

5-12-1998

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Sovereignty and NGOs*

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May 12, 1998

Abstract: Growing links between international governmental organizations and NGO/GROs in developing countries pose a moral dilemma as the promotion of effective development may conflict with respect for state sovereignty. This paper examines this dilemma and develops principles to balance the two considerations.

*The paper appears in Kendall Stiles, Editor, *Global Institutions and Local Empowerment*, St. Martins/MacMillan Press, International Political Economy Series, 1999, 48-64.

I. Introduction

Recent enthusiasm over the potential of non-governmental organizations (NGOs) as effective agents of development in third world countries has spurred official aid donors to build close ties with NGOs.¹ Bilateral aid agencies such as the United States Agency for International Development (USAID) and the Canadian International Development Agency (CIDA) have been funneling money directly to NGOs for some time; major multilateral agencies are taking steps in this direction. To date, the major multilateral development banks (MDBs) including the World Bank have used NGOs primarily as implementing agencies or as advising consultants (Hellinger 1987; Bebbington and Riddell 1995; Nelson 1995; Robinson 1997; Wood 1997; World Bank 1998) but the direction of change is clearly toward deeper NGO involvement (van der Heijden 1987; Asian Development Bank 1998). Much of the recent literature on 'governance' suggests that NGOs, as civil society organizations, provide a method of by-passing inefficient and corrupt governments (Hellinger 1987); this literature has been embraced by most major donors.

Not surprisingly, official enthusiasm for NGOs resides mainly with donors. Robinson notes that 'although a large proportion of World Bank projects awarded to NGO contractors are in Africa, there is no documented evidence of African governments entering into contractual arrangements with NGOs independently of donors'. (Robinson 1997, 73) Although NGO-government relations are better elsewhere, he concludes that 'aid donors are the driving force behind this trend [to involve NGOs in official projects]'. (Robinson 1997, 74). There is widespread agreement that funding for southern NGOs largely derives from foreign donors (Mwangi 1986; van der Heijden 1987; Garilao 1987; Nogueira 1987; Bratton 1989; Hulme and Edwards 1997).

¹Unless noted otherwise, I use the term NGO to include northern NGOs, southern NGOs and southern Grass Roots Organizations (GROs).

In addition to providing funding, international donors — particularly large bilateral donors and international governmental organizations (IGOs) — can themselves play an advocacy role. Large donors can use leverage against recipient governments (that is, the threat of withholding aid) to involve NGOs in official projects as implementing agencies (Hellinger 1987), to promote policies which indirectly strengthen NGOs (Korten 1987) or to create an enabling policy environment (Bebbington and Riddell 1995). These ideas have moved beyond the drawing board as ‘southern states and donors now include policy toward NGOs within their “policy dialogues.”’ (Hulme and Edwards 1997, 14)

If NGO funding and policy emanate from northern donors, what are relations like between southern NGOs and governments? Many scholars see NGOs as frequently in opposition to government, a view which they claim is shared by NGO membership (Smith 1987, 88; Garilao 1987, 116-7; Annis 1987, 131; Farrington and Bebbington 1993; Stremlau 1987; Bebbington and Riddell 1995; Hulme and Edwards 1997; Clark 1997). The growth of so-called third generation NGOs (Korten 1987) which engage more in advocacy is likely to perpetuate tension between NGOs and governments. NGOs are even seen to play some part in the ‘roll-back’ of the state (Hulme and Edwards 1997).

That NGO funding and official support comes mainly from abroad and that they may challenge the state on some level raises important ethical and legal issues. Under what conditions is it ethical for IGOs to fund NGOs directly? What measures should IGOs take to improve the domestic environment for NGO activities? These questions are further complicated by the broad ‘agents of change’ mandate that many NGOs assume. While by-passing an inefficient government agency in favor of more efficient NGOs may be justifiable on efficiency criteria, external funding

for groups which aim to change social structure and cultural traditions is more controversial even if these groups pose no direct threat to government legitimacy. While support of the status quo is no more apolitical than support for change, when international forces influence the balance of power within a society, the fundamental notion of state sovereignty is at issue.

The central issue in all these questions is respect for the sovereignty of the government in the country receiving aid. The post-Westphalian idea of an inviolate sovereign *has* given way to a more limited notion of sovereignty bounded by considerations of human rights. Nonetheless, the sovereignty of a legitimate government remains an important ethical issue insofar as state sovereignty reflects the citizens' right to self-determination. Clearly, state sovereignty enters the ethical calculus when weighing the merits of international involvement in domestic NGOs.

