

Constructive Regulation of Development Organizations

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November 2005

In developing countries, government institutions are often weak and unresponsive to the poorest populations. Non-government Organizations (NGO) attempt to increase access and quality of services to the poor, but individually, their accountability and impact are questionable. NGOs need to establish strategies that are coordinated through alliances and linked with government policies and services. Government regulation can promote this coordination and linkage, legitimizing NGOs' role in civil society and in relation to government and private sectors.

The form of regulation of NGOs can vary from promoting self-regulation in a sector to one of legal regulation executed through government institutions. Restrictive regulation may impede innovative initiatives that promote access to services (e.g. interest rate ceilings prevent institutions from setting cost covering interest rates) and rights while lack of regulation may allow damaging interventions harmful to citizens (e.g. subsidized and politicized programs undermine best practice models). *Constructive regulation* promotes public good by certifying NGOs and assuring their coordination with public policy and institutions.

In this presentation I will share my experience with regulation as a development worker in an International NGO, most recently in Dominican Republic (DR) and Bangladesh. I have divided my analysis into three sections:

- Government Commitment to Citizens
- Civil Society: Deliberative Democracy
- NGOs + GOs + Private Sector = Poverty Alleviation

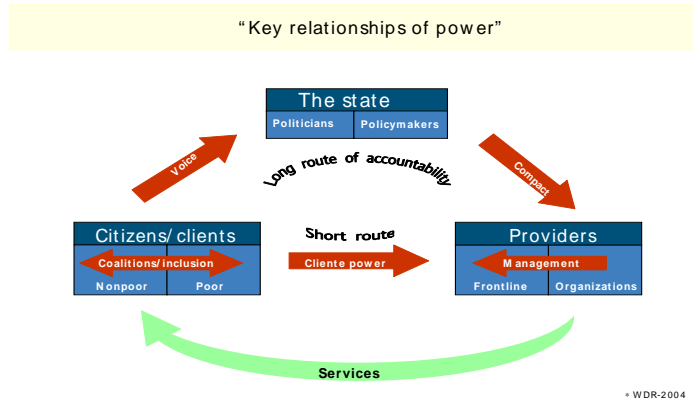
Government Commitment to Citizens

Well functioning society requires government that serves the interests of the full population living within its territory. Both Bangladesh and Dominican Republic have recently emerged from dictatorships to democracies organized by self-interested political parties who practice patronage and clientalism to maintain their power rather than promoting programs from universal public good. Bangladesh inherited a colonial bureaucracy, which provides a highly structured, though inefficient, civil service. The DR has not established a permanent civil service and has a politicized, unprofessional cadre of weak functionaries in government institutions, most of which change every election. Economic growth was dramatic for DR in the 1990s, accompanied by an equally dramatic wealth gap, while Bangladesh has maintained slower but steady economic growth with open dialogue on poverty alleviation and government obligations to provide quality services.

To analyze the role of NGOs, reference to The World Development Report of 2004 provides a model of power relationships among the national government, service providers and citizens. The report recommends that the means to improve services for all

is by increasing capacity of the poor to express, and institutions to respond to, demand. Pressure for improvement falls on all three sectors:

- Government commitment to services and opportunities for all
- Service institution capacity to provide quality
- Citizens, poor and non-poor, capacity to demand and influence services



Countries with weak political systems and centralized services tend to provide low quality, or no, services to the poorest population. Public services are usually under-funded and centralized and are designed with mass rigidity, as “one-size-fits-all”. For example, school systems maintain a rigid curriculum and rote pedagogy, ignoring individual learning capacities of a diverse population, urban, rural, indigenous and poor. NGOs can play a role to reach the poor by modifying government services to local needs. When limited to small, donor driven initiatives, NGO presence is relatively negligible and the government need not invest in regulation. On the other hand, governments with pro-poor policies can strengthen extension of services to the poor by linking them with NGOs, and regulation can help establish this relationship.

When NGOs promote increasing response to citizen’s demand, attention and resources of government regulation are required and can positively channel dialogue of the different sectors and actors. Regulation places the onus of accountability on the NGO for performance to the public not just to foreign donors.

Civil Society: Deliberative Democracy

Both Bangladesh and Dominican Republic are relatively new democracies, evolving from periods of military dictatorships. They have highly centralized governments and a legacy of authoritative leadership, which has been termed “the one day democracy”, referring to the national elections every four or five years. Between elections, government is managed with little deliberative process of participation from the population. Centralization and politicization of government services has led to inefficient, unprofessional institutions that provide little access and low quality of service.

The poor populations of both countries are left to informal means of working, managing finance, curing themselves and educating their children, which result in a generational cycle of poverty. NGOs can reach the poor by developing programs that

bring local knowledge and practice of the poor into semi-formal and formal systems of society. For example, the poor, who mostly work in the informal sector, manage their money through various mechanisms: savings and loan groups, moneylenders, supplier credit, mud banks, etc. Few have access to banks. In health, the poor use local healers and pharmacists rather than the public health service.

NGOs generally act in one or more of the sectors mentioned above:

- **Grassroots NGOs** work directly with marginalized communities to increase social capital, promote participatory, collective action and strengthen community based organizations. Liberation theology promoted such NGO participation through the 1980s but few NGOs are now focused on promoting collective community action.

