Power to the People?

(Con-)Tested Civil Society in Search of Democracy

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Tensions in civil society participation in governance and politics in Africa

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In the last 20 years or so, civil society, broadly defined, has been at the vanguard for the struggle for democratic transformation and popular participation in politics and governance. In Kenya, the components of civil society that have taken this role have been the Church\(^1\) (1980s), professional organisations, such as the Law Society of Kenya (1990s), and the NGOs in the 1990s and beyond.\(^2\)

Indeed there is debate as to whether civil society organisations are pluralising agents in the Michael Bratton (1989) sense, or whether they are artificial and inorganic constructs that reproduce the highly negative tendencies of the very state and elite that they seek to change, as has been argued by Stephen Ndegwa (1996). Regardless of where one sits on this debate there are two inescapables: one, that the character of the state determines the nature of the struggle and, two, that there are various ways that civil society actors form their self-image, *modus operandi*, and strategic orientation, even including forms that are not considered ‘civil’.

Civil society struggle for democratic transformation has, for most part, wrapped itself up in the language of political and civil rights. The agitation has been moored rather strongly on the libertarian orthodoxy, which privileges freedom and competition, both seen as the necessary conditions or ingredients for a better democratic outcome. Consequently, the tenor of the debate has centred on promotion of political pluralism, establishment of free and vibrant press, a strong regime of individual rights and so on.

However, pluralism has resulted in unintended consequences that most civil society organisations had neither anticipated nor prepared for; contradictions that promote illiberal tendencies. This is evidenced by the fact that political and media pluralism have also unleashed forces of ethnicity of the malevolent and exclusionary types, which has undermined the very
constitutional notions of citizenship and belonging. We have witnessed the rise of what Fareed Zakaria (1997) called illiberal democracy.

Similarly, in circumstances that civil society has been successful in pushing through a democratic transition, it has resulted in life-threatening consequences for civil society itself. This is primarily for three reasons.

Firstly, most civil society organisations have no robust succession plans, and the moment their leaderships get absorbed into government, these organisations face serious survival tests.

Secondly, successful democratic transitions tend to occasion donor shifts from working with the civil society to supporting the new government based on its strong democratic legitimacy. This results in the drying up of funds for civil society, most of whose budget is donor-generated.

Thirdly, successful transitions also create a terra incognita for civil society on both sides of the divide: thus, those that get into government have to learn new ways and fight old establishment as they seek to reform, and those that remain in the civil society have to develop a new way of engagement from confrontation to collaboration without cooptation – a very delicate balancing act.

**Sequencing change: The dilemma between agency and structure**

One of the major challenges for civil society, in its struggle for democratic transition, has been one of sequencing or balancing between agency and structure, that is, between changing political actors or social systems or institutions. The initial focus was on regime change, though it became quickly clear that the institutional architecture that these regimes were based on created strong incentives for undemocratic behavior even for the new managers of the state. It is for this reason that civil society has, in the second part of its struggle, called for constitutional reforms alongside support for democratically-oriented leadership. And in a political economy that is as incestuous as Kenya’s, where elites straddle both the reform and establishment order rather randomly, a clear identification of who the democratic agent is, sometimes becomes problematic.

It is ironical that for all the investment by civil society actors to accomplish democratic transitions in Africa, where successful regime transitions have occurred, civil society has not yet produced a president: labour
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has – President Chiluba in Zambia; business has – President Muluzi in Malawi; multilaterals have – President Mutharika in Malawi and Sirleaf Johnson in Liberia; academia has – President Atta-Mils in Ghana. The closest civil society has had is President Obasanjo in Nigeria, thanks to African Leadership Forum! This is a far-fetched claim, but it illustrates the point: that energies and time spent on mobilisation for change has not been converted into direct acquisition of political power by civil society. The question is, is this because of lack of ambition or lack of capacity? Does this outcome speak to the much stated ‘superficiality’ of the civil society, its inorganic formations and weak forward and backward linkages in society? Is this ‘inorganicness’ shared by professional associations? Why has public goodwill not translated into electoral mandates? Is civil society, in its current popular notions or understanding, ‘suspended’ or irrelevant to the peoples’ struggles much like the state in Africa?