This paper examines ethical and legal issues surrounding IGO involvement in third world NGOs and GROs, focusing on the conflict between the donor's obligation to promote the development effectiveness of aid and to respect recipient state sovereignty. Section II presents the ramifications of promoting aid effectiveness and argues that the resulting conditions on aid are non-trivial. Section III outlines the moral case for respecting state sovereignty and examines the potential conflict between respect for sovereignty and IGO involvement in domestic NGO funding and policy. Section IV derives general guidelines for adjudicating this moral dilemma and Section V applies them to specific issues raised by IGO-NGO interaction. Section VI concludes.

II. Ethical Foundations for Structuring Aid

This section establishes the duties that flow from accepting the moral obligation to provide international development assistance. While IGOs have not made this commitment themselves (in

the sense that providing development assistance is their mandate rather than an action that follows from a moral decision), the ethical case for giving aid clearly plays a large role in their stated objectives. The moral case for aid is also, at a fundamental level, the basis of their funding and mandate if we trace these back to individual tax payers in the donor countries. The ethical case for an obligation to provide development assistance is reviewed elsewhere (Singer 1993; Opeskin 1996; Riddell 1986 & 1987). Here, I consider the duties implied by accepting this moral obligation.

The obligation to provide assistance is not simply an obligation to provide funds but to promote development. A donor must take steps to ensure the development effectiveness of funds provided. As Riddell notes in the case of state donors, ‘the moral obligation for governments to provide aid carries with it the additional obligation to attempt to ensure that aid is used to achieve these objectives [relief and development]’. (Riddell 1986, 15) As Baldwin (1985) points out, unless aid is to be transferred ‘stringlessly’ (which, followed to its logical conclusion, means budgetary funding allocated according to ‘exogenous’ or pre-existing criteria - random chance, historical ties, GDP level - but ignoring effectiveness and type of government), aid will come with conditions. Hence, any discussion of promoting the development effectiveness of aid is a discussion of the type of conditions used to structure aid. Historically, most development assistance has been provided in a project format in an attempt to ensure the funds are used well.²

The structuring of aid to promote development effectiveness is complicated by the fungibility of funding.³ A donor must look beyond the apparent use of funds to the overall budget of the

²In project aid, conditions are implicit in the project’s design.

³The extensive literature on fungibility in this setting includes Singer 1965, Levy 1987, Pack and Pack 1990, Khilji and Zampelli 1991 & 1994, and Feyzioglu et al. 1996.

recipient organization. For example, suppose that a recipient government planned to spend \$100 million on education and \$100 million on defense. If a donor provides an additional \$50 million for education, the government may reallocate its budget and move some of its own funds from education to defense. If overall spending on education falls short of \$150 million and military spending exceeds \$100 million, the donor has inadvertently given military aid. Fungibility is difficult to avoid as a ‘with and without’ comparison is typically infeasible. Two solutions that have been advanced are providing highly structured project aid or abandoning project aid in favor of program aid. The latter approach attempts to promote development through policy conditionality rather than through the direct impact of aid funds.

To the extent that donor funds promote an activity the donor favors, the donor has avoided the fungibility problem, at least in part. In the education example, the donor may require that its funds be spent in rural areas on expanded primary education while the recipient government’s original plan may have emphasized urban centers and higher education less suited to the country’s stage of development. Even if there is a dollar for dollar reduction in the government’s own education budget, the donor has improved the effectiveness of the educational program by shifting its focus. And, in most cases, the reduction in expenditure will be less than one for one. The key is funding a project that the recipient would not have undertaken without the incentive of external funding.⁴

Program lending with policy conditionality relies on inducing the recipient government to adopt policies which it would not have undertaken otherwise. If the donor believes that less

⁴Donors often increase their impact by requiring government counterpart funding in part to redirect government funds to the ‘better’ project.

regulation of NGOs, tax-free status for voluntary organizations, or government transparency is important, it may use the promise of funding as leverage to persuade the government to follow these policies. This approach avoids fungibility since the desired impact is policy reform rather than implementation of a specific project. The donor can pursue policy reform directly (explicit policy conditionality) or indirectly by rewarding governments which have followed donor prescriptions (implicit policy conditionality, sometimes termed selectivity).

