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The People's Peace? Peace Agreements, Civil Society, and Participatory Democracy

CHRISTINE BELL AND CATHERINE O'ROURKE

ABSTRACT. This article, drawing on an extensive collection of peace agreements dating from 1990 until the present day, analyzes peace agreement provisions for civil society involvement and considers the extent to which peace agreements proffer new models of participatory democracy. We begin with some background and a short overview of political theory on participatory democracy, identifying key dilemmas. The body of the article sets out a comprehensive analysis of peace agreement provisions for civil society, indicating how peace agreements negotiate the dilemmas identified in theory. We then evaluate this negotiation in the context of post-agreement implementation difficulties. In conclusion, we discuss the implications for future research.

Keywords: • Civil society • Constitutional law • Democratic institutions • Peace agreements • Peace and conflict • Political participation

Background

The post-cold-war years have witnessed the rise of the peace agreement as a tool for addressing protracted social conflict within existing state borders (Bell, 2000, 2006). Framework peace agreements typically aim to establish or extend a ceasefire by linking the ceasefire to new political and legal structures, through what is essentially a constitutional framework or “power map” for the state. This involves setting out the organs of government and key legal institutions, in what might be termed a “constitutional moment” (Ackerman, 1992) aimed at addressing the state’s internal and external legitimacy. Scholarship has analyzed these blueprints for democracy with particular reference to how their electoral systems relate to conflict-resolution goals (for example, Sisk, 1996).

There is, however, another perspective from which to evaluate the political arrangements that emerge from negotiated settlements to conflict: by examining the extent to which they opt for models of representative or participatory democracy.

The conflict settings which peace agreements address tend to be characterized by grassroots mobilization in the form of a vibrant civil society, often with transnational links. The peace agreements which emerge often include provision for civil society involvement as part of the new political and legal arrangements. This article undertakes an audit of this provision with reference to the challenges facing theories of participatory democracy.

Participatory Democracy: Theoretical Challenges

Contemporary political theorists have sought variously to “reinvent” democracy (Hirst and Khilnani, 1996), “engender” democracy (Phillips, 1991), or establish “deep” (Young, 2000: 3), “new” (Phillips, 1998: 239), “strong” (Barber, 1984) or “cosmopolitan” (Held, 1996) democracy, premised on increased citizen participation and a “re-visioning” of the role of civil society in a renewed democratic polity.¹ These political theorists advocate more participatory forms of democracy, but also argue for the mutual dependence and coexistence of civil society and the state (Gellner, 1996; Hall, 1995; Keane, 1998; Mouffe, 1992; Pateman, 1970; Phillips, 1991; Walzer, 1992; Young, 2000). This “mutually-limiting” relationship is thought to be central to any project of democratic renewal (Arato, 2002: 48; Young, 2000: 185), but gives rise to three related dilemmas for its proponents. These dilemmas have resonance in the practical difficulties encountered by attempts to make provision in peace agreements to secure the role of civil society organizations in post-conflict governance.

Who is “Civil Society”?

The first dilemma is one of definition: where does “civil society” begin and end, and how are its terms of membership defined? What forms of associational activity are designated by the term? Included within its remit have been organizations as diverse as Microsoft and the Zapatistas (Hall, 1995; Seligman, 1992). The challenge of definition becomes particularly acute when civil society organizations reject fundamental principles on which the state is organized. Yet including value judgments as part of a definition is problematic because it prompts the question of whose value judgments should be used. The challenge presented by defining and regulating “‘good’ and ‘bad’ associations” (Phillips, 2002: 84) represents a major dilemma of political theory on civil society (Phillips, 2002; Walzer, 1992, 2002). This dilemma is accentuated in conflict situations in which civil society may be divided along the very lines of the conflict and in which both state and non-state actors use violence to further their aims (Orjuela, 2003).

What is the Relationship of Civil Society to the State?

The second challenge focuses on how to conceive of the relationship between civil society and the state, and what the state’s role in defining and institutionalizing this relationship should be. Theorization of participatory democracy often hovers uneasily between the descriptive and the prescriptive when seeking to address this question (Pateman, 1970; Young, 2000). Persuasive examples illustrate the potential of civil society organizations as agents of participatory democracy, but are somewhat unclear as to whether and how development of this role should be institutionalized (Pateman, 1970; Young, 2000). If civil society is to contribute

through its oppositional force, can it be legislated for at all or must it arise “naturally”? Theorists recognize that while institutionalized vehicles for civil society, such as civic forums, can be presented as acknowledgment and support of civil society, the danger is that this can also become a project of co-optation (Skocpol, 1996; Young, 2000). This dilemma links to the difficulties of definition, because any formal provision for civil society must specify who is to be involved, giving government the power to define and thereby control civil society. The participatory-democracy project stands accused of enabling governments to “contract out” basic governmental functions, motivated by “efficiency” and the need for public spending cuts, so as to decrease rather than increase the accountability and transparency of decisions (Poppo and Redmond, 2000; Robson, 2001).

Challenges to Civil Society Accountability

The third difficulty identified in the political theory of participatory democracy concerns whether and how civil society should itself be democratically accountable if it is to have a protected role in the democratic process (compare Phillips, 1991: 137). Critics of civil society have pointed to its lack of electoral accountability, and the potential for an accentuated role to deplete further, rather than invigorate, electoral politics (Chandler, 2002a: Ch. 6; 2002b; Mandela, 1997). Michael Walzer (2002: 39) points to the additional difficulty of power disparities between civil society organizations, arguing that as organizations involve a “mobilization of resources,” civil society is likely to be a “realm of conflict” whereby inequalities between groups are reinforced as opposing interests compete for recognition and resources (compare Phillips, 2002: 87). While these divisions may be temporarily suppressed in the name of united opposition to violence or authoritarianism, or both, they can quickly re-emerge in less oppressive political contexts, such as the post-agreement phase of a peace process (compare Watson, 1997). Criticisms do not point easily to new models of accountability, given that civil society’s claim to be a vibrant force lies in the very fact that it proffers alternative modes of engagement beyond periodic elections. While some political scientists argue for a reinstatement of the primacy of electoral politics at the expense of civil society (Chandler, 2002a: 169), most opt for articulating a conception of political participation and representation as distinct but complementary spheres of political engagement (Held, 1996; Keane, 1988; Mansbridge, 1980; Phillips, 1991: 146).

Civil Society and Peace Agreement Provision

To the extent that the political theory drawn on for this analysis is empirically grounded, it tends to draw on the experience of Eastern Europe (see, for example, Arato, 2002; Cohen and Arato, 1992; Held, 1996; Seligman, 1992; Walzer, 1992). While this focus may have been justifiable in the early 1990s with the end of the cold war, peace agreement practice in the intervening period suggests much broader terrain for examining attempts to institute participatory democracy. Furthermore, the transitional period itself is beginning to be understood as comprising a complex set of interrelated changes to the structure of states and social movements (for example, Bell and Keenan, 2004).

Transitions from conflict are also a vital area of study for those interested in participatory democracy beyond the transitional context. Peace agreements document

a constitutional “big bang” providing for radical overhaul of political and legal institutions to an extent rarely found in settled liberal democracies. However, this overhaul is designed to respond to root causes of violence which lie in challenges to the state’s legitimacy, based on its failure to provide equally for all groups. These challenges are also at the heart of calls for democratic renewal in more settled contexts (Tully, 1995; compare McAdam et al., 2001). Peace agreements offer an example of the type of structures which can emerge when radical change is viewed not just as possible, but as necessary: peace agreements constitute a site of experimentation on which democratic renewal efforts can draw.

