations' capacity to make use of

well-founded research in advocacy campaigns, to develop skills of persuasion and to access spaces, such as a parliament, where policy is formulated. In these ways organisations (e.g., professional associations, cooperatives and trade unions) are able to represent their constituencies in a structured manner.

Civil society organisations are becoming aware of the need to set up a clear governance agenda that effectively deals with issues of representation, both within the organisations themselves and across the sector. Setting up and furthering this agenda will increase the ability of civil society organisations to meet their constituencies' demands and ensure their independence vis-à-vis externally imposed agendas.

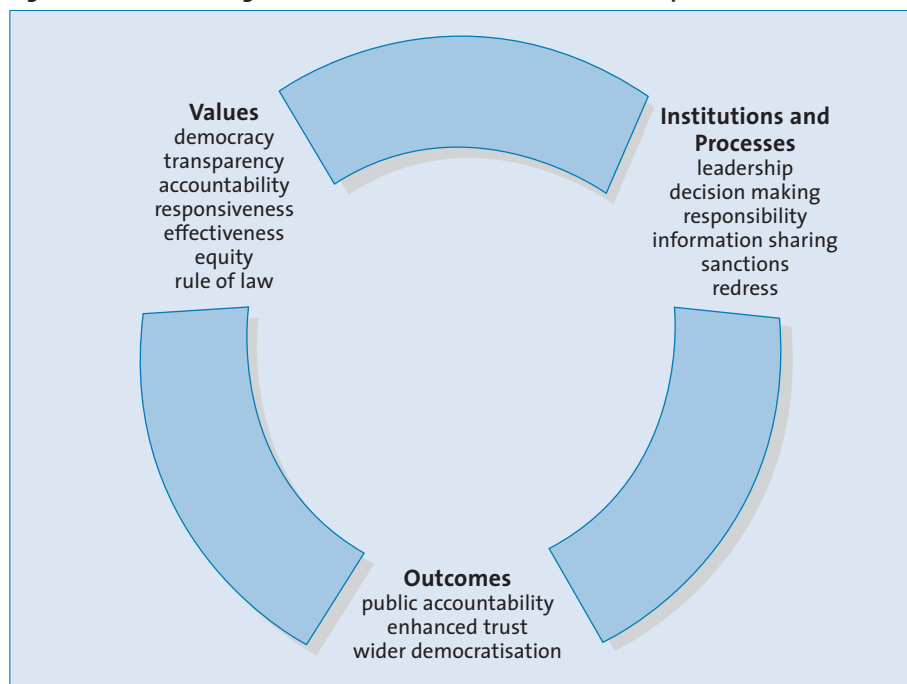
In-house democracy

Gradually as civil society organisations are being recognised as formal partners in development, more attention is being paid to their internal governance and management structures. The expectation is that organisations promoting democracy and participation should practice what they preach, if they are to be credible and efficient change agents in the wider political domain. However, the right of civil society to influence public policymaking without being an elected body is often called into question, as few civil society actors (mainly the trade unions and some NGO federations) derive their legitimacy from democratic election processes.

The literature warns against a too restrictive reading of democracy. A comprehensive understanding of democratic management would include organisations that translate the core values of good governance into specific mechanisms of decision making, internal reporting and supervision and staff management. Indeed, a keystone of transparent, responsible and democratic internal management can be a governing document that sets out the following:

- the purpose of the organisation;
- the highest governing body (e.g., an assembly of members or governing board) and its basic powers;
- the minimum number of times the governing body must meet;
- whether additional governing organs are required (e.g., a supervisory board, a management committee, an audit commission);
- for membership organisations, the rules for membership acquirement and suspension.

Figure 2 An enhanced governance structure: Values, institutions/processes and outcomes



Participatory management practices can contribute to the internal democracy of civil society organisations. Many such organisations replicate their commitment to participatory development within their workspace by limiting autocratic leadership and involving their staff in the design of organisational activities, including deliberations on policy, strategy and operations.

Creative responses to the governance challenge in-house can provide civil society organisations with concrete mechanisms to deal with issues of representation on a larger stage, within and across the non-state sector, and contribute to the democratisation of society and renewed societal commitment to public accountability.

Structured accountability mechanisms³

Accountability entails concrete mechanisms to hold an organisation responsible for its actions, through either rewards or penalties. In general terms, accountability requires that an organisation be fully committed to transparency in decision making and external relationships, honest in accounting and have in place appraisal processes by which to judge whether performance is satisfactory. Also, people or other organisations affected by the organisation's actions should have means to legitimately report concerns, complaints and abuses, and get redress if needed.

Democratic governments and the corporate sector have structured accountability mechanisms: they respond to their electorate and their shareholders, respectively, in a fairly straightforward manner. Civil society organisations must respond to claims raised by a wider range of actors: *upward* to their trustees, governments and resource providers and *downward* to their partners, networks of peer organisations, local communities, staff and supporters (figure 3). On this canvas, each stakeholder has specific needs and expectations.

Upward accountability is to donors, governments, trustees and executive boards⁴

In exchange for financial support, resource providers request civil society organisations to prove they are making responsible, transparent and efficient use of resources. Donors' expectations generally focus on organisational accountability and the short- and medium-term impact of funded operations. Donors' accountability demands are therefore generally addressed through reporting, accounting and monitoring.

Governments, in the form of public authorities, define the laws, rules and procedures to be observed by civil society and are therefore able to regulate the existence and fiscal status of formal organisations. Ideally, a national constitution would protect freedom of expression, association and assembly and confer to citizen associations the rights and powers they need to accomplish their mission. By the same token, an optimum regulatory framework would authorise government, as the representative of the public at large, to oversee the activities of civil society organisations and enforce the law so as to prevent any abuse or fraud to the public interest.