Clearly, the duties of an aid donor are not easily satisfied. The need to structure aid requires much more than a simple transfer of resources. But this structure can put the donor's aid program in conflict with respect for recipient state sovereignty.

III. The Conflict with Sovereignty

From an ethical point of view, respect for state sovereignty is based on the individual citizens' right to self-determination and the legitimacy of the state. For an external agent such as an IGO to respect the citizens' right to self-determination, it must not coerce or exploit the state — assuming the government is legitimate. External influence over resources and state policy does not necessarily violate sovereignty. Even proponents of absolute sovereignty (Bodin 1992; Schmitt 1985) acknowledge that the sovereign may choose to delegate duties. But the conditions under which these choices are made matter. To see what room is left for an aid donor to achieve its development objectives, we must examine coercion, exploitation, and legitimacy.

At first glance, the issue of coercion seems irrelevant. Donors rarely use force or the threat of force to implement projects or policies.⁵ Recipient governments are free to reject aid (with its

⁵At least in their capacity as aid donors. In the exceptional cases where this happens, the

conditions) as many less developed country (LDC) governments have done. Yet the argument of no coercion falls short. In many developing countries, aid is required to satisfy the needs rather than the wants of the citizens. When income levels are so low that even basic human needs are left unmet, the recipient government is not truly free to reject aid, even with conditions. Such conditions can be coercive in that they force the recipient government to choose between two duties: the duty to provide for the needs of citizens and the duty to preserve national sovereignty.⁶

Exploitation is also an important issue when considering IGO funding of NGOs. States can and do regulate NGOs and their access to external funding. In so far as donors and NGOs comply with these regulations, one might argue that sovereignty is not endangered. But what if the government is not able to enforce regulations because of limited resources? Agencies monitoring NGOs may not have the staff or expertise to digest applications properly and may resort to rubber stamping for fear of losing donor money. Anangwe (1995) finds that the government of Kenya monitors urban NGOs closely but smaller, rural NGOs — which are much more difficult to monitor — operate with great autonomy. Stremlau argues that while NGOs register with the government, ‘governments typically know little about the often extensive numbers of NGOs in their countries’. (Stremlau 1987, 217) And what if donors and NGOs comply with the letter of the law but not the intent? For example, a rural health education project may organize opposition to female circumcision but be presented non-controversially as a health program. IGOs can exploit the limited

government of the recipient country is almost surely not legitimate. See below.

⁶This discussion brackets how existing government resources are allocated, whether to the needs of the poor or to prestige projects and private gain. The claim of coercion depends on the importance of the latter type of spending and its degree of institutionalization.

resources of the state to promote projects which would otherwise not be allowed.⁷

Recognizing that aid has the potential to coerce and exploit the state, when should a donor consider state sovereignty? The moral case for respecting state sovereignty rests on respect for individual self-determination and the legitimacy of the state as a form of aggregating individual rights. I take the state to be legitimate if it does not maintain itself internally by continual threat of force and does not engage in widespread or systematic violation of human rights, a standard similar to Rawls (1993). With this definition, the legitimacy of the state is not just the popularity of the current government nor does democracy hold a special place. Rather, a substantial majority of the populace accepts the form of government; no large group within the society attempts to displace the government through means outside the current system — by force. Democratic governments, monarchies, military regimes, all may be considered legitimate if they do not use force or the threat of force to maintain their position. However, the role of rights remains important. Just as a person's right to self-determination does not extend to harming others (or, perhaps, themselves), in so far as the wishes of the majority infringe on the human rights of a minority, that aspect of their 'sovereignty' cannot be respected.

If the government is deemed illegitimate, state sovereignty ceases to have a moral claim. In

⁷One could argue that the state decides to allow such activities when it allocates institutional resources. If we can link loose regulation back to a choice made by the state, then violation of sovereignty is again not an issue. However, the previous argument about the paucity of resources applies here as well. Indeed, one could extend the argument and claim that the state may *want* to impose stiffer regulations but, unable to enforce those already on the books, chooses not to. In some sense, it is the 'will of the state' (representing the will of the people) which should be respected.

this case, the donor should still work to promote development or provide relief but while respecting individual self-determination (or popular sovereignty) rather than state sovereignty. In these cases, protection of human rights will likely be the most pressing issue on the donor's agenda. From an ethical point of view, this case is the most straightforward.

In the case of a legitimate government, how do we balance respect for state sovereignty with aid effectiveness?⁸ Both are based on moral arguments yet some measures to promote aid effectiveness clearly run afoul of respect for sovereignty.