Nature of the Study

This research analyzes a comprehensive collection of peace agreements addressing intra-state conflicts for their provision on civil society involvement, and represents a subsection of a more comprehensive legal study of the text of peace agreements signed since 1990. Textual and legal analysis of peace agreements does not enable conclusions as to the actual role of civil society in peace processes. This could theoretically be captured by “large-*N*” quantitative analysis which attempted to link statistical data on civil society involvement to data on the success and failure of negotiated settlements or by “small-*N*” analysis, such as case studies, which attempted to provide a thicker, more contextual, account of the role which civil society plays in individual transitions from conflict (Coppedge, 1999: 471). However, as Coppedge notes, the former (large-*N*) enables “thin” reductionist theories that hold the promise of generalizable propositions, but somewhat falsely (1999: 469–71). In contrast, small-*N* research enables “richly specified, complex models that are sensitive to variations by time and place,” but limits the possibility for generalizations (Coppedge, 1999: 471).

The content review and constitutional legal analysis offered here seeks to bridge the differences between small- and large-*N* research (Coppedge, 1999). Peace agreements provide a snapshot of agreement between conflicting parties which document new democratic arrangements (Bell, 2000: 7). They offer possibilities for comparison across the situations of classical ethno-national disputes, left–right conflicts, conflicts with indigenous peoples, and even interstate conflicts, all of which use peace agreements with common elements as a conflict-resolution device (Bell, 2000). By employing legal analysis of peace agreements as constitutional documents, the research avoids some of the pitfalls of larger-scale quantitative research, chiefly that of reductionism and the impossibility of measuring a categorical theoretical concept such as “civil society” where definition itself poses a theoretical dilemma. As is discussed further in the conclusion, this provides only a preliminary and partial bridging.

Sources

Our findings are drawn from analysis of 441 peace agreements addressing 73 conflicts. There is no agreed definition of the term “peace agreement,” and no official collection or registration system for peace agreements. We use the term “peace agreement” to include formal agreements aimed at ending violent conflict (even those essentially imposed after a military victory). While the definition has some boundary difficulties,² it includes treaties, constitutions, and land settlements across intra-state, interstate and extra-systemic conflicts with widely differing causes and dynamics (see Bell, 2000, 2006).

We used diverse documentary sources to compile a comprehensive dataset of peace agreements. A number of web-based peace agreement collections exist, which overlap, but are not coterminous.³ Our research logged all of these peace agreements. In other instances, we pursued source documents through research on individual conflicts and peace processes, accessing them through varied print and web-based sources, and by writing to governments, non-state groups, and mediators, where we knew that peace agreements existed, but where a publicly available copy was difficult to find. Research drawing on civil and interstate war datasets provided ongoing information on where conflicts had been resolved by negotiated settlement, so that the text of the settlements could be followed up.⁴ The resulting collection of peace agreements signed since 1990 is comprehensive of all current collections, and goes beyond them.⁵ Table A1 in the Appendix indicates where peace agreements make provision for civil society involvement. Full names of the agreements are listed in Table A2 (agreements with no provision for civil society are not listed).

Methodology

The peace agreements were initially sorted by conflict. Agreements providing for civil society involvement in their implementation were then identified and recorded. In determining whether a specific peace agreement provided for civil society involvement, we were confronted with the difficulties of definition set out by political theorists. In order to examine these definitional issues, an expansive understanding of civil society was used. We recorded any reference either to "civil society" or to any groups which could be considered part of civil society, including nongovernmental organizations (NGOs), general references to women's groups, church groups, and humanitarian organizations, as well as more opaque references, such as to individuals who "represent special interests" and to provision for popular consultation. These provisions were then analyzed in terms of the functions which they contemplated for civil society organizations, generating a four-level analysis as set out below.

Findings

As internal democratic structures are not generally implicated in interstate peace agreements, the analysis here is confined to agreements addressing intra-state conflicts.⁶ Of the 389 peace agreements analyzed (addressing 48 intra-state conflicts), 139 (addressing 41 conflicts) make explicit provision for civil society involvement. Our findings, while not examined statistically, did not suggest significant variation by year in either the prevalence or nature of provisions involving civil society during the period examined. Any numerical evaluation must be treated with caution. Missing texts aside, the collection of all formal negotiated documents in a peace process means that there are multiple documents for each conflict, reducing the significance of any one agreement's failure to reference civil society. Most significant in terms of "silences" are conflicts in which no agreement makes reference to civil society involvement. Five intra-state processes did not mention civil society in any of their peace agreements as far as we could ascertain: Azerbaijan/Nagorno-Karabakh, Indonesia/Moluccas, Moldova/Transnistria, Nicaragua, and the Solomon Islands (see further Conclusion).⁷

Analysis

We have identified a functional spectrum in peace agreement provision for civil society involvement (as set out below) from humanitarian relief to transitional governance and from protection of civil society participation to more substantive notions of participatory democracy.

Humanitarian Relief. Peace agreements sometimes contain explicit reference to civil society's role in the provision of humanitarian relief. The terms of agreements variously underwrite, protect, and develop this role.⁸ The very existence of grave humanitarian need means that the state is either nonexistent or suffering a major crisis in its legitimacy and capacity, and peace agreement provision in this area seems to contemplate civil society as a legitimate and necessary "channel for service delivery where governments are either unwilling or unable to provide basic social services" (Development Assistance Committee, 2005: 1; see also World Bank, 2005: vii). In this context, the urgency of the situation often means that the definition of civil society is left to individual organizations: by putting themselves forward to provide humanitarian relief they satisfy the definition in that moment. In some agreements, the focus is on ensuring physical protection of humanitarian relief operations, rather than establishing new forms of civic involvement in such operations: in Sierra Leone, the 1999 Ceasefire Agreement (4) guaranteed safe and unhindered access to humanitarian organizations.

In other cases, the agreement's provision seems designed more to protect the notion of civil society groups as legitimate actors: the General Framework Agreement for Peace in Bosnia and Herzegovina ("Dayton Peace Agreement") of 1995 required the parties to work with nongovernmental organizations in addressing the problems of refugees and internally displaced persons (Annex 7, Art. III). The 1994 Guatemalan Agreement on Resettlement of the Population Groups uprooted by the Armed Conflict (II.11) assigned a role to civil society in the resettlement of forcibly displaced population groups. The Angolan Government's Peace Plan of 2002 said that the implementation of the humanitarian effort should be "with the effective participation of churches, NGOs, and others in civil society" (para. 12).

Other agreements go further, providing for an ongoing role for civil society in resource allocation. In El Salvador, the 1992 Peace Agreement specifically protected the role of civil society in humanitarian relief provision, and also required that the restoration of public administration would not be detrimental to either the existence or the functioning of NGOs that had been established (Annex E). The Honiara Declaration (10.v), agreed between the Papua New Guinea national government and Bougainvillean parties, required both sides to "allow and facilitate" civil society groups to contribute to the restoration of services to the island, thereby contemplating an ongoing role for civil society organizations in development activities. Similarly, in Mindanao, the 1998 Joint Agreement in Support of Socioeconomic Projects of Private Development Organizations and Institutes committed the parties involved to "respect, encourage, and support" the development activities of local and international civil society groups (Art. 1). The SPLM-United/Operation Lifeline Sudan Agreement on Ground Rules of 1996 mandates local authorities and relief agencies to "involve local representatives of communities in the processes of targeting and monitoring aid" (4.iii)

and to work toward "strengthening local capacity to prevent future crises and emergencies" (6).

No vision of civil society is explicitly set out in these peace agreements. Nevertheless, provision demonstrates that in a crisis setting with an immediate need for humanitarian relief, civil society organizations are viewed as having at least a temporary legitimacy because of the "absence of capable or credible public institutions" (World Bank, 2005: 7; compare also Development Assistance Committee, 2005; United Nations Secretary-General, 2004). The urgency of the situation means that the definition of civil society is typically not dealt with in the agreement, but is implicitly left to self-selection by groups in putting themselves forward to provide humanitarian relief, coupled with the selection power of international organizations and donors in choosing to work with and fund them, or not (compare Development Assistance Committee, 2005: 5).