Trustees and executive boards are formal governance agents that regulate the internal functioning and external relations of legally established civil society organisations. Statutes establish these structures and the processes by which they guide the determination of the vision, mission and strategy of the organisation. Trustees define the norms and values of institutional functioning and they address issues of policy in relation to internal programming, staffing and resource use. Moreover, gover-

Figure 3 Accountability canvas of civil society organisations

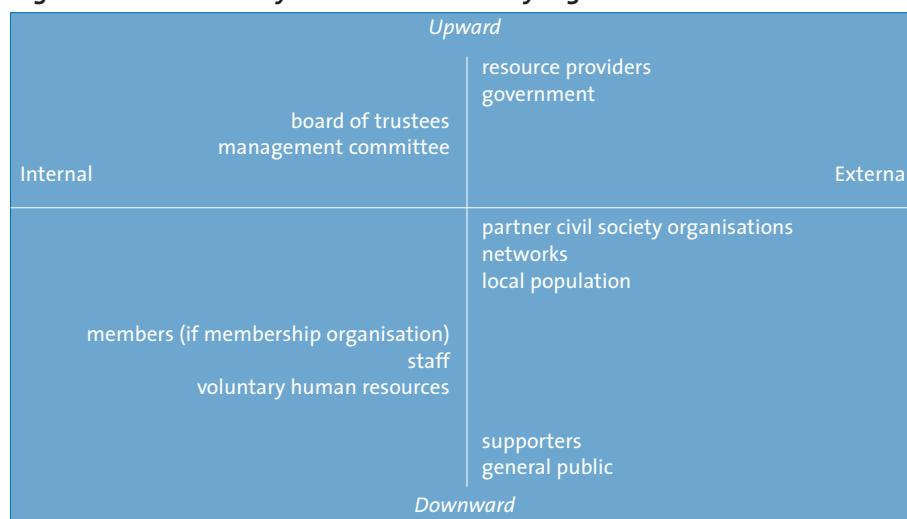
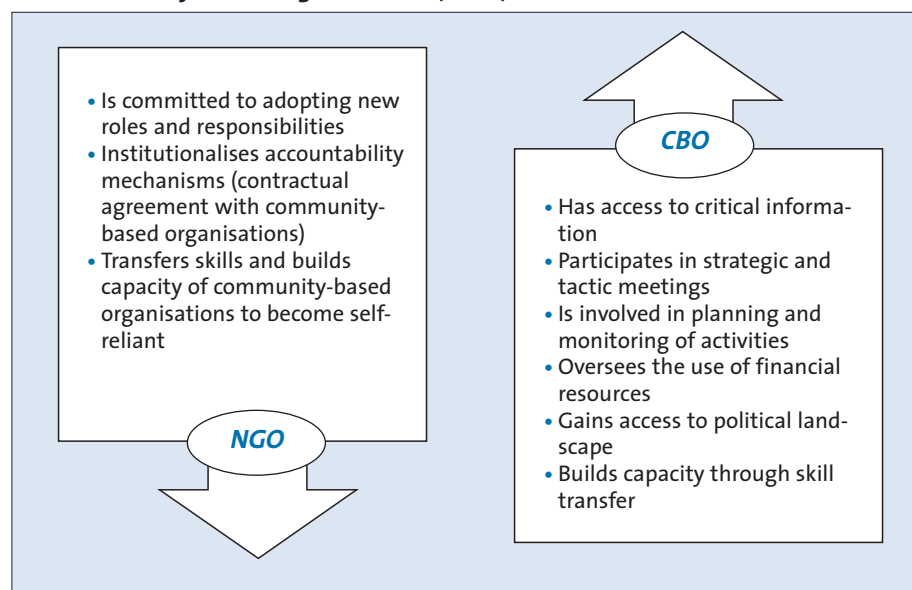


Figure 4: Indicators of downward accountability in partnerships between NGOs and community-based organisations (CBOs)



ning structures are expected to monitor the organisation's performance and the levels of accountability to different stakeholders.

Downward accountability is towards constituencies and the community⁵

Many NGOs (Northern and Southern) seek to establish partnerships with community-based organisations as a means to enhance their legitimacy vis-à-vis domestic and foreign donors. In turn, community-based organisations can often improve their access to external funding via contacts with NGOs.

Fulfilling donor requirements has become increasingly difficult for resource-poor community organisations, as application and grant management procedures have become more complex and bureaucratic. This has increased the need for joint ventures and partnerships between more capacitated NGOs and their community-based counterparts. In such joint ventures NGOs generally play a facilitating role, acquiring funding for community-based organisations. High standards of downward accountability are generally associated with NGOs that genuinely commit to participation, reciprocity and transparency with their partner organisations (e.g., by establishing contractual agreements with community-based organisations, transferring skills and building capacities). Figure 4 summarises key indicators of downward accountability in partnerships between NGOs and community-based organisations.

Operational challenges to implement this agenda

The governance agenda of civil society is indeed broad and diverse. To date, debate has revolved around issues of trust, proved performance, representation and voice, internal democracy and structured accountability. Governments, donors and development theorists widely agree that only when civil society organisations address these issues effectively will they qualify as legitimate partners in development. However, a number of operational challenges arise in this process: civil society's diversity can hamper efforts to define a good governance agenda for the sector as a whole; the right of governments to oversee civil society's operations can be hard to reconcile with the right of civil society to participate in the political landscape; assessing in-house democracy requires complex institutional analysis; upward and downward accountability demands are sometimes antagonistic; and adopting a multi-actor approach to governance requires that roles be redefined and power relations reconsidered.

Coping with civil society's diversity

The diversity that exists across civil society organisations is an obstacle to defining a universal good governance agenda that is applicable throughout the sector, particularly regarding criteria for accountability and internal democracy. For instance, certain standards of practice may be beyond the reach of small, under-resourced organisations: few grassroots organi-

sations are able to afford annual auditing by independent professional auditors.

In this framework, it would be wise to allow some versatility in the choice of tools and checks that organisations can use to comply with minimum standards. Peer review, for instance, could offer a practical, cost-effective way for small organisations to improve their accountability and transparency standards.

Most analyses of civil society consider four organisational levels (figure 5). The first, and broadest, level is composed of the grassroots or **community-based organisations** (such as neighbourhood committees, cooperatives, women and youth associations, culture and sports clubs, and local churches and Islamic brotherhoods). These are generally informal groupings that develop coping strategies to address an immediate problem affecting the community. By definition, community-based organisations are limited geographically and in thematic focus. They are mostly self-financed by members and staffed by volunteers. Although they work with a community mandate, they do not necessarily represent the interests of the community as a whole.