- **Service NGOs** develop human capital by providing services directly, or by extending those of government, to marginalized populations. Programs may be based on strengthening community-based services, such as in primary health care or non-formal education, or NGOs may directly provide a service such as microfinance. Most donor driven projects with NGOs are in this category.

- **Advocacy NGOs** influence national level policies that effect provision of rights and service delivery to marginalized populations. Organizations such as Amnesty International and Transparency International focus on monitoring human rights and government performance in promoting public good for all citizens.

Some NGOs include all three sectors in their development programs. They might have an integrated strategy that promotes participatory action of peoples' organizations to increase demand on government institutions and directly offer innovative services to the poor. The Bangladesh NGO, BRAC, runs 35,000 non-formal schools for children who have dropped out of formal schools. Their strategy is to educate the poorest children and channel them back into the public system. In microfinance, NGOs have implemented models of savings and lending that have reached the poorest populations (e.g. Grameen and Village Banking). The best programs have ascended to formal banks or to regulated microfinance institutions.

Unfortunately, most NGOs do not establish a focused vision and strategy, as their survival depends on donor demands and evaluation. As non-profit institutions, NGOs depend on donors to support their activities, and the biggest donors are bi-lateral and multi-national institutions. Funding is issue based and conditional, so NGOs learn to accommodate varied donors: funding for certain issues one year may stop as new priorities arise; donor conditions on spending do not insure maximum quality nor local expertise or efficiency; donors lack of technical understanding often leads to poor quality projects. Large numbers of NGOs in Bangladesh and DR present themselves as integrated development organizations because over the years they have implemented projects in health, education, microfinance and other areas. At any given moment, they might not be implementing any of these projects nor have staff that have. Their main expertise is in mobilizing a staff to implement donor contracts, a phenomenon that produces little institutional learning.

In Bangladesh, where poverty alleviation has made dramatic steps forward since the 1970, the NGO sector is the most developed in the world. Basic regulation requires that NGOs be certified and report to the government NGO Affairs Bureau, under the Ministry of Interior: legal identity, budget approvals, audits and evaluations. In microfinance, Grameen Bank has long been regulated and has maintained superior performance to unregulated NGOs.

In DR, there is little focus on poverty alleviation and the NGO sector is small, with most NGOs focusing on specialty causes such as HIV/AIDS, Haitian immigrants and street children. There has been no regulation until recently, and NGOs could be informally designated and then “qualify” for public funding (i.e. many politicians have their personal NGOs). Few donors have a poverty alleviation strategy, and important interventions, such as microfinance, are almost completely absent. Ironically, in the 1990s, poverty lending was supported by some donors and two successful microfinance NGOs converted to commercial banks, and subsequently drifted upwards and away from services for the poor.

While NGOs can extend to populations that are not reached by government or commercial services, they are usually weak in governance, and dominated by the director (often founder). Unlike the board of commercial institutions, NGO Board’s are often family and friends who rubber-stamp the organization’s plans and reports. When an NGO shows its capacity to perform in a commercial sector and becomes regulated, it needs to increase its professional level and demonstrate transparent reporting and a clear chain of accountability. Regulation can promote standards that raise the level of quality NGO programs and assure local accountability.

NGOs + GOs + Private Sector = Poverty Alleviation and Economic Growth

Successful development programs link Civil Society, Government and Private sector actors, supporting the poor to move from informal to semi-formal to formal systems. A key to this linkage is constructive regulation, which should be developed for different levels and sectors:

1. *Basic regulation*: government certification of an organization’s legal identity, sources of funding and validation of their work experience, transparent accounting, and programs that meet their stated intentions. Most NGOs might only need this level of regulation, when projects are small and there is little potential for an NGO’s activity to cause public harm.
2. *Self-regulation* could be promoted in sectors in which there are a number of NGOs working, where they would be encouraged to establish agreed standards, coordinate action with government services, and promote transparency of activity open to public demand and accountability.

3. *Sectoral Formal Regulation*: For sectors of extensive NGO activity or those sensitive to public risk (e.g. savings) formal regulation should be established based on international standards and a process led by practicing experts and institutions.

Regulation requires both public policy as law and a government commitment to implement the law. Basic regulation is needed to assure an organization's legal status and potential for promoting activities for public good. Funding sources are important so that an organization is not a front for money laundering or extremist activity. The stated objectives of the organization need to be validated with their activities.

Regulating programs for the poor needs standards based on understanding of any NGO modifications from formal systems, so existing formal regulations should not be mechanically applied or they risk stifling innovation. For example, many best practices in microfinance would be prohibited with traditional banking rules: outdoors banking, uncollateralized loans, and higher than commercial interest rates. Politically motivated regulation and practice should be neutralized or eliminated: interest rate ceilings, government credit programs, public funding for unregulated NGOs.

Equally important to establishing regulation is the implementation of the law by government. DR is especially legalistic where interest groups mobilize to create laws that protect rights but are then routinely ignored. In Bangladesh, the cooperative sector regulation is dysfunctional due to corruption in implementation of regulatory statutes. Quality of regulation depends on the commitment and capacity to enforce the law through supervision, inspection, and monitoring systems.

In summary, *constructive regulation* should increase the professional level of NGOs as their activity becomes legitimized and they are pressured to need to meet higher standards. Effective NGOs can promote participatory democracy and raise government responsiveness and quality of services to the poorest sectors of the population.