Peace Agreement Monitoring. The roles assigned to civil society in monitoring peace agreements chiefly concern human rights monitoring. In Croatia, for example, "interested" organizations were requested to establish a commission to monitor the agreement, especially the human rights and civil rights provisions.⁹ Peace agreements can also provide for civil society's role with regard to new human rights institutions. In Liberia, the Comprehensive Peace Agreement signed in 2003 required the new human rights commission established by the agreement to work with local human rights groups and civil society organizations to monitor and strengthen human rights (Art. 12.3). The failed Interim Agreement for Peace and Self-Government in Kosovo ("Rambouillet Accord") in 1999 created the office of ombudsman to investigate human rights violations, while its terms provided that NGOs, among others, could present allegations of human rights violations to the ombudsman (Ch. 6).¹⁰ Similarly, in Sierra Leone, the 1996 Abidjan Accord provided for a consortium of local human rights groups to assist in monitoring human rights observance (Art. 20). In Mindanao, the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law of 1998 provided for two representatives of human rights organizations to be observers to the Joint Monitoring Commission established to implement the agreement (Part V). Through human rights monitoring, civil society organizations oversee newly emerging and still-fluid state structures (Development Assistance Committee, 2005: 1). These provisions seem motivated by a desire to draw on existing indigenous human rights expertise and to involve "domestic reform constituencies" in state-building (United Nations Secretary-General, 2004: 7; see further Development Assistance Committee, 2005; Orentlicher, 2005: 2). However, more negatively, they may also indicate an attempt by military elites to find a "softer" enforcement mechanism than that of oversight by third-party states or international organizations.¹¹

Where definitions are not provided within the agreements, civil society organizations can often bring themselves within the "civil society" designation by choosing to engage with the processes established by the agreement. To the extent that groups must assert claims within internationally defined human rights frameworks, some of the opportunities for self-inclusion by overtly undemocratic, racist, fascist, or commercial organizations are limited.

Some peace agreements, however, provide for local civil society organizations to be given a place in peace agreement monitoring more broadly, and here the

definitional problem is more acute. A common approach is to give powers of selection to the parties to the conflict. Guidelines to implement the Security Aspect of the Tripoli Agreement in the Philippines in 2001, for example, provided for local ceasefire-monitoring teams to include representatives from NGOs nominated by the parties (Art. III.5). In Sri Lanka, the 2002 Ceasefire Agreement provided that the parties could select their appointees to the local ceasefire-monitoring committee from among retired judges, public servants, religious leaders, or similar leading citizens (Art. 3). These cases both illustrate a notion that as civil society is divided along the same lines as the conflict, any definition of civil society requires balance (compare Orjuela, 2003: 210). More positively, the requirement of balance can also be seen as an attempt to create a microcosm of society at large, to demonstrate conflict resolution in practice.

While these examples leave definition to political parties, other peace agreements link peace agreement implementation to either a more limited or a more diffusely defined civil society. In the Russia–Chechnya conflict, the 1995 Agreement on the Peaceful Regulation of the Situation in the Chechen Republic provided for a Special Observation Commission to supervise the implementation of all agreements concerning military issues, with membership to include local elders and clergy (para. a). In South Africa, the Joint Committee established by the 1991 African National Congress (ANC)/Inkatha Freedom Party (IFP) Agreement to implement and monitor the agreement was mandated to “consult with local leadership and grassroots structures” before reporting to the ANC National Executive and IFP Central Committee (“Implementation”). In both these situations, it is worth noting that the constituencies identified did not match with the main state and non-state protagonists of the conflict, but addressed the need for localized peace-building in the face of tensions *within* divided or war-torn communities.

Finally, some agreements provide for monitoring roles for international civil society actors, particularly when these have been mediators. The negotiations leading to peace agreements in Mozambique were hosted and mediated by the Community of Sant’Egidio, a religious order. The Cessation of Hostilities Agreement in Aceh was witnessed by the Henry Dunant Centre for Humanitarian Dialogue (later renamed the Centre for Humanitarian Dialogue), which was then given a role in monitoring the agreement.

Legitimizing Peace Agreements and Resulting Administrations. While agreements are most often negotiated by military elites, they require some level of popular purchase in order to be successful (Lederach, 1997; Mor, 1997). Consequently, the involvement of nonmilitary groups and individuals beyond those who negotiated the agreement in the job of implementation is seen as a way of building popular support for an agreement (compare Development Assistance Committee, 2005: 3).

Civil society organizations sometimes perform a mediator or observer role in the negotiation process itself, and are then acknowledged in the resulting peace agreement as signatories with an ongoing role. In Bougainville, for example, the chair of the Solomon Islands Christian Association mediated the talks concluding in the Honiara Declaration of 1991 and signed as an observer. The North Nasioi Agreement in 1994 was signed by representatives of women’s organizations and churches. In both the 1998 Istanbul Statement and the 1999 Athens Meeting

between Georgia and Abkhazia on confidence-building measures, the Preambles state that each party's delegation included "representatives of the intelligentsia, directors of major industrial and agricultural enterprises, elders, military, and others." In the Philippines/Mindanao Breukelen Joint Statement, the Philippines Peace Centre is acknowledged as the legal consultant to the 1994 agreement.

Peace agreements sometimes also give civil society responsibility for the "legwork" of ensuring popular awareness and support for a peace agreement. In Somalia, the 1993 Agreement (V) provided that a "Peace Delegation" composed of political movements and other social elements would travel to all parts of the country for the purpose of advancing the peace and reconciliation process as well as to explain the agreements reached in Addis Ababa. In Angola, the Government's Peace Plan of 2002 "appeals to all political forces and civil society as a whole" to support the agreement (para. 10). Such provisions mark an acknowledgment of civil society organizations as embedded within communities, and thus having a unique capacity for selling the agreement and, indeed, building agreement generally. These measures, as with monitoring functions, are also designed to create multiple sites of democratic praxis and are viewed by international actors as securing a "downward accountability vis-à-vis communities" (World Bank, 2005: 16) that complements the upward accountability from communities to political actors secured through periodic elections.

The Colombian example of the negotiated agreements between the national government and Fuerzas Armadas Revolucionarias de Colombia (FARC) – Ejército del Pueblo from 1999 to 2001 (listed in the Appendix) shows a novel attempt to build in this popular awareness and support at a much earlier stage of the peace process. Comunicado No. 1 de la Mesa de Diálogos y Negociación established a national committee in order to consult widely to obtain opinions and proposals from Colombian citizens on priorities for the peace process. The role of this body was reiterated in subsequent agreements in that period (see Appendix). In the earlier Guatemala process also, peace agreements explicitly noted the approval of civil society organizations, who had a clear link to the peace negotiations: the Preamble to the Agreement on Constitutional Reforms and the Electoral Regime in 1996 states that the agreement was "endorsed by the various groups represented in the Assembly of Civil Society." These processes and provisions represent an attempt to build in civil society support to the agreement while it is being negotiated.

Transitional Governance and Institutional Development: Toward Participatory Democracy? Some peace agreements provide evidence of a commitment to participatory democracy as a concept. Two related sets of assumptions appear to underlie these provisions: first, that civil society organizations are pro-peace, have a representative legitimacy, and will support the implementation of the agreement, and, second, that political elites drawn from military actors may lack such legitimacy and be ambivalent about the agreement. We suggest that agreement provision can here be analyzed in terms of a sliding scale from the protection and promotion of civil society, to a role in transitional governance, to a more permanent institutionalization of civil society.¹²

Protection and Promotion of Civil Society. At the most minimal level, peace agreement commitments can lift legal constraints on civil society organization: the early accords in South Africa saw the government commit to reviewing emergency

legislation with a view to facilitating “normal and free political activities,” to promoting “peaceful political activities,” and to “free political participation, discussion, and debate.”¹³ The 2002 Cessation of Hostilities Framework Agreement in Aceh commits both parties to allow civil society to express its democratic rights without hindrance (Art. 2.f).