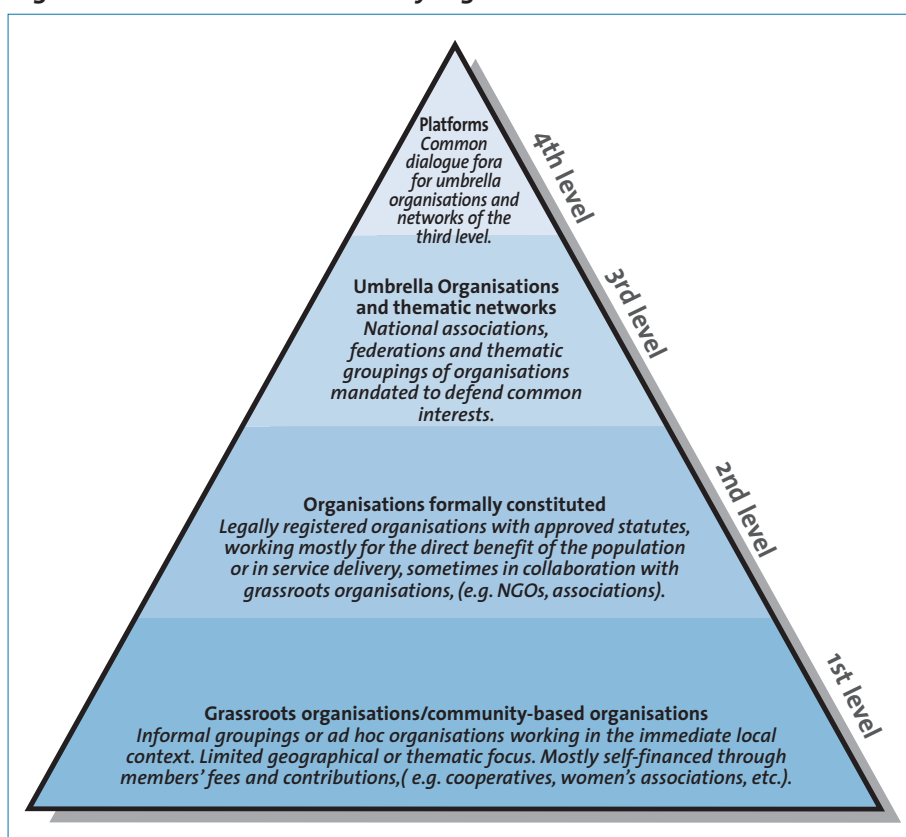
The second level is that of **formal and structured civil society associations** operating at the local, national and international level (such as development NGOs) and geared by social responsibility. These associations generally support community-based organisations (e.g., through community facilitation and capacity building) and deliver services (in partnership with or in substitution of the state). In addition, formal organisations may carry out research and engage in advocacy. They employ professional and paid staff and are generally dependent on external funding sources.

The third level is made up of **umbrella organisations and thematic networks**, such as national associations, federations and thematic groupings of organisations mandated to defend common interests, share information, set up strategic planning and vision and secure funding. Such networks have emerged in response to demands by donor agencies and governments to have a single interlocutor representing 'the voice' of civil society.

Finally, the fourth level is constituted by **platforms**, which are dialogue *fora* for the umbrella organisations and networks making up the third level.

Civil society organisations have a specific role to play, depending on their focus and the level to which they belong. In consequence, each responds to a different

Figure 5 Four levels of civil society organisations



Furthermore, meeting legal requirements does not necessarily imply that an organisation's mission, goals and strategy address the needs of a population in a particular socio-economic context.

Assessing the internal level of democracy

In a growing number of ACP countries, the European Union is planning to support civil society organisations, either for activities related to (welfare) service delivery or for advocacy purposes (e.g., participation in policy processes, promoting better governance or human rights).

An institutional analysis of civil society is often carried out as part of such assistance. This means 'mapping' the different families of non-state actors and assessing their eligibility to receive EU support. In the process, new tools have been developed to assess internal levels of democracy within organisations, if possible in close consultation with the actors involved. These studies are particularly useful for assessing umbrella organisations or networks of civil society actors.

A number of criteria tend to be prominent in assessments of organisations' internal level of democracy:

'governance logic' determined by the organisation's nature and its institutional capacity to address governance challenges. Figure 6 summarises some of the main expectations that these organisations must fulfil in order to be perceived as trustworthy. Of course, it is important to bear in mind that not all civil society organisations respond to these criteria in the same way or with the same tools.

rather than as a measure to improve the credibility, transparency and accountability of the civil society sector.⁶

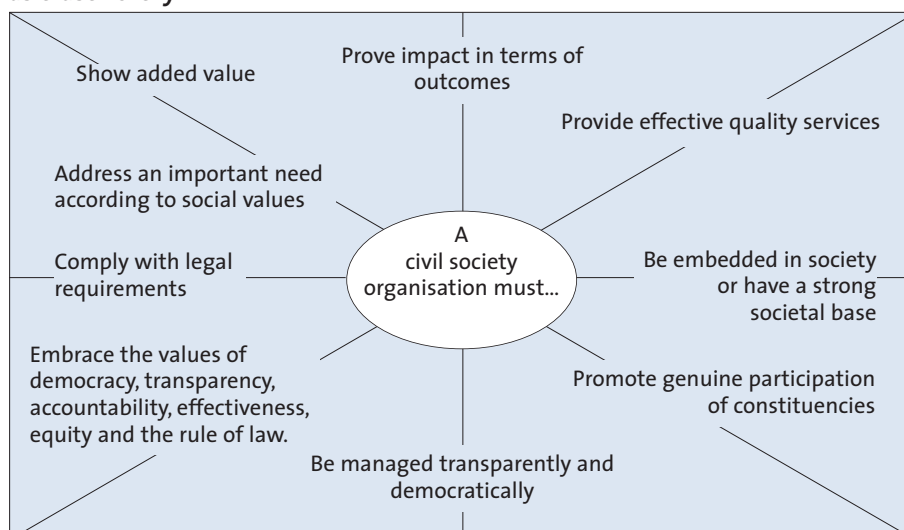
Even in countries where mistrust between state actors and civil society is less apparent, civic associations may not see formal recognition as an advantage, either because informality is not sanctioned or because formality brings no clear benefits.