IV. Guidelines

To develop guidelines for balancing these competing moral claims, I make use of the domestic analogy, extending interpersonal ethics to the international arena but allowing for modification when that analogy falls short.⁹ Regarding possible coercion, I argue that project aid can be made explicitly conditional on how the resources are used and distributed. Implicit conditionality on program aid also maintains an appropriate balance between effectiveness and respect for sovereignty but explicit policy conditions pose too great a threat to sovereignty. Turning to the issue of exploitation, I argue that IGO funding of NGOs must adhere to standard guidelines

⁸Riddell (1986, 13) asks a similar question: 'Is there... a duty to reduce inequalities, to relieve poverty and to meet human needs, especially when action to address these circumstances conflict with people's other rights?'

⁹Critiques such as Cooper's (1977) 'ethical fallacy of anthropomorphizing nations' and Teson's (1988) 'Hegelian myth' do not apply as respect for state sovereignty is based on respect for individual self-determination, viewing the legitimate state as the method of aggregation.

but that the strictness of these guidelines should vary inversely with the government's ability to monitor the NGO sector.

As a first domestic analogy, consider encountering a homeless woman with children. We have an obligation to assist this family if the cost to us of doing so is not too high. We may provide assistance in cash or kind. We may offer job training or day care. Such assistance does not violate the individual's right to self-determination. Likewise, providing international assistance in the form of food or clothing or health care training or road construction does not violate the sovereignty of the recipient state. If the donor judges this form of aid best from an efficiency point of view, then it satisfies both criteria — respecting state sovereignty and providing effective aid. If the aid can be conceptualized as a 'thing' or a service to the recipient with no external conditions, it fits this category. Conditions implied by this type of aid are intrinsic to the goods or services offered.

Continuing with the analogy, suppose we encounter the same woman one year later with yet another child and still homeless. We may think twice about repeating our generous act. Our assistance has had little impact; repeating it will only add to family size. We would be within our rights to withhold assistance, perhaps directing it to another equally needy person. Yet, a clear part of the problem is the woman's inability to limit her fertility. Perhaps the most *efficient* approach would be to encourage her to address this issue. We might offer her and her children free lodging on the condition that she get a NorPlantTM or a tubal ligation. If the woman dropped out of school at an early age, we might offer to feed and cloth her children on the condition that she go back to school. Although this sort of aid may be well intentioned, it is clearly coercive, infringing on the woman's bodily integrity and freedom of choice. This sort of explicit conditionality, while possibly very effective, is by most standards an unacceptable violation of self-determination since the needy

person cannot reject the offer.¹⁰

I draw a number of lessons from this first domestic analogy. The aid donor is well within its rights to employ implicit conditionality, that is to assist only those countries which meet some criteria which the donor believes important for aid effectiveness. Second, explicit conditions which link aid to significant aspects of LDC government policy or organization are unacceptable violations of state sovereignty. The effectiveness of such measures is not the issue; if the government is legitimate, such coercive conditions do to the collective what the over-zealous philanthropist did to the homeless woman — violate the right of self-determination. Such conditions are extrinsic characteristics which violate sovereignty since they lie in the sphere of public policy. This applies equally to extrinsic conditions placed on project or program aid. As an example of project aid, funding for an agricultural project should not be explicitly conditional on changing government policy toward NGOs. In the case of program aid, there are no intrinsic characteristics and hence the focus is on conditionality.

Such a sharp distinction between the ethical merits of implicit and explicit conditionality is reasonable only if there is a real, practical difference between the two. Is there? With explicit conditionality, the aid contract explicitly links meeting certain conditions with disbursement of funds. For example, funds might disburse only after the government agrees to consult with NGOs, drop requirements for NGO registration or allow unfettered international funding of NGOs. Implicit conditionality entails an official or unofficial practice linking policies of potential aid recipients to

¹⁰One must resist the temptation to recast this tale as a maternal analogy with the government as mother and the citizens as children as this denies the moral agency of the citizens and obscures the aggregative role of the state.

aid eligibility. A donor might choose to aid only countries which consult with NGOs regularly, do not require registration, or do not monitor NGO finances. On first consideration, the only difference is timing. In a repeated setting, we might expect countries in need of aid to learn what the donor favors and craft policy accordingly. However, explicit conditionality allows for much more precise conditions on aid and usually includes substantial ‘policy dialogue’. This provides the donor with additional influence over recipient behavior and significantly increases donor leverage over recipient policies. Explicit conditionality poses a more direct threat to state sovereignty.