Many agreements attempt not just to protect an already existing civil society, but to foster the development of civil society. The Arusha Accord of 2000 in Burundi, for example, calls for “the development and strengthening of civil society” as a principle of political reconstruction (Protocol 4, Art. 13(g)); the ceasefire agreement within the 2004 Sudanese Comprehensive Peace Agreement states that “the parties shall ... foster civil society” (Part One, 1.3); and the Rambouillet Accord in Kosovo states that the parties are to commit to providing assistance “to reinforce civil society” (Ch. 4A).

The relationship of civil society organizations to the state in this moment envisages a partnership in which the nascent state commits to protect and support civil society organizations, who will in turn support and develop the peace agreement and the emerging state as legitimate.¹⁴ Definitional dilemmas can be postponed by silence in the agreement texts.

Transitional Governance Role. On a sliding scale toward a more holistic notion of participatory democracy, civil society actors may further be given a direct role in transitional governance itself. There is great breadth to the transitional governance roles found in peace agreements, ranging from provision for civil society consultation, which forms a “selling-the-agreement”-type role similar to that discussed above, to provisions which stipulate civil society involvement in (re)forming and operating the political and legal institutions emerging from the agreement.

Further, as illustrated by the provisions set out below, some peace agreements provide for civil society organizations to be included in constitution- and legislative-drafting activities that are normally considered the preserve of elected political institutions. This drafting function can range from the inclusion of civil society representatives on constitution-drafting bodies, as in the 2001 Agreement on Provisional Arrangements in Afghanistan (IV), the 1998 Draft Basic Agreement Concerning the Bougainville Reconciliation Government (Transitional Provisions, Art. 33), and the 1996 Political Charter in Sudan (which advocates constitutional reform “based on the values of participatory democracy” (4)), to mandating popular consultation in advance of drafting the constitution, as in the Bougainville Peace Agreement of 2001 (B.1.17) and the 1996 Protocol on the Main Functions and Powers of the Commission on National Reconciliation in Tajikistan (para. 7). In this capacity, civil society organizations play a role in building the new state, determining its powers and limits through constitution-making.

Peace agreement framers have often also sought to make use of civil society expertise in the establishment and reconfiguration of legal institutions (United Nations Secretary-General, 2004: 7). This seems motivated by the need for such processes to have a broad communal legitimacy, but also so as to be able to access appropriate practical expertise not typically present in political and military elites. The UN Secretary-General’s report on transitional justice and the rule of law (2004: 17) recommends the involvement of civil society in deciding mandates and

membership of truth commissions in order to avoid allegations of appointments being rushed or politicized. Such input has been secured either through consultation with civil society groups on particular aspects of institutional reform. For example, Guatemala's 1996 Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in Democratic Society (III.16(i)) provides for the active involvement of bodies outside the state system of justice in the legal reform process, or through reserving seats for civil society representatives in the bodies responsible for (re)forming and operating new institutions, as for example in the Burundian Truth and Reconciliation Commission established by the Arusha Accord in 2000 (Protocol 1, Art. 8.2).

Institutionalizing Civil Society. In a closer approximation to a formal institutionalization of participatory democracy, some agreements give civil society organizations distinct deliberative forums in order to debate and formulate positions and input into formal government policy processes. In Northern Ireland, the 1998 Belfast Agreement provided for a consultative Civic Forum to be established, comprising representatives of the business, trade union, voluntary sector, and other such agreed sectors (Strand 1, para. 34). The Constitutional Commission of the 1996 Eritrea Draft Constitution provided for the government "to establish necessary institutions to encourage and develop people's participation and initiative in the area where they reside" (Art. 7.3). The Sudan Peace Agreement of 1997 provided for congresses and national conventions to be organized "to accommodate forums for all citizens" (Ch. 3.e.1). In Tajikistan, the Protocol on the Fundamental Principles for establishing Peace and National Accord in 1995 provided for a future agreement to create "a consultative forum for the peoples of Tajikistan" (2.a). Providing for specific civic forums not merely as a transitional device, but as an institutional part of the emerging state raises head-on the dilemmas of civil society definition, of the relationship to conventional political institutions, and of accountability (see, for example, McCall and Williamson, 2001: 375–6).

Some agreements go even further, reserving seats for civil society representatives in national legislatures, in a step that presents an even greater challenge to traditional concepts of political accountability (see, for example, Beare, 2004). Examples of such peace agreement provisions are found in Burundi in 2000 (Protocol 2, Ch. 2), Liberia in August 2003 (Art. XXIV), Mindanao in 1996 (III.25), and the 1998 Draft Basic Agreement in Bougainville (Constitution, Art. 11(1)). In all these cases, the task of deciding how to select representatives of civil society presented difficulties (compare Development Assistance Committee, 2005: 5). In Burundi, civil society representatives were selected by the national president (Marshall and Jagers, 2003), and it appears that a similar process was envisaged for Mindanao.¹⁵ In Liberia, the agreement stipulated that civil society parties to the agreement were to select their own representatives, subject to the Economic Community of West African States observing the process of selection. In Bougainville, the agreement did not specify how representatives were to be selected, and ultimately the provisions in question were not implemented.

While involving civil society in transitional and even permanent governance takes civil society involvement beyond the allocation of discrete peace agreement tasks toward new models of participatory democracy, it also magnifies the challenges of definition, accountability, and of the relationship to the state.

The Limitations of Peace Agreement Provision

Peace agreement stipulations regarding civil society demonstrate commitment to the idea that some degree of participatory democracy is important to post-conflict reconstruction. They commonly provide for civil society involvement in humanitarian assistance and reconstruction, in activities designed to build acceptance of the peace agreement, and even in temporary and permanent participation in legal and political institutions. In this, they constitute genuine innovations in governance which deserve further examination for their potential to negotiate the dilemmas of theories of participatory democracy. Critics of participatory democracy refer to the lack of detail offered by its proponents – its “somewhat hollow normative visions” (Cohen and Arato, 1992: 8). Defendants counter that this is because such a project requires “new forms of state action” (Walzer, 1992: 107), and “the evidence accumulated to date about the possibilities and effects of extensive participation is limited” (Held, 1996: 270). Peace agreements provide democratic experiments which begin to fill this gap.

A note of caution, however, must also be sounded. Both peace agreement experiments and theories of civil society need to grapple further with the ways in which the dilemmas of definition, of relationship to the state, and accountability all mutate in the post-agreement implementation phase. There is evidence that the difficulties of defining civil society become critical in the implementation phase, as the very formation of civil society changes. New groups emerge in response to new agendas and needs, such as victims’ rights, but so also do “spoiler” anti-agreement positions (Bell and Keenan, 2004: 341). Existing pro-peace groups can disband – voluntarily because they see their task as completed (see, for example, Seekings, 2000) or involuntarily because they can no longer mobilize resources domestically or internationally (Bell and Keenan, 2004: 356). The oppositional dynamics which brought a form of conflict unity to civil society organization through cooperating against an oppressive state can be radically reshaped post-agreement as a new political consensus and a new political opposition emerges (Watson, 1997; compare Paris, 2004). General assumptions during the conflict of civil society being more “neutral” than political groupings, as “pro-peace,” and as having a fairly unitary agenda can appear increasingly inaccurate, particularly as “anti-agreement” groups and agendas are consolidated (Bell and Keenan, 2004). The absence of clear definitions of what constitutes civil society and who may speak for it, coupled with the fluid nature of civic organization during transition, can undermine the intended role of civil society as peace promoting.