- Democratic management (as reflected in the existence of statutes and regulations, existence and respect for criteria for accepting new members, explicit roles for statutory bodies, regular meetings of the board, processes for renewal of membership/leadership and explicit power relations within the network);
- Pertinence of the mission and coherence of action (vision, number of

Drawing the line between legality and legitimacy

Defining legitimacy only on the basis of legality can be problematic in countries where freedom of expression and association are not clearly protected by law or where there is mutual suspicion between government and civil society. For example, when civil society organisations move beyond the 'service-delivery logic' and start exposing the failures of unaccountable governments, the latter often feel threatened and react by preventing organisations from registering as legal entities or by imposing disproportionate checks on their activities and budgets. That is why government decisions to suspend 'unlawful' organisations from operating in a country are often interpreted as a crack-down against participatory development

Figure 6 Expectations that civil society organisations must fulfil to be viewed as trustworthy



active/passive members, levels of participation across the network, obstacles to participation and degree of member involvement);

- History and consolidation of structures (continuity of action, existence of a secretariat, organisational structure, collaboration with other organisations, managerial competencies/challenges, capacity building and training efforts undertaken and communication strategy);
- Institutional dynamics and nature of the organisation or network (whether it is highly centralised or decentralised, working on a wide range of issues or specialised, a broker or with a thematic focus, and any added value for members, such as spin-off activities due to information sharing or awareness raising throughout the network);
- Transparency, accountability and financial management (external funding versus membership contributions, availability of activity reports and evaluations and audits undertaken);
- Attitude towards programming and planning (existence of a plan of action and a budget plan, respect for planning and systems of monitoring and control).

Balancing upward and downward accountability

Generally speaking, accountability demands stemming from upward stakeholders entail high practical costs: failure to respond to donors' requirements can lead to resources being withdrawn, accreditation revoked or collaboration reconsidered. Also, as illustrated by the Ghana example, upsetting the government by disregarding legal requirements can trigger blacklisting and force organisations out of development processes.

Downward accountability demands are more easily forgotten, as there is no legal obligation to institutionalise downward accountability. Thus, in partnerships between NGOs and community-based organisations it is not unusual for the community organisations to direct most of their efforts to addressing the accountability demands of the NGO partner. Community organisations may be required to adopt standards of practice and accountability mechanisms that satisfy the NGO's ultimate resource providers rather than their own members. In the process, informal accountability mechanisms based on trust are often transformed into exact reporting, written accounts, banking and sophisticated monitoring. It remains important to ascertain whether organisations claiming to represent the 'interests of the poor' and

'the voiceless' do have a well-defined constituency or grassroots organisation.⁷

Failure to establish an effective link with, and downward accountability mechanisms to, a constituency can indicate that the organisation is donor-led, urban-biased or representative of the elites. It is also important to bear in mind that a 'constituency' is *not* a homogenous entity that necessarily represents the interests of all. Particular caution must be taken not to replicate power imbalances (e.g., gender, socio-economic status, age) in which organisations are embedded.

Articulating civil society's role with other actors of governance

Processes of political and economic liberalisation have altered the role of the state and created space for actors other than the central state to participate in development processes. Civil society, the private sector and local governments are being invited to become full-fledged partners in development initiatives and are being offered support to enable them to properly assume their new roles (through capacity building). The broadening of the political landscape reflects clear political and institutional objectives: to support the consolidation of a viable civil society, to facilitate effective decentralisation processes (consolidating the role of local governments as development actors), and last but not least, to help build inclusive and democratic governance systems.

These transformations entail, above all, a radical reallocation of power. On the one hand, central governments must relinquish resources and responsibilities in favour of local governments; they must open up genuine spaces for participation in political decision-making processes and learn to accept criticism by civil society organisations that act as a watchdog on government performance. On the other hand, new actors must prove their ability to play a complementary role, as a contributor to development processes, not in opposition to the central state, but in recognition of each other's legitimacy, despite grievances.

Often efforts to promote democratic and inclusive systems of governance have taken the form of programmes in support of civil society, and these have not been sufficiently sensitive to the concept of multi-actor partnership. Strengthening civil society must not undermine the legitimate role of the central state and local governments. This is particularly relevant in the field of welfare service delivery: in

the past, NGOs have been privileged over the central state in the name of cost-efficiency, but this has often resulted in the bypassing of local governments, despite their constitutional mandate to be service-delivery agents.

A multi-actor partnership in development can be achieved only with a clear task division that recognises the specific legitimacy and comparative advantages of each actor in the 'democratic governance' equation. This implies fostering joint action through public-private partnerships and changing the roles of Northern actors (i.e., their moving away from direct implementation of projects towards supporting policies and governance).

What can civil society organisations do to improve their governance?⁸

The participation of civil society in the political landscape is being increasingly normalised in many ACP countries. Part of the institutionalisation of civil society participation is the setting of norms by which to regulate participation in development processes. On the one hand, donors are developing selection criteria to determine which actors are most 'legitimate' and most likely to advance the governance and development agenda. On the other hand, civil society is taking steps to agree on appropriate and acceptable accountability mechanisms within the non-state sector. This section explores some of the tools available to respond to the governance challenge: self-assessment, self-regulation, accreditation and adherence to international standards.

Self-assessment

Self-assessment is a first tool for monitoring whether an organisation is using its resources and capacities effectively towards its stated mission and objectives. One approach to self-assessment is for an organisation to launch a critical survey amongst key internal and external stakeholders, so as to reveal any substantial differences of perception. Thus implemented, self-assessment has strong potential to promote institutional learning, but it has little external credibility since it lacks an independent monitoring mechanism. In response, some organisations are making use of peer review mechanisms. But the drawback here is the difficulties that peer organisations might face in inducing compliance and redress.

Self-regulation

Since the late 1990s, civil societies in ACP countries - particularly NGOs - have engaged in self-regulation schemes geared to improve openness, accountability and public confidence in the sector.⁹

Governments have widely encouraged these initiatives. Indeed, self-regulation responds to the need to balance, on the one side, the freedom of civil society organisations to regulate themselves without excessive political interference and, on the other, the duty of governments to protect citizens from fraudulent, un-civic or unethical organisations.

Box 1: Key reasons to adopt a code of conduct in civil society

A code of conduct can serve a number of purposes in strengthening civil society organisations' role as development actors:

- highlighting the role of civil society as a change agent by identifying shared values,
- setting standards of excellence in public responsibility,
- building capacity within the sector by establishing best practice benchmarks,
- contributing to an enabling environment by pre-empting the threat of restrictive legislation from government,
- improving trust and credibility among donors, governments and the general public,
- preventing reputation damage and defending against criticism.