I think that there are no easy answers to these questions. It however needs to be noted that civil society has exhibited a deficit of ambition and lack of capacity to popularly mobilise for direct political action. Civil society organisations in Africa were founded on the notions of non-partisanship, a useful and strategically understandable rule, both for donors (to manage the possible diplomatic awkwardness) and NGOs (to help remove notions that NGOs were political parties in disguise). However, this ideal of political neutrality has been interpreted rather too rigidly and for most part unhelpfully for the interest of the larger cause. Non-partisan purists and priests have undermined civil society ambition and capacity to mobilise, even when there was demand for it. The supplication at the feet of ‘neutrality’ even when clear political choices are available has not served the political career and objectives of civil society well. It is the media equivalent of balance even in nakedly morally clear circumstances such as genocide. This inability to ‘cast your lot’ has partly contributed to the non-emergence of civil society candidates as viable electoral options.

Civil society has sometimes behaved like lovers of the bull fight, those who support the sport without supporting the matador. And they have always believed that the matador will surely show up, and they have no responsibility of demanding or siding with the matador that plays better
and fairly! The matador is increasingly failing to show up (read: no reform) and the public backlash is emerging.

Civil society has not resolved the problem whether it is agency or structure that should be prioritised in the quest for change. In incestuous political societies, such as Kenya, where political leaders who lay claims to mantles of change in a classic case of musical chairs, the confusion becomes even more acute, and the situation is not helped by civil society acting merely spectator. This is part of the reason to why in 2002, civil society came close to being a matador; in disregard of the principle of non-partisanship, it engaged in direct political action and the experience has not been that pleasant either.

Some key tensions

We will try to headline a few of the key tensions and briefly discuss them below.

*The moral tension: Right versus popular*

In societies where power was centralised, the state repressive, political competition outlawed or constrained, and civic education levels low, civil society has commonly been the antidote – the instrument for re-balancing power relations between state and society in favour of the latter. Civil society was self stylised peoples’ voice. CSOs were gladiatorial, and courageously fought against the state to make it respect human rights and open up the democratic space, resonating quite broadly with a people whose experience with repression was endemic. In the public imagination, civil society stood for their good and interests, the state stood for the opposite. Thus, both moral initiative and moral momentum was with civil society. It led to the unquestioning of its motives or operations. Civil society organisations were a perfect alignment of what is right and what is popular, and that is why civil society registered successes in pushing back the state.

However, crime and security has severely tested the right versus popular alignment. In so doing, it has resurrected the issues of legitimacy of civil society, which the state has always but unsuccessfully raised to try and undercut civil society operations or resist its demands. The public,
faced with growing insecurity and crime, has looked favourably to police strong arm tactics in fighting crime.

This has all undermined due legal processes and the core part of the human rights regime. The attempts by civil society organisations to protest against police actions as unlawful and undemocratic have been frowned upon by the public, who view such protestations as siding with the criminals. In this case, can civil society still lay claim to be speaking on behalf of the people? Is the premising of civil society work on popular mandate or endorsement necessary or desirable? The answers to these questions may help answer another: who, then, is civil society and what is its place in a transitional democracy?

The space tension: Heart versus head

Based on its higher moral claims as alluded to above, civil society agitation for democratisation has been fuelled and stiffened by its ability to mobilise the public. This demand has been characterised by the push to ‘create space’ in both political and policy circles to enable greater public participation. It has been driven by passion; a belief in the ‘rightness’ of the cause, not necessarily the ‘factualness’ of it.

However, after successfully pushing for ‘space creation’, civil society has faced the difficulties of ‘effective space occupation’, particularly in the policy realms. This is because successful ‘space creation’ struggles are heavily, even though not primarily, dependent on the mobilisation of troops (public). On the other hand, ‘space occupation’s’ success is also dependent on the ability to mobilise ideas in the form of solid policy proposal preferably backed by research. Many civil society organisations were not prepared for the latter, which has undermined their effectiveness and, sometimes, legitimacy in the eyes of the state. Scientific data and empirical proof are hard to obtain. Most of it is not panelled, and some issues are ‘evidence-proof’ by the mere fact that they are new and evolving – they have to be driven by belief and first impressions.