The second domestic analogy concerns exploitation and the quality of consent. Here, I draw on the familiar situation of signing a contract. First, consider signing a contract while renting a car at an airport. Few of us have the time, patience, and practiced ability to read and understand the complete terms of the contract in this setting. When we sign the rental agreement, to what have we committed ourselves? Could we be held to terms that one would not ordinarily expect to find in such contracts? The usual answer is no; the quality of our consent was deficient. If, however, we received a contract of similar complexity in the mail (say, one offering 9 compact discs for a penny) and could take two weeks to make a decision, the contract would hold and the quality of our consent would not be deemed deficient. We may have skimmed the document before signing, paying it no more attention than the auto rental agreement. This excuse would provide no protection: we had the opportunity to analyze the contract. That we did not do so has little bearing.¹¹

A claim of exploitation may be based on deficient quality of consent. Quality of consent, in turn, depends on the situation of the contracting party. In a situation where, through no choice of their own, they could not properly assess the terms of the agreement and the terms of the

¹¹For a more detailed examination of consent, see Wertheimer 1996, 247-277.

agreement are not those ordinarily expected in such situations, the quality of consent is deficient and a contract may be invalidated as exploitive. In a different situation when the terms of the contract can be assessed, the party may be held to the contract despite its unusual conditions.

Returning to the case of IGO funding of NGOs, several parallels emerge.¹² Certainly, the IGO and NGO must comply with the letter of the law, both for moral and legal reasons. But there may be obligations beyond this. If the government is unable to monitor the actions of the NGO, the IGO may be obligated to restrict itself to less controversial matters. Just as the terms of a car rental contract cannot deviate significantly from what renters would ordinarily expect, the activities funded by an IGO should not go beyond the ordinary when the government lacks the ability or resources to monitor IGO-NGO relations and NGO activities. As the case of the mail-order compact discs suggests, this only holds when the government cannot monitor, not when it chooses not to monitor. If a government has the staff and the resources but chooses to allocate them elsewhere, it has made its sovereign choice and the IGO need no longer worry about self-regulation.¹³

¹²For this discussion, I assume the state is legitimate.

¹³This must be a genuine choice. That the government staffs hospitals at a minimal level and keeps just enough police on the streets to maintain a modicum of law and order is not sufficient evidence that it has the choice to monitor NGOs closely. The government must have the resources to undertake activities on par (in terms of the obligations of the state) with monitoring NGOs for there to be real choice.

One could argue for a higher standard than this by claiming that IGOs have a fiduciary responsibility toward the LDC government. I shy away from this approach because it may devolve rapidly to paternalism.

What constitutes 'ordinary' in this case? The extremes are clear. An NGO which has a strong anti-government stance and a substantial political component or seeks to change a fundamental component of the traditional culture is not a good candidate for donor funding when government monitoring is inherently limited. Conversely, funding an NGO-run nutritional program which operates without regard to ethnicity or party should be noncontroversial. Where the boundary lies between ordinary and not will depend on the country in question just as in the case of contracts.

These analogies provide some guidelines on how to assess different aid arrangements. At times there will be a conflict between fulfilling the duties of an aid donor and respecting recipient state sovereignty. While the claims of sovereignty are important, they must be balanced against efficiency considerations lest the true meaning of the term 'aid' be lost. Inevitably, some difficult situations will arise which may not fit the above analogies neatly. To resolve such problems, we must return to fundamentals, namely that respect for state sovereignty is founded on respect for individual self-determination and the legitimacy of the state.

Above, I suggest that a nutritional program run by an NGO should be noncontroversial. But in Sudan and Ethiopia, NGO relief programs did become controversial in the context of government strategies to deny food to certain groups. (Deng and Minear 1992) Does this mean that a donor must treat any politicized issue as an 'extraordinary' one and avoid it if the government lacks the resources to monitor NGOs? In this case, there are two related counter-arguments. First, if the government is trying to starve a portion of the population, it fails the legitimacy test and the donor can take a relatively free hand. Second, since respect for state sovereignty is founded on respect for individual rights, the basic human rights of those lacking food takes priority. The fundamental principle of respect for individual rights provides a clear path for the donor.