As regards the dilemma of the relationship to the state, this relationship undergoes its own post-agreement transition in ways that peace agreements and international organizations do little to acknowledge.¹⁶ During conflict, civil society organizations often define themselves in opposition to the state. In the face of repressive or authoritarian governments, an autonomous position is important and consistent with the aims of civil society organizations (Helman, 1992). However, in the process of transition and democratic consolidation, there would seem to be an expectation that civil society capacity and expertise will be utilized by the state to secure the transition from conflict to peace (see, for example, Development Assistance Committee, 2005; World Bank, 2005). The difficulty is that peace agreements reconfigure a state’s traditional political and

legal institutions so as to include all the military protagonists, in an attempt to move the conflict from the violence of the battlefield to the political processes and institutions of liberal democracy. Those involved in new state structures may have little commitment to peace, instead viewing the new dispensation as an alternative vehicle for achieving the goals they were trying to achieve through violence (see, for example, International Crisis Group, 1999). Committed or not, new politicians may view civil society actors (sometimes correctly) as competitors for political power (Mandela, 1997; World Bank, 2005).

As regards the dilemma of civil society accountability, with the unifying force of violent conflict gone and peace agreements attempting to reconstitute the state, the absence of a theoretical justification of the participatory nature of democracy can undermine any assigned role for civil society in legitimating the deal and new structures (compare World Bank, 2005). While civil society organizations can be argued to have a relative legitimacy in conflict and post-conflict situations, they do not have the calculable legitimacy of electoral politics (Mandela, 1997; McCall and Williamson, 2001: 365). Critics of participatory democracy argue that giving governance functions to civil society impoverishes, delegitimizes, and therefore destabilizes fragile, formal, post-agreement political institutions (Chandler, 2002a; Development Assistance Committee, 2005). These criticisms have a particular resonance in situations in which the attempt to establish political institutions is fully internationalized. In Iraq, but also in Bosnia, Kosovo, and Afghanistan, international actors have been the key drivers for bringing civil society to the heart of transitional governments in support of what are, in essence, internationally imposed peace deals. More permanent and independent political institutions have proved difficult to establish, leaving civil society partnered with international administrations and donors rather than with the indigenous government. Any difficulties of legitimacy are even more accentuated where there is a tenuous legal basis for the international intervention in question (Bell, 2006).

Post-agreement, criticisms of a relative lack of legitimacy and accountability can manifest less as theoretical critiques, and more as governmental challenges to civil society organizations, undermining peace agreement provision. Regulation of civil society is a frequent feature of post-agreement legislation, and while there may be a legitimate need for standards of professionalism¹⁷ or new charity legislation, new governments seeking to assert the primacy of their own power may also have more malevolent agendas in passing new laws (Bell and Keenan, 2004: 347; Human Rights Watch, 2005; World Bank, 2005).

Conclusion

This article has set out a preliminary attempt to audit and analyze peace agreement provision for civil society. The discussion demonstrates the importance of peace processes to theories of civil society, but also points to a need for further research if the role of civil society organizations in transitions is to be fully evaluated. The current study does not permit conclusions about the relationship between provision for civil society and the success or failure of peace agreements. There is an emerging body of research attempting to examine what makes peace agreements succeed or fail, involving both small-*N* (Cousens et al., 2002; Hampson, 1996;

compare also Sambanis, 2004) and large-*N* (Fortna, 2004; Licklider, 1995) research. The authors remain skeptical as to whether the relationship between peace agreement provision for civil society involvement and the success or failure of peace agreements could be evaluated by a quantitative study, given the multiple variables involved and difficulties of definition. Small-*N* studies can attempt to reason inductively about the role of civil society, but raise difficult questions as to the appropriate basis for comparison across conflicts. One of the strongest examples of a case study is that of a World Bank report (2005) on effective engagement of civil society organizations in three conflict-affected African countries. This report used a complex, combined methodology of top-down and bottom-up interviews with and surveys of civil society entities, desk literature reviews (including legal frameworks and accounts of public participation), surveys, and extensive participant observation using a "Civil Society Assessment Tool." However, even this detailed study notes the need for "further contextual analysis" before applying any of its recommendations (World Bank, 2005: vii).

Neither does the current study allow for conclusions as to whether provision for civil society involvement in a peace agreement plays any role in supporting the development of civil society. We have found little to no research explicitly addressing this. Further research on the five conflicts we have identified as having framework agreements, but no mention of civil society, might be useful in this regard. The experience of civil society organizations in South Africa (Wilson, 1997) is a strong indication that the relative silence of a framework peace agreement regarding civil society involvement does not preclude those organizations from an important role in post-conflict governance. However, even in South Africa, where there was an already close relationship between the ANC and civil society, greater-than-anticipated tensions emerged post-agreement between civil society and government (Mandela, 1997; South African NGO Coalition, 2000). Research in the area of gender suggests that peace agreements set agendas, and that while exclusion of a constituency (in this case women) is not fatal to addressing it post-agreement, it does make it harder to get the issue addressed by international organizations and, crucially, more difficult to obtain funding (Chinkin, 2003: 12).

This article has provided an initial analytical mapping of peace agreement provision for civil society, which points to the peacemaking rationales that underlie that provision. The job of evaluating the impact of this provision in terms of these rationales remains to be done. A key part of this job involves resolving the methodological difficulties of drawing conclusions across conflicts and levels of analysis. It is submitted that the current study illustrates the potential for locating a mid-level analysis in the quasi-constitutional interpretation of peace agreements: it is therefore precisely because of its limitations, and not despite them, that the resulting analysis makes its contribution to the study of participatory democracy.

Appendices

Table A1 sets out and categorizes peace agreement provision for civil society involvement, including only those agreements which include such provision.¹⁸

TABLE A1. *Peace Agreement Provision for Civil Society*

State/area	Function		
	Humanitarian relief	Agreement monitoring	Legitimization & promotion
Afghanistan			Transitional governance, institutional development
Angola	Para. 12		IV
Bangladesh/ Chittagong Hill Tracts	(C)9,d		Para. 10, Para. 14
Bosnia and Herzegovina	Annex 7, Art. 3	Annex 6, Chapter 3, Art. 13	
Burundi			A. Protocol 1, Art. 8.2 & Protocol 4, Art. 13(g) B. Preamble
Cambodia	12		A. Protocol 2, Chapter 2, Art. 15(3)(c)
Central African Republic			A. Signatory B. Appendix III & IV

(TABLE A1 continued)

(TABLE A1 continued)

State/area	Function			
	Humanitarian relief	Agreement monitoring	Legitimization & promotion	
			Transitional governance, institutional development	
Colombia	B. XI. B.4 & 7 C. VII. 3.b, 4.b & c D. VIII G. Capitulo 4-7.4 H. Capitulo Segundo-III.2 K. 14	A. Preamble C. IV.2 D. II.2 E. 10 G. Capitulo 1- "Desarrollo" a; Capitulo 3; Capitulo 7-9 H. Capitulo Segundo-B.7; Capitulo Tercero-5 K. 6 X. 5 Y. 8 Z2. Preamble & 3	C. VII. 3.b, 4.b & c, IX, X.2.c; Witnesses D. I, VII.3.a & 4.b E. Witnesses F. 6 G. Capitulo 1-Principios 1 & 2; Capitulo 2-"Participación Ciudadana"; Witnesses H. Capitulo Tercero-4; Witnesses J. Preamble & 1 K. Preamble, 2 & 5 L. 5 M. Paras 4 & 5 N. Para. 6 O. <i>Passim</i> P. <i>Passim</i> Q. <i>Passim</i> R. 2.4, 2.5, 2.6 & 3 S. Para. 5 U. Para. 2 T. 4 & 6 V. <i>Passim</i> W. 3 & 5 X. 4 Z. 8	A. 6 G. Capitulo 2- "Participación Ciudadana" K. 3, 7 & "De la Convención Nacional" Y. 9 Z. 9