A first step towards self-regulation is setting up standards for moral, social and ethical behaviour in the form of a code of conduct. This lays out guidelines applicable not only to civil society organisations, but also to their members, officials, employees and volunteers. Although codes of conduct vary in terms of structure, strategy and the way they relate to government regulations, all set high standards of practice by defining the ethical principles that guide civil society as a change agent.

Most codes of conduct acknowledge that to ensure 'good governance' within civil society, organisations require appropriate institutions through which the principles of accountability, transparency, fairness and equity can be implemented.

Consequently, they stress the importance of promoting transparency and accountability in dealings between civil society

organisations and governments, donors, constituencies (or beneficiaries) and staff. They encourage professional standards of accountancy and audit procedures, provide guidelines for fundraising, promote democratic management structures, specify how human resources should be managed and foster a culture of dialogue and communication. Last but not least, such codes set up mechanisms by which rules and principles can be monitored and enforced. Box 1 summarises key reasons to adopt a code of conduct.¹⁰

Umbrella organisations can play a role in enforcing a code of conduct by making membership conditional to meeting basic standards of governance, conduct and performance. The umbrella organisation would be empowered to audit organisations and investigate complaints. By publicising membership and expulsions, as well as standards, being member of the umbrella organisation could become a seal of integrity and even an eligibility criterion for selecting a civil society organisation as partner.¹¹

However, in a context where enforcement mechanisms are not sufficiently strict, there is a risk that public confidence in the sector could be undermined as a result of media coverage of non-compliance cases. Though complaint procedures and redress mechanisms (e.g., expulsion from membership, a requirement to make public apologies) are designed to discourage organisations from violating the code, these preventive measures are seldom sufficient. This shortcoming could be addressed by embedding codes of conduct in national legal frameworks so that infringements can be prosecuted as a legal offence (as in Kenya). Another option is to encourage civil society organisations to comply with the conduct code by offering rewards for good practice (e.g., access to government grants).

Accreditation

Moving one step further is the setting up of an independent and professional body that verifies compliance with a widely recognised code of conduct.¹² Such a certification agency would be in charge of monitoring that civil society organisations endorse the code and certifying that they meet minimum criteria with regard to financial management, accountability, programme delivery and internal governance. To be effective, accreditation would need to be voluntary and subject to minimum eligibility criteria. The exercise should be recognised by key actors - inclu-

ding governments, donors, the general public, networks and the civil society organisations themselves. The ultimate aim would be to guarantee that certified civil society organisations are reliable, efficient and soundly managed. To encourage organisations to apply for accreditation, rewards should be foreseen (e.g., access to tax benefits, donor assistance, private funds).

International standards

Recent years have witnessed increased pressure for organisations to demonstrate good practice in accountability and management. The result has been a proliferation of standards and guidelines to support and enhance stakeholder dialogue, social and ethical reporting, organisational culture, working conditions, human resources management, planning, accounting, auditing and reporting. ISO standards,¹³ the Global Reporting Initiative¹⁴ and the AccountAbility (AA1000) series¹⁵ are three interesting initiatives that apply generally to the corporate sector but which can be useful to civil society as well. An extensive analysis of the international standards available is beyond the scope of this paper. What is important to note is that international standards play a key role in supporting an organisation's governance by providing common measurement methods for accountability processes.

Implications for ACP-EU cooperation¹⁶

Ensuring good governance in civil society is first and foremost the responsibility of the organisations involved. Now that political space for participation has been created for civil society organisations in most ACP countries, the onus lies on these organisations to prove they are legitimate actors that can add clear value in development cooperation processes and programmes. Yet the official parties (EU governments and donors and ACP governments) can help to promote good governance amongst non-state actors by adopting a constructive role that respects some basic guiding principles.

Avoid quick fixes

Associating civil society with ACP-EU cooperation was long overdue. However, while the Cotonou Agreement provides a conducive legal framework, it would be a mistake to 'rush' into partnerships with any and all non-state actors. It would be equally detrimental to improvise civil society participation in policy processes (e.g., by 'handpicking' actors deemed to be representative), to press for the constitution of a single umbrella organisation of non-state actors or to suddenly make huge amounts of funding available to civil society. Quick fixes are a recipe for failure. Such approaches tend to generate situations whereby the space for participation is confiscated by urban-based elite NGOs (used to play the donor tune) or by opportunistic organisations claiming legitimacy. Too much interference may also hamper the organic growth of a viable civil society with genuine local roots. These dangers are already evident in several ACP countries.

Understand the dynamics of civil society development

Civil society is not only a nebulous concept. In practice, it represents a hugely complex, diverse and dynamic arena of actors. There is no shortage of conflict within civil society, including competition for positions and funding. Lines between civil society and the state are often blurred as well. It is not always easy to understand 'who's who' in civil society and to identify organisations that have the potential and commitment to be effective change agents. Nor is it evident how institutional development strategies and support programmes can be designed for civil society organisations. All this means that official parties need to invest time and resources to properly understand civil society's nature and internal dynamics, as well as the intended or unintended effects of growing availability of funding to these organisations. In this logic, the practice of carrying out mapping studies of civil society should be encouraged as an essential tool for devising appropriate strategies to support relevant civil society actors.

Adopt a governance approach towards civil society

Official parties are well advised to themselves apply the principles of good governance when dealing with civil society. In practice this can mean different things. First, official parties are entitled to demand quality governance from civil

society organisations (or at least clear strategies to further develop internal governance systems). Second, official parties must be highly transparent in all aspects related to ways and means of organising cooperation with civil society. Information on available opportunities should circulate widely (also at a decentralised level). Clarity should be provided on processes and criteria used to select partners and allocate funding. Third, adopting a governance approach in dealing with civil society requires respect for the legitimate role to be played by central and local actors. The design and implementation of civil society support programmes should seek to promote better governance by ensuring the appropriate division of roles between the public and private sectors and by encouraging partnerships. In South Africa, for instance, the EU has made efforts to reorient its cooperation with NGOs involved in local development to ensure that its support is consistent with the governance model promoted by the national decentralisation process, which gives local governments a key role in stimulating local development.

Support civil society efforts to improve governance

In most ACP states, civil society is a recent phenomenon, particularly in terms of building up truly representative, functioning and accountable organisations. While official parties should insist on proper internal governance amongst civil society actors, they should also accept that many organisations will need time and capacity building to develop such governance systems. A role of ACP-EU cooperation programmes should be to provide incentives for participating civil society organisations to strengthen their governance.