The ‘tyranny’ of science and empiricism in policy work has hurt civil society and undermined their capacity to effectively occupy the space they have fought so hard to create. This has been made worse by the present rigid donor cooperation framework which frowns upon research and
prefers to invest in pure ‘advocacy’. Donors view research as ‘idle’, ‘slow’, ‘elite’; yet, advocacy without the benefit of ideas is ‘noise’. The distance between thought and society and state is partly to blame for some of the sub-optimal governance and developmental outcomes that we see in the third world. The infatuation with events and drama, by both donors and civil society, fails to appreciate the changing environment of advocacy – that there is need to invest in the mobilisation of ideas in order to be able to influence change. The investment needed for space occupation is markedly different from one required for space creation.

The philosophical/ideological tension:
Liberal democracy versus social democracy

As mentioned earlier, civil society struggles were initially anchored in the liberal notions of democracy. Hence focus was on pluralism, regularity and fairness of elections, independent judiciary, individual liberty, free press, tenurial limitations etc. The liberal notions pushed to their logical conclusions also protect individual property rights and, given the economic reality of our times courtesy of globalisation, a relatively weaker labour rights regime for purposes of attracting private sector investment.

However, given the development outlook or reality of Africa – where poverty and inequality are high; unemployment rates are high; the informal sector provides the single largest source of employment (almost 90 percent); social protection policies are absent or weak; health and housing access is inadequate; land ownership is concentrated in the political elites – one cannot help wonder whether the well of liberal ideology, rather than social democracy, from which civil society drank was the appropriate one. It is little wonder then that when constitutional moments presented themselves, civil society began to fight for a robust inclusion of social and economic rights. The inadequacies of a purely liberal approach to the struggle had become evident, and an economic and social bill of rights to try and check the enormous power of business, and protect consumers, became a signature issue in the constitutional reform debates. But these debates revealed the philosophical tensions. How do you balance claims of individual rights and historical injustices? How do you balance private property versus communal property rights – both of which are competent
discourses of democracy but which nonetheless present different shades of it? Which democracy guides civil society participation? The resolution to this tension remains incomplete.

Transitional tension: The failures of success
Civil society leaders who make it to government suffer from an expectations–capability gap. The cultures of the two are markedly different. One is idealistic and experimental; the other is pragmatic and conservative. One is driven by individual star power; the other by bureaucratic power. One focuses on self-promotion; the other on self preservation.

   Civil society has thus had an unpleasant experience in government. Many have not been able to build partnerships and master the politics of the bureaucracy, on the mistaken belief that you can reason your way to change or reform. They have underestimated the resilience and power of the traditional bureaucrat, who views the civil society actors with disdain, conscious that he can wait them out in one electoral cycle. Many civil society actors quickly surrender by either quitting government or getting co-opted – another painful lesson on how different the politics of space creation is from the politics of space occupation.

The priorities tension: Content versus pockets
Development cooperation is both diplomacy and security by other means. Some programmes are locally relevant but cause diplomatic discomfort. Local content and foreign pockets do not always mesh together. Diplomatically difficult programme areas have often forced civil society to abandon or avoid certain activities. It hurts the credibility of civil society organisations in the eyes of the state and in the eyes of the public. They get readily seen as agents of foreign powers. It leads to a dialogue of the three deafs: citizens, donors, and civil society.

Conclusion
Civil society has had a chequered policy and political career in the last two decades in Africa. It has registered some successes – first, in opening up the political space and, second, opening up policy making to popular participation. But attending these fairly liberal achievements have been
contradictions both within civil society itself and also between civil society and its external environment. The important lesson that civil society must learn is that it has only been successful when it has forged creative partnerships with the peoples’ struggles and its progressive leadership. And the struggles for change or democratisation are not always neat, linear and devoid of contradictions.

Notes
1. This was particularly so with the National Council of Churches of Kenya (NCCK) and the Anglican Church of Kenya (ACK).
2. However, it must be noted that NGOs such as the Public Law Institute (PLI), Kituo Cha Sheria, and the Green Belt Movement (GBM) started this agitation much earlier in the 1980s.

References

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