State/area	Function			
	Humanitarian relief	Agreement monitoring	Legitimization & promotion	
			Transitional governance, institutional development	
Congo-Brazzaville	A. "Conventions ce qui suit"-e; 7.c B. Chapter 3; Chapter 5, Art. 7	A. 9.b & c B. Chapter VI, Art. 9		
Cote d'Ivoire			2	
Croatia		11		
Democratic Republic of Congo	B. 11 E. 21	B. 3 C. I.4	A. Preamble C. Signatory & I.4	C. 4; Annex I.A.5, B.1 & C.1 D. Art. 1.4 E. 27
Djibouti	Title III (d)			
East Timor	E. Annex E	A. 7 B. Art. 10 F. E.1.a	B. 4.a A. 6.6 C. II.2.a	A. <i>passim</i> * A. 6.6 C. II.2.a
El Salvador				D. Part VII, Art. 4.c E. Chapter 5, Art. 8 Art. 6.3, Art. 7.3
Eritrea		Art. 6.2, Art. 19.6		
Georgia/Abkhazia			A. Delegations B. Delegations	D. III F. II.B.23(g), II.E.26(g) (ii) & III.A G. III.16(i) & V H. II.3 J. 22 & 174
Guatemala	E. II.11 & IV.3 J. 9	J. 190	A. Preamble & "Activities to be Carried Out" (b) B. 2 C. 2, 5, II & III D. III F. II.B.23(g) G. VI.59 & VI.60 H. Preamble I. Arts 1, 6, 7, 9, 10, & 17 J. Arts 6 & 8	

(TABLE A1 continued)

(TABLE A1 continued)

State/area	Function		
	Humanitarian relief	Agreement monitoring	Legitimization & promotion
Indonesia/Aceh		Art. 3	Art. 2.f
Iraq			Art. 43
Israel/Jordan/PLO			"Cooperation on other Water-related Matters", 1.4
Kosovo	Framework Art. 2(4)	Chapter 6	Chapter 4A
Liberia	A. Part III. Section F, Art. 18 B. 5	C. Art. 12.3	C. Art. XVI, XVII & XXIV
Macedonia			Annex A
Mexico/Chiapas		B. "Guarantees of Access to Justice"	A. 4.1.a-c, 4.2.b-c, 4.3.a-b & 4.4.b
Mozambique		Protocol I(5) & Protocol III(VI)	C. III.8
Nepal	5.2.12	5.2.9 & 9.4	Protocol II. Preamble & 1.e
Papua New Guinea/Bougainville	A. 10.v	D. 5 E. 5 H. 3.b	10.7 A. Observers B. Signatories C. 5
			F. "Constitution of Bougainville Reconciliation Government," Art. 11(1); "Transitional Provisions," Art. 33
			G. 2
			I. B.1.17 & B.4.28

State/area	Function			
	Humanitarian relief	Agreement monitoring	Legitimization & promotion	
			Transitional governance, institutional development	
Philippines/ Mindanao	D. <i>passim</i> E. Part IV, Art. 4.7, Art. 11	C. 2.3 E. Part V G. Art. III.5 & Annex A, Rule IV H. Para. 6 I. Art. IV.1 A. a B. a	A. Legal consultant F. 2	B. II.10 & III.25
Russia/Chechnya				
Rwanda	B. 4	A. Art. 20	Art. 27(d)	Art. 41
Sierra Leone	D. 5	C. Art. XXV		A. Art. 4 & 27 C. Art. VI & VII
Somalia	B. Art. 3.2		A. V. B. Signatory	C. Chapter 5, Arts 14.2 (b) & 22; Part 5, Art. 30 H. 73(2)
South Africa	F. 4.c & 21	C. "Implementation" E. Art. 7.1	A. 3 B. 7 D. 5 G. Para. 4	
Sri Lanka		A. 5.c B. Art. 3		
Sudan	C. 4.iii, 6 E. Arts. 2.2 & 3.7 F. N.5 I. Part Two, 24.3 & 24.8 L. 184, 395, 436	D. Chapter 7(7)	D. Chapter 5(6) F. Preamble, 1, 4(B), 3(C) & 5 I. Part One 1.3, Part Two 24.8 & 27.5 J. 7 K. Art. 7 L. Art. 22(j); 455 & 461 M. Art. 7	A. 3 B. 4 D. Chapter 3.e.1 G. 4 H. 1.4.4, 1.6.2.9 & 2.12.10 K. Art. 33(138), (140) & (142) L. 72, 95, 106(b), 395; Chapter 4 M. Art. 33

(TABLE A1 continued)

(TABLE A1 continued)

State/area	Function		
	Humanitarian relief	Agreement monitoring	Legitimization & promotion
Tajikistan		B. Para. 5	C. 4
Uganda	10(b)		A. 2.a B. Para. 7
United Kingdom/ Northern Ireland			Strand 1: Democratic Institutions in Northern Ireland para. 34
Yemen	3		

Note. * Agreement provides for popular ballot of the East Timorese on the constitutional status of the jurisdiction.

*Table A2: List of Peace Agreements**Afghanistan*

Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions, December 5, 2001.

Angola

Angolan Government's Peace Plan, March 13, 2002.

Bangladesh/Chittagong Hill Tracts

Agreement between the National Committee on Chittagong Hill Tracts Constituted by the Government and the Parbattya Chattagram Janasanghati Samity, December 2, 1997.

Bosnia and Herzegovina

General Framework Agreement for Peace in Bosnia and Herzegovina, November 21, 1995.

Burundi

- A. Arusha Peace and Reconciliation Agreement for Burundi, August 28, 2001.
- B. Accord de Partage de Pouvoir au Burundi, August 6, 2004.

Cambodia

Declaration on the Rehabilitation and Reconstruction of Cambodia, October 23, 1991.

Central African Republic

- A. Preliminary Agreement on National Reconciliation Pact, January 18, 1997.
- B. Truce Agreement, January 25, 1997.

*Colombia*¹⁹

- A. Political Agreement between the National Government, the Political Parties, M-19 and the Catholic Church as Moral and Spiritual Guardian of the Process, March 9, 1990.
- B. Acuerdo Final, January 25, 1991.
- C. Acuerdo Final Gobierno Nacional – Ejército Popular de Liberación, February 15, 1991.
- D. Acuerdo Final entre el Gobierno Nacional y el Movimiento Armado Quintín Lame, Campamentote Pueblo Nuevo Caldosó-Cauca, May 27, 1991.
- E. Acuerdo entre los Comandos Ernesto Rojas y el Gobierno Nacional Protocolo, March 20, 1992.
- F. Pacto por la Consolidación de los Procesos de Paz, May 11, 1993.
- G. Acuerdo Político Final Gobierno Nacional Corriente de Renovación Socialista, April 9, 1994.

- H. Acuerdo para la Convivencia Ciudadana Gobierno Nacional Milicias Populares del Pueblo y para el Pueblo, Milicias Independientes, de Valle de Aburra y Milicias Metropolitanas, de la Ciudad de Medellín, May 26, 1994.
- I. Acuerdo Final Gobierno Nacional Frente Francisco Garnica de la Coordinara Guerrillera, June 30, 1994.
- J. Declaración de Viana, February 9, 1998.
- K. Acuerdo de la Puerto del Cielo, July 15, 1998.
- L. Comunicado Final Mesa de Diálogo FARC-Gobierno, May 6, 1999.
- M. Comunicado FARC-Gobierno, May 6, 1999.
- N. Comunicado no.1 de la Mesa de Diálogos y Negociación, October 25, 1999.
- O. Comunicado no.3 de la Mesa de Diálogos y Negociación, November 5, 1999.
- P. Comunicado no.4 de la Mesa de Diálogos y Negociación, November 19–20, 1999.
- Q. Comunicado no.5 de la Mesa de Diálogos y Negociación, December 3, 1999.
- R. Comunicado no.6 de la Mesa de Diálogos y Negociación, December 19, 1999.
- S. Comunicado FARC-Gobierno del Viaje a Europa, March 2, 2000.
- T. Declaración de Ginebra, July 25, 2000.
- U. Comunicado Público: Declaración de San José de Costa Rica, October 18, 2000.
- V. Declaración de Aguas Lindas, January 31, 2001.
- W. Acuerdo de San Francisco de la Sombra para Concretar y Consolidar el Proceso de Paz, October 5, 2001.
- X. Accord for Colombia between the Colombian Government and the Ejército de Liberación Nacional, November 24, 2001.
- Y. Sante Fé de Ralito Accord to Contribute to Peace in Colombia, July 15, 2003.
- Z. Acuerdo de Cronograma de Consenso para el Futuro del Proceso de Paz, January 20, 2002.
- Z2. Acuerdo sobre el Acompañamiento Nacional E Internacional a la Mesa de Dialogo y Negociación, July 15, 2003.