Engage with civil society in difficult partnerships

The above-mentioned guiding principles will be useful in countries where both parties (the ACP government and the European Commission) are committed to involve civil society constructively in the development process. Yet national governments in several ACP countries are still reluctant if not opposed to applying the provisions on non-state actor participation that they have legally accepted by signing the Cotonou Partnership Agreement. This is reflected in their imposition of all manner of restrictions on effective non-state actor participation, especially with respect to those actors with a legitimate basis in society and a capacity to challenge

government. Needless to say, civil society is also likely to be weak in such difficult political environments. The limited space available is generally occupied by organisations closely linked to government (if not co-opted by it).

This raises major challenges for EC delegations seeking to promote civil society participation in 'difficult partnerships'. Experience suggests that Commission officials tend to adopt a rather low-profile attitude in such situations. This is a risky approach however. Particularly in countries with poor governance, genuine and properly supported civil society actors have a key role to play. Pressure from below is often the most promising road to better policies, better government and better accountability. It would therefore seem useful for the Commission to develop solid strategies - with a menu of (tested) options - to support civil society in these cases.

Notes

- ¹ Refer to CIVICUS Legitimacy and Transparency Programme at <http://www.civicus.org>. Multiple workshops dealing with legitimacy, accountability and representation were organised during the CIVICUS World Assembly, e.g., by OneWorld and the Aga Khan Foundation (*Increasing Organisational Accountability: Towards a NGO Reporting Standard?*), the International Council on Human Rights Policy (Exploring Issues of Legitimacy and Accountability for Human Rights NGOs), the International Center for Not-for-Profit Law (*Accountability and Transparency in Hostile Environments*) and the World Bank (*Social Accountability*).
- ² International Council on Human Rights Policy, Humanitarian Accountability Project, Geneva, Switzerland.
- ³ Key readings: Edwards and Hulme, 1995a, b, c; Covey, 1995; De Berry, 1998; Newell and Bellour, 2002; articles in *Alliance* Vol. 8, Brown et al., 2003; Humanitarian Accountability Project, 2003; Kovach, 2003.
- ⁴ Key readings: Edwards and Hulme, 1995a, b, c; Tandon, 1995; Newell and Bellour, 2002; International Center for Not-for-Profit Law, 1998; Irish and Simon, 1999; Fowler, 2003; Covey, 1995; Zadek, 2003a, b.
- ⁵ Key readings: Tandon, 1995; Gariyo, 1995; De Berry, 1998; Browne and Moore, 2001; Husy, 2002; Shiras, 2003; articles in *Alliance* Vol. 8; Kovach et al., 2003. See also the CARE Basic Education Fellowship, Participatory Capacity Assessment Tool.
- ⁶ The CIVICUS World Assembly workshop on accountability and transparency in hostile environments, organised by the International Center for Not-for-Profit Law, discussed the following cases: India, Bangladesh, Turkey and the Pacific Islands. Recent developments in Ghana are also illustrative.
- ⁷ It is not always possible to create solid links with a constituency if it is composed by atomised or particularly vulnerable populations (e.g., the case of human rights groups defending victims of torture).
- ⁸ Key readings: Tandon, 1995; Irish and Simon, 1999; Yaanshah readings (under Ethiopia country information in the bibliography); Philips, 2001; Harris-Curtis, 2001; *Ethical Corporation* January 2003, Chadha et al., 2003. See also NGO codes of conduct available on the Internet <http://www.codesof-conduct.org/interest.htm>
- ⁹ Some examples are Belize, Botswana, the Democratic Republic of Congo, Ethiopia, Kenya, Mauritius, Sierra Leone, South Africa and Zambia. At the regional level, the African Union drafted a code of ethics and conduct for African civil society organisations in June 2003.
- ¹⁰ See Philips, 2001; Harris-Curtis, 2001.
- ¹¹ See International Center for Not-for-Profit Law, 1998.
- ¹² The Philippines and Pakistan have developed such certification programmes, though so far no ACP country has established a certification agency.
- ¹³ The International Organization of Standardization released ISO 9000 in 1987 and ISO 14000 in 1995. Both are management system standards that can be applied in any industry. ISO 9000 is primarily concerned with quality management, while ISO 14000 focuses on environmental management. See <http://www.iso.org/>
- ¹⁴ The Global Reporting Initiative is a multi-stakeholder process and independent institution whose mission is to develop and disseminate globally applicable sustainability reporting guidelines. See <http://www.globalreporting.org/>
- ¹⁵ AccountAbility 1000 (AA1000) is a system for managing and communicating social and ethical accountability and performance. See *AccountAbility Standards, Guidelines and Professional Qualification*, Exposure Draft, November 1999. See <http://www.accountability.org.uk/>
- ¹⁶ This section relies more on in-house knowledge on ACP-EU cooperation.