The whole notion that donor policies regarding NGOs must be tempered with consideration for state sovereignty might equally well be attacked on these same foundational premises. One could argue that NGOs, in the business of promoting empowerment, increase the level of individual autonomy and self-determination within a country; they strengthen civil society. If a donor funds NGOs or uses leverage to bring about an enabling environment for NGOs, the calculation of the net impact on individual self-determination is more complex. Donor involvement would promote individual self-determination through the increased impact of NGOs and hence the disregard for state sovereignty may actually be the best route.

This line of reasoning may be valid in some situations but donors must judge carefully on a case by case basis. To what extent do individual NGOs live-up to their claims to be participatory, democratic and empowering? A broad range of organizations fall into the category NGO — grass-roots membership organizations which promote the empowerment of the least powerful, NGOs which largely function as implementing agencies for international donors, even NGOs crafted solely to attract aid money but without a popular base. Many researchers claim that NGOs are often much less participatory than their rhetoric suggests (Marzouk 1997; Hulme and Edwards 1997; Wood 1997; Marcussen 1996). Simply because funds pass from donor to NGO does not mean that individual autonomy is increased.

IGOs must also consider the dynamic or long run impact. The flow of funds from international donors may change NGOs, making them less agents of the poor, for empowerment and self-determination, and more creatures of donors (see Hulme and Edwards, 1997, various). Downward accountability to membership or beneficiaries weakens as NGOs improve upward accountability to international donors. Projects must be designed and implemented in a manner that

facilitates accounting for inputs and measuring outputs. Dependence on external funding may grow and shift the emphasis of identification from participation at the grassroots level to fashion at the international level.

The merit of expanding civil society organizations (CSOs) is itself open to debate. Blair presents three potential pitfalls of expanding civil society: governmental gridlock due to excessive lobbying; representation of leadership rather than membership views; and the domination of special interests over the general public good (Blair 1997, 29-30). Bebbington and Riddell (1995) point out that donor programs can weaken state responsiveness while supporting NGOs: 'For instance, donor-supported programmes which introduce cost recovery in health, education and agricultural services could well have the effect of making state service provision less accessible to the poor.' (Bebbington and Riddell 1995, 890) Hulme and Edwards (1997) argue that donor support for NGOs can be seen as part of a neo-liberal ideology which strives to convert target communities into customers for NGOs in a private market of services for the poor, a process which does not promote individual self-determination. Wood (1997) envisions the advent of a franchise state where social services are provided by contracting NGOs which are not accountable to citizens. That international donors label this 'good governance' displays 'a revival of ethnocentric, modernizing ideology'. (Wood 1997, 79)

Efficiency and respect for self-determination can coincide but involvement of NGOs provides no guarantee. The merits of the individual NGO must be weighed against the possible disadvantage of undermining state sovereignty.¹⁴

¹⁴This discussion is more than a little ironic. For NGOs — participatory organizations that promote greater self-determination and empowerment — people are ends, not means. Once we enter

Thus far, I have made no special reference to the nature of IGOs. The guidelines derived apply equally to other donors. But are there special considerations in the case of IGOs? Two IGO characteristics stand out, IGO membership and IGO charters. Except for in some regional or security organizations, IGO membership includes developing member nations which are also recipients of IGO aid. How can IGOs both recognize a government representative as a voting member (for example on its board of directors) and not recognize the sovereignty of that government? This is exactly what an IGO does when it violates sovereignty with coercive or exploitive measures. And, if the guidelines suggested here were followed, what would it mean to have the government as a voting member but label it 'illegitimate'?

IGO charters pose an additional puzzle. Many of these charters, for example those of MDBs excepting the European Bank for Reconstruction and Development (EBRD), expressly forbid using political criteria in their operations. Although scholars question the veracity of these institutions' claims to be apolitical (Hayter 1985, Brown 1992, Gwin 1994, Nelson 1995) and IGOs creatively reinterpret their charters (for example, the World Bank justified structural adjustment lending as a way to improve the effectiveness of its project lending), full engagement with NGOs and GROs would signal a clear break from the apolitical stance. The promotion of civil society and its implied bias toward democracy openly supports one political system. Empowerment and changing the status quo, either as means or ends, have no place in an apolitical approach to economic development. Going beyond talk of good governance and transparency is a step into murky waters.

These issues are not so much moral as legal quandaries. The political climate of the post-Cold War era may embolden institutions to ignore issues of sovereignty and the limitations imposed

into a calculation of a net impact, we have reversed this.

by an apolitical charter. But they do so at the risk of undermining their own legitimacy.