Congo-Brazzaville

- A. Accord des Cessation des Hostilités, November 16, 1999.
- B. Accord of December 29, 1999.

Cote d'Ivoire

Accords de Lomé, November 1, 2002.

Croatia

Erdut Agreement, November 12, 1995.

Democratic Republic of Congo

- A. Ceasefire Agreement, July 10, 1999.
- B. Acte d'Engagement Gaborne, August 24, 2001.
- C. Global and Inclusive Agreement on Transition in the Democratic Republic of Congo, December 16, 2002.

- D. Mémorandum sur le Mécanisme pour la Formation d'une Armée Nationale Restructurée et Intégrée, March 7, 2003.
- E. Intercongolese Negotiations: The Final Act, April 2, 2003.

Djibouti

Accord de Pais et Réconciliation Nationale, December 26, 1994.

East Timor

- A. Agreement between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor, May 5, 1999.
- B. United Nations Security Council Resolution 1246, June 11, 1999.

El Salvador

- A. Geneva Agreement, April 4, 1990.
- B. Agreement on Human Rights, July 26, 1990.
- C. Mexico Agreements, April 27, 1991.
- D. New York Agreement, September 25, 1991.
- E. Peace Agreement, January 16, 1992.
- F. Complementary Agreement, December 22, 1992 (on file with authors).

*Eritrea*²⁰

Constitutional Commission of Eritrea Draft Constitution, July 1996.

Georgia/Abkhazia

- A. Athens Meeting of the Georgian and Abkhaz Sides on Confidence-Building Measures, October 18, 1998.
- B. Istanbul Settlement of the Georgian and Abkhaz Sides on Confidence-Building Measures, June 9, 1999.
- C. Yalta Declaration of the Georgian and Abkhaz Sides, March 16, 2001.

Guatemala

- A. Basic Agreement for the Search for Peace by Political Means, April 26, 1990.
- B. El Escorial Agreement, June 1, 1990.
- C. Framework Agreement on Democratization in the Search for Peace by Political Means, July 25, 1991.
- D. Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, January 10, 1994.
- E. Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, June 17, 1994.
- F. Agreement on the Social and Economic Aspects and Agrarian Situation, May 6, 1996.

- G. Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, September 19, 1996.
- H. Agreement on Constitutional Reforms and the Electoral Regime, December 7, 1996.
- I. Agreement on a Firm and Lasting Peace, December 29, 1996.
- J. Agreement on the Implementation, Compliance and Verification Timetable for Peace, December 29, 1996.

Guinea-Bissau

Agreement between the Government of Guinea Bissau and the Self-Proclaimed Military Junta, November 1, 1998.

Indonesia/Aceh

Cessation of Hostilities Framework Agreement between Government of the Republic of Indonesia and the Free Aceh Movement, December 9, 2002.

*Iraq*²¹

Constitution of Iraq, ratified October 15, 2005.

Israel/Palestinian Liberation Organization/Jordan

Declaration on Cooperation on Water-Related Matters, February 13, 1996.

Kosovo

Interim Agreement for Peace and Self-Government in Kosovo, February 23, 1999.

Liberia

- A. Cotonou Accord, July 25, 1993.
- B. Agreement on Ceasefire and Cessation of Hostilities between the Government of the Republic of Liberia and Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL), June 17, 2003.
- C. Comprehensive Peace Agreement between the Government of Liberia and LURD and MODEL and Political Parties, August 18, 2003.

Macedonia

Framework Agreement, August 13, 2001.

Mexico/Chiapas

- A. Protocol sur les Principes de Negociation en vue d'un Accord de Paix conclu par le Gouvernement et l'EZLN, September 11, 1995.
- B. Actions and Measures for Chiapas Joint Commitments and Proposals from the State and Federal Governments, and the Ejército Zapatista de Liberación Nacional (EZLN), January 17, 1996.

- C. Joint Proposals that the Federal Government and the EZLN Agree to Remit to the National Debating and Decision-Making Bodies in Accordance with Paragraph 1.4 of the Rules of Procedure, February 16, 1996.

Mozambique

General Peace Agreement for Mozambique, October 4, 1992.

Nepal

Comprehensive Agreement Concluded between the Government of Nepal and the Communist Party of Nepal (Maoist), November 21, 2006.

Papua New Guinea/Bougainville

- A. The Honiara Declaration, January 23, 1991.
- B. North Nasioi Agreement, October 18, 1994.
- C. Cairns Joint Communique, December 1, 1995.
- D. The Burnham Truce, October 10, 1997.
- E. Cairns Commitment on Implementation of the Agreement Concerning the Neutral Regional Truce Monitoring Group for Bougainville, November 24, 1997.
- F. Draft Basic Agreement Concerning the Bougainville Reconciliation Government, December 24, 1998.
- G. Matakana and Okataina Understanding, April 22, 1999.
- H. Resolution on Weapons Disposal, May 9, 2001.
- I. Bougainville Peace Agreement, August 30, 2001.

Philippines/Mindanao

- A. The Breukelen Joint Statement, June 14, 1994.
- B. The final agreement on the implementation of the 1976 Tripoli Agreement between the Government of the Republic of the Philippines (GRP) and the Moro National Liberation Front with the participation of the Organization of Islamic Conference Ministerial Committee of Six and the Secretary General of the Organization of Islamic Conference, September 2, 1996.
- C. Agreement to Sustain Quest for Peace II, March 11, 1998.
- D. Joint Agreement in Support of Socioeconomic Projects of Private Development Organizations and Institutes, March 16, 1998.
- E. Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines, March 16, 1998.
- F. Agreement on Safety and Security Guarantees, March 9, 2001.
- G. Implementing Guidelines on the Security Aspect of the GRP-Moro Islamic Liberation Front (MILF) Tripoli Agreement of Peace of 2001, August 7, 2001.
- H. GRP-MILF Joint Communiqué, August 7, 2001.
- I. Implementing Guidelines on the Humanitarian, Rehabilitation and Development Aspects of the GRP-MILF Tripoli Agreement of Peace, May 9, 2002.

Russia/Chechnya

- A. Protocol of the Meeting of Delegates for the Peaceful Resolution of the Crisis in the Chechen Republic, with the Cooperation of the Organization for Security and Cooperation in Europe, June 21, 1995.
- B. Agreement on the Peaceful Regulation of the Situation in the Chechen Republic (on a set of military issues), July 30, 1995.

Rwanda

Protocol of Agreement on Power-Sharing within the Framework of a Broad-Based Transitional Government of the Republic of Rwanda and the Rwandese Patriotic Front, October 30, 1992.

Sierra Leone

- A. Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front (RUF) of Sierra Leone, signed at Abidjan, October 30, 1996.
- B. Agreement on a Ceasefire in Sierra Leone, May 18, 1999.²²
- C. Peace Agreement between the Republic of Sierra Leone and the RUF of Sierra Leone, July 7, 1999.
- D. Ceasefire Agreement between the Sierra Leone Government and the RUF, November 10, 2000.

Somalia

- A. Addis Ababa Agreement concluded at the first session of the Conference on National Reconciliation in Somalia, March 27, 1993.
- B. Declaration on Cessation of Hostilities and the Structures and the Principles of the Somalia National Reconciliation Process, October 27, 2002.
- C. The Transitional Federal Charter of the Somali Republic, January 29, 2004.