Bibliography

On civil society

- Belucci, S. 1999. *Governance, civil society and NGOs in Mozambique*. Geneva: Management of Social Transformations (MOST) Programme, UNESCO.
- Carothers, T. and Ottaway, M. 2000. The burgeoning world of civil society. In: *Funding virtue: Civil society aid and democracy promotion*, edited by M. Ottaway and T. Carothers. Washington, D.C.: Carnegie Endowment for International Peace.
- Edwards, M. 2000. Civil society and global governance. Paper presented at *On the Threshold: The United Nations and Global Governance in the New Millennium*, 19-21 January, Tokyo.
- Floridi, M. and Sanz Corella, B., 2003. *Mission d'appui et d'étude pour l'organisation d'acteurs non étatiques et leur association dans l'exercice de programmation et de mise en oeuvre dans le cadre des Accords de Cotonou en République Démocratique du Congo* (Final Report), September.
- Floridi, M. and Sanz Corella, B. 2003. *Etude de faisabilité d'un programme d'appui à la bonne gouvernance*. (Mission conjointe UE-PNUD, Rapport Provisoire). Renforcement de la culture démocratique et participative : renforcement des plates-formes de rencontre des acteurs non-étatiques, April.
- Gariyo, Z. 1995. NGOs and development in East Africa: A view from below. In: *NGOs: Performance and accountability, beyond the magic bullet*, edited by Michael Edwards and David Hulme. London: Save the Children, Earthscan, pp. 131-141.
- Hearn, J. 1999. *Foreign aid, democratisation and civil society in Africa: A study of South Africa, Ghana and Uganda*. Brighton: Institute of Development Studies, Sussex University.
- Howell, J. 2000. Making civil society from the outside: Challenges for donors. In *The European Journal of Development Research*, 12 (1) June, pp. 5-22.
- Howell, J. and Pearce, J. 2003. The concept of civil society: A critical interrogation. In: *Changing expectations? The concept and practice of civil society in international development*, edited by Brian Pratt. (INTRAC NGO Management and Policy Series No 16). Oxford: International NGO Training and Research Centre, pp. 11-30.
- Husky, J. 2002. *Civil society consultations on EU MIP for South Africa*. (Discussion Document). Braamfontein: INTERFUND, Umhlaba Development Services, 24 May.
- Manor, J. et al. 1999. *Civil society and governance: A concept paper*. Brighton: Institute of Development Studies, Sussex University.
- Mbgori, E. 2003. *African civil society: Coming to terms with globalization*. London: Foreign Policy Center.
- Oakley, P. 2003. Strengthening civil society: Concept and approaches. In: *Changing expectations? The concept and practice of civil society in international development*, edited by B. Pratt (NGOMPS Management and Policy Series No. 16). Oxford: International NGO Training and Research Centre, pp. 31-42.
- Orji, N. 2003. *Conventional notion of civil society, international civil society organisations and the development of civil society in Africa*. Nigeria: Ebonyi State University. See <http://www.gdnet.org>
- Pratt, B. 2003. *Changing expectations? The concept and practice of civil society in international development* (NGOMPS Management and Policy Series No. 16). Oxford: International NGO Training and Research Centre.

On legitimacy, internal democracy and accountability

- Adam, I. 2004. Ghana to blacklist NGOs. *BBC Africa Live*, Northern Ghana.
- Baig, Q. 2003. *Beyond governance*. NGO Resource Center Online Journal. Karachi: Agha Khan Foundation.
- Baker, M. 2003. Comment: *The accountability of NGOs*. *Ethical Corporation Online*, 17 November.
- Blair, H. 1997. Donors, democratisation and civil society: Relating theory to practice. In: *NGOs, states and donors: Too close for comfort?* London: Macmillan Press, pp. 23-42.
- Brown, D.L and Moore, M.H. 2001. *Accountability, strategy and international non-governmental organisations*. Boston: The Hauser Center for Nonprofit Organisations, Kennedy School of Government, Harvard University.
- Brown, D.L et al. 2003. *Strategic accountability for international NGOs*. Boston: The Hauser Center for Nonprofit Organisations, Kennedy School of Government, Harvard University.
- Burall, S. 2003. NGO accountability: Yes, but not on these terms. (One World Guest Editorial, 1 July). London: One World Trust.
- Christensen, J. 2003. Asking the do-gooders to prove they do good. *New York Times*, January 3.
- Cohen, J. 2003. *Governance by and of NGOs*. London: AccountAbility.

- Covey, J.G. 1995. Accountability and effectiveness of NGO policy alliance. Boston: Institute for Development Research, IDR Reports, 11 (8).
- Correa, M.E. 2003. Gaining public trust. *Alliance*, 8(4), p. 33.
- Davis, A. 2003. Accountability and humanitarian actors: Speculations and questions. *Humanitarian Practice Network*, November-December. See www.globalpolicy.org
- De Berry, J. 1998. *Exploring the concept of community: Implications for NGO management*. (CVO International Working Paper No. 8). London: Centre for Voluntary Organisation.
- Edwards, M. and Hulme, D. 1995a. *NGOs: Performance and accountability, beyond the magic bullet*. London: Earthscan Publications.
- Edwards, M. and Hulme, D. 1995. Introduction and Overview. In: *NGOs: Performance and accountability, beyond the magic bullet*. London: Earthscan Publications, pp. 3-16.
- Edwards, M. and Hulme, D. 1995. Beyond the magic bullet? Lessons and conclusions. In: *NGOs: Performance and accountability, beyond the magic bullet*. London: Earthscan Publications, pp. 219-228.
- Edwards, M. and Hulme, D. 1998. Too close for comfort? The impact of official aid on NGOs. *Current Issues in Comparative Education*, 1 (1) November 15.
- Fowler, A. 1995. Assessing NGO performance: Difficulties, dilemmas and a way ahead. In: *NGOs: Performance and accountability, beyond the magic bullet*. London: Earthscan Publications, pp. 143-156.
- Faustino, J. and Baron, B., 2003. Hearing the voices of communities: Governance, accountability and fundraising. *Alliance*, 8 (4), pp. 29-31.
- Hartnell, C. 2003. Governance and resource mobilization: The missing link. *Alliance* 8 (4), pp. 2.
- Holloway, R. 1997. NGOs: Losing the moral high ground; corruption and misrepresentation. Paper presented at the 8th International Anti-corruption Conference, 7-11 September, Lima, Peru.
- Humanitarian Accountability Project. 2002. The accountable organisation. (HAP Report, 20 March). Geneva: HAP International.
- International Council on Human Rights. 2003. *Deserving trust: Issues of accountability for human rights NGOs*. (Draft Report for Consultation, April). Geneva: International Council on Human Rights.
- Kovach, H. et al. 2003. *Power without accountability?* (The Global Accountability Report). London: One World Trust.
- Marschall, M. 2002. Legitimacy and effectiveness: *Civil society organisations' role in good governance*. Transparency International, November 1. See <http://www.globalpolicy.org>
- Minc, A. 2002. 5eme épître : aux zélotes des ONGs. In: *Epîtres a nos nouveaux maîtres*. Paris: Grasset.
- Newell, P. and Bellour, S. 2002. *Mapping accountability: Origins, contexts and implications for development*. (IDS Working Paper 168). Brighton: Institute of Development Studies, Sussex University.
- Ndiaye, M. 2003. *Accountability in the NGO sector*. Draft paper prepared for the One World Trust workshop *Increasing Accountability through External Stakeholder Engagement*, 23-24 October 2003, London.
- New York Times. 2003. Holding civic groups accountable. Editorial. *New York Times*, July 21.
- Ospina Robledo, R.I. 2003. The accountability challenge. *Alliance*, 8(4), pp. 31-32.
- Philips, K. 2001. Ethics and standards for civil society: Steps to trustworthiness. NGO futures presentation at CIVICUS World Assembly, 21 August, Vancouver.
- Sheehan, J. 1996. *NGOs and participatory management styles*. (CVO International Working Paper No. 2). London: Centre for Voluntary Organisation.
- Shiras, P. 2003. The new realities of non-profit accountability. *Alliance*, 8(4), pp. 25-28.
- Slim, H. 2002. *By what authority? The legitimacy and accountability of non-governmental organisations*. Geneva: International Council on Human Rights Policy.
- SustainAbility. 2003. The accountability and governance of NGOs in the 21st century. Issues paper for workshop Who Guards the Guardians? See <http://www.sustainability.com/programs/pressure-front/accountability/3%20April%20Issues%20Paper.pdf>
- Tandon, R. 1995. Board games: Governance and accountability in NGOs. In: *NGOs: Performance and accountability, beyond the magic bullet*. London: Earthscan, pp. 41-50.
- The Economist, 2000: Sins of the secular missionaries. January 29 .