V. Application

IGOs, NGOs and states interact in a variety of ways. IGOs use leverage to influence state policy toward NGOs and provide funding to governments to contract NGO services or establish trust funds for NGOs. They fund southern NGOs directly and fund international NGOs which in turn either operate in developing countries or funnel resources to southern NGOs. NGOs pursue a wide range of objectives (relief, development, advocacy, empowerment) through a variety of methods (direct action, funding, lobbying, networking). Support for southern NGOs takes the form of funds and materials, training (in-country or abroad), and information services. Finally, state-NGO relations vary considerably. The state may be friendly or hostile toward the NGO sector in general and friendly or hostile toward a particular NGO. The state may regulate NGOs tightly or loosely, in theory or in practice. Statues regulating NGOs may not be enforced as an expression of policy or due to severe resources constraints. In each of these cases, the potential conflict between state sovereignty and aid effectiveness may have a slightly different character.

The guidelines presented above have direct application in some of these cases. IGO use of explicit policy conditionality is inappropriate in that it violates state sovereignty. IGO use of implicit policy conditionality (selectivity) is unproblematic so long as it conforms to the underlying obligation to aid the poor.

Detailing the cases with IGO funding of NGOs is complicated by the number of players involved: IGOs, governments, southern NGOs and international NGOs.¹⁵ Leaving aside extrinsic

¹⁵A brief glance at the literature on NGOs shows that this list could be expanded. See, for

conditions, the remaining issues are quality of consent and fungibility. For quality of consent, I construct a rough hierarchy of funding arrangements discussed below. If the quality of consent is deficient, fungibility once again becomes an issue. In the non-fungible case, the IGO need only apply the standard of ‘ordinary practice’ to the activity it funds. In the fungible case, the standard must be applied to the NGO as a whole. *Ceteris paribus*, the degree of fungibility increases with the size of the NGO and decreases with the size of the grant. A small NGO will likely have related projects so that if one project or activity meets the ‘ordinary practice’ standard, the others will as well. Opportunities for redirecting resources are fewer when the original base is small relative to the IGO grant. For a small NGO, funds from an official project will likely be a major fraction of the NGO’s overall budget so that fungibility is not a significant problem.¹⁶

The funding hierarchy, based on the degree to which quality of consent is a problem, serves to organize the various funding arrangements between IGOs and NGOs. At the base of the hierarchy is IGO funding of government projects which involve southern NGOs as contractors or consultants. In this situation, we expect the activity funded would fall within the ‘ordinary practice’ category since the NGO is serving as a contractor. Furthermore, the government is in an ideal position to monitor NGO activities, at least in the context of this project. Finally, NGOs which participate as consultants or contractors are more likely to face pressures to become more conforming and less adversarial as they attract greater government scrutiny and are subjected to upward accountability and other donor pressures.

example, Vakil (1997).

¹⁶For example, if an NGO with an annual budget of \$100,000 implements a \$2 million IGO scheme, no more than 5 per cent of the IGO funds could be redirected.

The next step up the hierarchy is IGO funding funneled through the government to an NGO trust fund or other mechanism which the government does not control directly. This trust fund may underwrite specific projects or provide budgetary support for local NGOs. The ability of the government to monitor the NGOs funded depends in part on the composition of the board of directors of the trust fund; its structure should take into account quality of consent.

The third level in the hierarchy repeats the first but the IGO funds the southern NGO project directly.¹⁷ With less direct government involvement, monitoring will be more difficult for the government and concern over quality of consent is therefore increased with the corollary implication for fungibility.

The fourth level is IGO direct budgetary support for southern NGOs. Such transfers are still harder for governments to track. If quality of consent is indeed an issue, the IGO must apply its ‘ordinary practice’ standard to each organization since no specific project is funded.¹⁸

Before we depart the domestic sphere, I wish to discuss one more common practice among IGOs: counterpart funding. Can the donor require, as a condition of providing its share, that the government fund NGOs as well? This steps beyond the bounds of what is ‘intrinsic’ to the project and therefore runs afoul of sovereignty. Explicitly requiring counterpart funding allows a foreign

¹⁷I ignore the possibility of NGOs working as IGO contractor/consultants in projects which do not involve the government as this seems to be a transparent violation of sovereignty. Stiles (this volume) cites a case where WHO may be doing just that (Stiles, 11).