*South Africa*²³

- A. Groot Schuur Minute, May 4, 1990.
- B. Pretoria Minute, August 6, 1990.
- C. African National Congress/Inkatha Freedom Party Agreement, January 29, 1991.
- D. D.F. Malan Accord, February 12, 1991.
- E. National Peace Accord, South Africa, September 14, 1991.²⁴
- F. Memorandum of Understanding between the Government of the Republic of South Africa and the United Nations High Commissioner for Refugees on the Voluntary Repatriation and Reintegration of South African Returnees, September 4, 1991.
- G. Declaration of Intent, December 21, 1991.
- H. Interim Constitution, December 6, 1993.

*Sri Lanka*²⁵

- A. Declaration of Cessation of Hostilities, January 8, 1995.
- B. Agreement on a Ceasefire between the Government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam, February 23, 2002.

Sudan

- A. Political Charter between the Sudan Government and the Sudan People's Liberation Army (United), April 26, 1995.
- B. Political Charter, April 10, 1996.
- C. Sudan People's Liberation Movement-United/Operation Lifeline Sudan Agreement on Ground Rules, May 1996.
- D. Sudan Peace Agreement, April 21, 1997.
- E. Nuba Mountains Ceasefire Agreement on Sudan, January 19, 2002.
- F. Agreement between the Government of Sudan and the Sudan People's Liberation Movement on Capacity Building and the Creation of a Joint Planning Mechanism from the Sudan Technical Meeting, May 10, 2003.
- G. The Protocol between the Government of Sudan and the Sudan People's Liberation Movement on the Resolution of the Abyei Conflict, May 26, 2004.
- H. Protocol between the Government of Sudan and the Sudan People's Liberation Movement on Power Sharing, May 26, 2004.
- I. Agreement on Permanent Ceasefire and Security Arrangements Implementation Modalities between the Government of Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army during the Pre-Interim and Interim Periods, December 31, 2004.
- J. The Implementation Modalities of the Protocol on Power Sharing, Dated 26th May 2004, December 31, 2004.
- K. The Implementation Modalities of the Framework Agreement on Wealth Sharing, Dated 7th January 2004, December 31, 2004.
- L. Darfur Peace Agreement, May 5, 2006.
- M. Eastern Sudan Peace Agreement, October 14, 2006.

Tajikistan

- A. Protocol on the Fundamental Principles for Establishing Peace and National Accord in Tajikistan, August 23, 1995.
- B. Protocol on the Main Functions and Powers of the Commission on National Reconciliation, December 23, 1996.
- C. Protocol on Political Issues, May 18, 1997.

Uganda

Agreement on Cessation of Hostilities between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, August 26, 2006.

United Kingdom/Northern Ireland

The Agreement Reached in Multi-Party Negotiations, April 10, 1998.

Yemen

Agreement on a Ceasefire in the Republic of Yemen, June 30, 1994.

Notes

1. As the article analyzes potential formulations of participatory democracy, we have adopted a non-prescriptive definition of participatory democracy as “the rule of the people by means of the maximum participation of all the people” (Pateman, 1970: 2).
2. The boundary difficulties concern the extent to which physically violent conflict should constrain the notion of a peace agreement (or whether the term can be expanded with reference to structural violence) and the extent to which the peace agreement is one aimed at leading to peace or merely to some outcome short of that.
3. These are the United States Institute of Peace (USIP) Peace Agreements Digital Collection, URL (consulted August 2006): <http://www.usip.org/library/pa.html>; INCORE, University of Ulster, URL (consulted August 2006): <http://www.incore.ulst.ac.uk/services/cds/agreements>; the Accord series, URL (consulted August 2006): <http://www.c-r.org/accord/series.shtml>; and the United Nations Peacemaker, URL (consulted December 2006): <http://peacemaker.unlb.org>.
4. See, for example, Correlates of War Project, URL (consulted August 2006): <http://www.correlatesofwar.org/>; International Crisis Behaviour Project (consulted August 2006): <http://www.cidcm.umd.edu/icb/>. We also availed ourselves of the negotiations information systems of the Public International Law and Policy Group, URL (consulted August 2006): <http://www.publicinternationallaw.org/peace/index.html> and the International Crisis Group URL (consulted August 2006): <http://www.crisisgroup.org/>.
5. A further 64 intra-state agreements for which the full text could not be sourced were identified from a range of sources, including the Uppsala Conflict Data Program, URL (consulted January 2007): <http://www.pcr.uu.se/database/index.php>; the Center for Systemic Peace, URL (consulted January 2007): <http://members.aol.com/cspgcm/ACPPAnnex5.pdf>. In many cases, these appeared to be side agreements to agreements which we held, apart from Senegal and Comoros-Anjouan, which are not included in our study.
6. In fact, the interstate agreements were also analyzed. Of the 52 agreements surveyed by the authors addressing 24 interstate conflicts, only four agreements made provision for civil society involvement. Two of these four agreements are more accurately described as regional agreements with reference to both intra-state and interstate conflicts: the Performance Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict of 2003 guaranteed access to humanitarian organizations and included a commitment by all parties to fund NGO activities, while the Dar-Es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region of 2006 provided for civil society involvement in democracy and governance.
7. While we were not able to obtain a copy of the Mali National Pact of 1992, a summary is available at Accord (URL: <http://www.c-r.org/accord/series.shtml>) which indicates provision for civil society involvement. In the case of Niger, while the peace agreements examined do not provide for civil society, we were unable to obtain a copy of one agreement, the Paris Accord of 1993.
8. See generally, Appendix Table A1, Column 1.
9. See the Erdut Agreement of 1995 (11).

10. Although unsuccessful, the accord formed the blueprint for governance established in Kosovo in S.C. Res. 1244, U.N. SCOR, 4011th mtg., Para. 11, U.N. Doc. S/RES/1244 (1999).
11. See, for example, Aceh (Martin, 2006: 90).
12. See generally, Appendix Table A1, Column 4.
13. See, respectively, Groote Schuur Minute, 1990 (3) and Pretoria Minute, 1990 (7); D.F. Malan Accord, 1991 (5(c)); Declaration of Intent, 1991 (para. 4).
14. The language of "partnership" between civil society and the state is common throughout the relevant policy documents. See, for example, Development Assistance Committee (2005: 3); United Nations Secretary-General (2004: 20); World Bank (2005: 18).
15. It was not possible to trace this precisely with respect to Mindanao, however the Constitution of the Philippines provides that 25 seats of the 250-seat national legislature may be filled by presidential appointment from sectoral groups (Library of Congress Federal Research Division, 1991).
16. No peace agreement provision dealt with this.
17. Richards et al. (2004) note that a risk of unaccountable and fraudulent civil society organizations is intrinsic to zones of postwar recovery.
18. Unless otherwise stated, the text of these agreements are available at the United States Institute of Peace. Agreements addressing conflicts in Angola, Papua New Guinea/Bougainville, Philippines/Mindanao, and Tajikistan are available at Accord, URL (consulted August 2006): <http://www.c-r.org/our-work/accord/>. Agreements addressing conflicts in the Central African Republic, Democratic Republic of Congo, Georgia/Abkhazia, Somalia, Sudan, Uganda, and Yemen are available at UN Peacemaker, URL (consulted December 2006): <http://peacemaker.unlb.org>. Agreements addressing conflicts in Bangladesh/Chittagong Hill Tracts, Djibouti, Congo-Brazzaville, Russia/Chechnya, and Rwanda are on file with the authors.
19. Agreements A, X, and Y are available at URL (consulted August 26): <http://www.c-r.org/our-work/accord/colombia/key-texts.php>. Agreements B–I are taken from Díaz Uribe and Villamizar Herrera (1995). Agreements L–V are available at URL (consulted September 2006): <http://www.ciponline.org/colombia/peaceinit.htm>. Agreements J, K, W, Z, and Z2 are available at URL (consulted December 2006): <http://peacemaker.unlb.org>.
20. URL (consulted August 2006): http://www.oefre.unibe.ch/law/icl/er00000_.html.
21. URL (consulted August 2006): <http://meria.idc.ac.il/journal/2005/issue3/Iraqiconstitution/constitution.html>.
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