Zadek, S. 2003. *Analysis: In defense of non-profit accountability*. (Ethical Corporation Online, 19 September). See <http://www.ethicalcorp.com>

Zadek, S. 2003. From fear and loathing to social innovation. *Alliance*, 8(4), pp. 21-24.

On self-assessment, self-regulation, accreditation and legal frameworks

Bazaara, N. 2002. Legal and policy framework for citizen participation in East Africa: A comparative analysis. Unpublished report. Center for Basic Research, LogoLink Research, Uganda, October.

CARE. 2002. Participatory Capacity Assessment Tool (PCA). Basic Education Fellowship, South Africa.

Chadha, P. et al. 2003. *Organisational behaviour: A framework for NGOs*. Delhi: Center for Youth and Social Development.

Ethical Corporation Online. 2004. Analysis: Accountability and control, the debate on NGO codes of conduct. See <http://www.ethicalcorp.com>

Fowler, A. 2003. *An enabling environment for civil society: What does it mean and how does law fit in?* (Research Report 7). Baltimore: The Johns Hopkins University, Center for Civil Society.

Hartnell, C. 2003. Self-regulation on trial. *Alliance*, 8 (4), pp. 39-40.

Harris-Curtis, E. 2001. *NGO codes of conduct: An exploration of the current debate*. (Informed No. 5). Oxford: International NGO Training and Research Centre.

Heap, S. 2001. *Building trust in NGOs*. Oxford: International NGO Training and Research Centre.

International Center for Not-for-Profit Law. 1998. 'Regulating not-for-profit organisations' and 'Integrity good governance and transparency: Rules for self-regulation'. See www.icnl.org

Irish, L.E. and K.W. Simon. 1999. The role of a good legal framework: Capacity building and sustainability. Paper presented at the *NGOs in a Global Future Conference*, January 11-13, Birmingham, UK.

People in Aid. 2003. *Code of good practice in the management and support of aid personnel*. London: People in Aid.

Simon, K.W. 1999. The role of law in encouraging civil society. Washington, D.C.: International Center for Not-for-Profit Law. See www.icnl.org/gendocs/arabconf.htm

Yaansah, E.A and K.W. Simon. 1998. Summary legal report. Washington, D.C.: International Center for Not-for-Profit Law. See www.icnl.org/library/africa/docs/safrica/htm

Country Information

African Union: 'Draft Code of Ethics and Conduct for African Civil Society Organisations', June 2003.

Belize: 'An act for regulating NGOs', Draft bill prepared by ANDA for the Government of Belize, with approval of the Belize Coalition of Networks.

Botswana: 'National Policy for NGOs', Ministry of Labour and Home Affairs, February 2001 and 'NGO code of conduct: A standard for moral, social and ethical behaviour for civil society in Botswana', Botswana Council of Nongovernmental Organizations (BOCONGO).

Democratic Republic of Congo: 'Le code d'éthique', presented by the 'Follow-up Committee, 20 October 2003.

Ghana: 'Comprehensive Policy Framework for the Non-Profit Sector in Ghana', Draft Discussion Document, Nyaniba Estate, Institute for Democratic Governance, 2000; 'Draft National Policy for Strategic Partnership with NGOs', Ghana, National Consultative Group, October 2000.

Ethiopia: 'Code of Conduct for NGOs in Ethiopia' and 'Code of Conduct for NGOs in Ethiopia: A review article' by E.A. Yaansah, Washington, D.C., International Center for Not-for-Profit Law. Also see 'National conference adopts new national NGO policy', *International Journal of Not-for Profit Law*, 3(2). Nigeria: 'Draft code of standard practice for NGOs in Nigeria' (2000) by E. Itheme, Transition Monitoring Group, *International Journal of Not-for-Profit Law*, 3 (3).

Tanzania: 'National Policy on NGOs in Tanzania', National Steering Committee for NGO Policy, Dar-es-Salaam, January 2000.

Tuvalu: 'Consultations toward legal reform in Tuvalu' (2004) by M. Saitala, *International Journal of Not-for-Profit Law*, 6(2).

The author thanks the ECDPM for providing the opportunity to attend the CIVICUS World Assembly in Botswana in March 2004. Special thanks also go to Jean Bossuyt, for his encouragement, unstinted support and so many excellent ideas.

'InBrief' provides summarised background information on the main policy debates and activities in ACP-EC cooperation. These complementary summaries are drawn from consultative processes in which the European Centre for Development Policy Management (ECDPM) engages with numerous state and non-state actors in the ACP and EU countries. The Centre is a non-partisan organisation that seeks to facilitate international cooperation between the ACP and the EC. Information may be reproduced as long as the source is quoted.

The ECDPM acknowledges the support it receives for the 'InBrief' from the Department for International Development in the United Kingdom, the Ministries of Foreign Affairs in Sweden, Finland and the Netherlands, the Directorate-General for Development Cooperation in Belgium, the Swiss Agency for Development and Cooperation and the Instituto Português de Apoio ao Desenvolvimento in Portugal.

European Centre for Development Policy Management
Onze Lieve Vrouweplein 21
NL-6211 HE Maastricht
The Netherlands

Tel +31 (0)43 350 29 00 Fax +31 (0)43 350 29 02
info@ecdpm.org www.ecdpm.org

ISSN 1571-7437