¹⁸This could involve establishing a trust fund with little government control over the board. Where quality of consent is an issue, the granting procedures of the fund should incorporate ‘ordinary practice’.

power to determine budget allocation, one of the most basic functions of government. Implicit conditionality offers a solution here. A government which routinely supplements donor projects with governmental funds may attract more funding than one which does not. If counterpart funding remains an implicit condition, the government has considerably more latitude determining the level of such funding and how it is to be used, providing an adequate safeguard for sovereignty.¹⁹

We have not yet considered international NGOs directly. Domestically, the situation is quite similar to cases involving indigenous (southern) NGOs with the only potential difference being the government's ability to monitor. Monitoring may be easier as there are generally fewer foreign than domestic NGOs and foreigners are often easier to monitor and control. On the other hand, foreign NGOs are likely to command more resources and foreigners may enjoy privileged status (that is, enforcement is difficult). Foreign NGOs may be larger and have many operations in the country so that fungibility is more important in the case that quality of consent is deficient.

The more difficult cases arise when we consider the international rather than simply foreign character of these NGOs. IGO funding for the NGO at the country level is certainly subject to fungibility. If the international NGO is engaged in noncontroversial activities in Country A but controversial ones in Country B and Government B's quality of consent is deficient, the IGO faces a perplexing problem. Funding for NGO activities in Country A will almost certainly allow more undertakings in Country B. Likewise, providing budgetary support for the NGO may result in increased activity in Country B. IGOs may also fund NGOs without knowing precisely where the funding is going, especially in the case of a large international NGO which funds southern NGOs. Following the flow of money between organizations is notoriously difficult. Is the IGO simply

¹⁹Alternatively, donors could supplement existing government projects.

absolved of responsibility when tracing the flow of funds is not possible?

One solution would be to limit IGO funding to situations where these problems do not arise. IGOs could fund southern NGOs (as outlined above), international NGOs which have no controversial operations in countries where the quality of consent is deficient (and the government is legitimate), and NGOs which do not fund other NGOs fitting this category.

Another approach would be to have NGOs assure the IGO that the money is purely additional. For example, if the NGO planned to spend \$2 million in the country and the IGO funds a project for \$4 million, the gross NGO spending in the country would be \$6 million. This would certainly take care of fungibility concerns though its practicality is open to question.

Neither of these suggestions has great appeal. There has been considerable worry about the role official funding might have in reshaping NGOs; adding further restrictions to official aid criteria should be approached cautiously. The better lesson to take away is that IGOs have a heavy responsibility to be informed, to know a great deal about their NGO partners, and not simply to use NGOs because they are convenient.

VI. Conclusion

Looking at the moral foundations of international development assistance exposes a conflict between the use of conditions to promote aid effectiveness and respect for recipient state sovereignty. On the one hand, some conditions are necessary to structure aid so that it will better accomplish the objectives that motivate aid, namely improving the living conditions, welfare and life-possibilities of millions of poor in the world. On the other hand, some efficiency-enhancing uses of aid pose a serious threat to state sovereignty. Since the sovereignty of a legitimate state

reflects the self-determination of its people, one moral good is pitted against another.

IGO funding of NGOs and use of leverage over governments to promote an enabling environment for NGOs is one of the most popular recent innovations to improve the development effectiveness of shrinking aid budgets. But indiscriminate use of these methods does indeed pose a threat to sovereignty. Use of explicit conditionality by IGOs to change government policy toward NGOs and IGO direct or indirect funding of potentially controversial NGO programs in the countries where governments are unable to monitor the NGO sector do violate the sovereignty of the state. If that state is legitimate in the eyes of its citizens, that is no small matter.

Critics, perhaps NGO proponents within IGOs who are finally seeing the fruit of a long struggle or NGO practitioners who already face innumerable obstacles in their work, may disagree and claim that it is a small matter. If 'it works', why let technicalities get in the way? But long run support for NGO funding depends on responsible funding. Development is a slow process. NGOs need sustained support, not a burst of funds followed by a fall from favor.

IGOs themselves need to recognize their role as outsiders and that lasting social change comes from within. They cross this line at their own peril as their own legitimacy may be called into question. To suppose that social change can be imported is to belittle the work of GROs and NGOs. For civil society to strengthen democracy and the responsiveness of government, it must truly be a domestic civil society, not something transplanted from without.

The strength and legitimacy of government has always been an important factor in economic and social development. If the international community shows no respect for a government, how can we expect it to function domestically?

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