

The actors of decentralized cooperation

LOCAL AUTHORITIES AND CSOS WORKING TOGETHER



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Actors for democracy: civil society versus local authorities. Mistakenly, often, decentralised cooperation (but not only) considers elected representatives as the only “pure” expression of local democracy. Indeed, it seems that the magic moment of the elections gives its blessing to all those who have been elected. Today, when representative democracy is going through a difficult period, we wonder how much elected representative could be the only democratic voice or actors, and therefore to be able to transmit these capacities in decentralised cooperation. Our basic assumption is that democratic civil society, governed by democratic rules and respectful of the criteria of the membership and financially accountable, is a real actor of democracy. Citizens participate with membership, with opinions and actions (often much more than it is the case in the political parties themselves). They could even participate in large, cross border movements, much wider and influential than the political parties themselves. Therefore, they could be considered fully, and without any doubts, real actors of democracy.

Civil Society Organisations

After agreeing on the role of civil society organisations (CSOs) as actors in democratic processes and in international cooperation, it is more delicate to identify specifically what we are talking about. The difference is relevant either we consider the phenomena in Europe and in other areas of the world.

In Europe, Civil Society Organisations are also often assimilated to NGOs (Non-Governmental Organisations), ie all what is not Governmental and Profit making, is considered *civil society*. However, this definition does not satisfy totally most of the CSOs sector because it defines the sector by saying what “they are NOT” rather than what they are.

Specific features of the Civil Society organisations are certainly the collective mandate given by its members and the fact that they are non-profit making. The mandate needs to be for the good of the community. This does not mean that the civil society sector does not produce wealth and does not manage money and resources. Far from it. Indeed, some of the Civil Society Organisation in the world are extremely big and employ thousands of people and are run as big companies with very professional approach to services and activities¹.

¹ See Oxfam or Amnesty International

Non profit making : Certainly, the main concept of the profit making and the redistribution to the owner or the board of the profit made by the organisation, year by year, is not possible in the Civil Society sector. The difference between the incomes (Membership fees, projects, donations and more) and outcomes (activities and structural costs) can only be allocated to other activities by the members of the board or be kept in reserve for another year. The President and other political responsibilities of the CSOs must not be paid. Only the secretariat or the staff, considered an instrument of the decisions established by the Board and its President, receive salaries, fixed by the board itself. The non-profit making feature does not exclude the possibility (as a mean of sustainability) to be also a partially commercial actor. However, in order to preserve one of the fundamental feature of the CSOs, it is essential to clearly explain what and how this commercial activity is run and that must be an instrumental element of the global mission. I can sell products of services but only in view of achieving more or better the global goal.

A good example is here to be found in the French legislation. In order to give the possibility to the Association to find solutions of self-sustainability, the law on Association (from 1901) allows to have commercial activities (selling goods and services) till a maximum of 60.000 Euro income per year. Below this sum, the Association is not taxed neither turned to be a commercial body. Above this sum (and not for the sum which is exceeding), the Association has to pay taxes on profit. It goes without saying that these activities must be auxiliaries and not the core activity of the Association. Otherwise and if the commercial activity becomes the essential activity of the Association, the fiscal authorities could consider to “revert” all its activities into commercial and request the payment of taxes. The request of having limited commercial possibilities is also among the request of many NGOs, in other countries, as a possibility for cofounding their own activities.

Reaching the mandate assigned to the Association: Another fundamental aspect of the CSOs remains the collective mandate assigned by the members, its general assembly and its board. The mandate must respond to common goals for a collective good and the activities must stick to it, not considering – practically – the balance between income and outcome, which leads the profit making sector. Of course, the Association must be sure to be viable and sustainable but it is possible – and it often happens – that the Association embarks on an activity non-economic (with higher costs than incomes) because it responds fully to its present mandate. The difference would need to be compensated by other income (membership fees, donations, etc.). The criteria of profit, can’t lead the choices of the Association.

The confusion, which attributes to CSOs also a profit making features, can also come from the fact that some of the Associations are a group of profit making bodies, themselves, like the Union of Chambers of Commerce or the Association of Industries or Craftsmen. Those are CSOs, from a legal point of view, since they respect the elements described above. However, certainly, the drive, which stays behind their mandate, is also support the profit pursued by their own members. But, again, they are CSOs in *sticto sensu*.

*The Civil Society Sector, in Europe, is quite diversified and articulated. We could even say that the Civil Society Sector includes a vast spectrum of interest and ways of being organised. A characteristic of the Civil Society Sector in Europe, however, is the fact that it went through a deep and vast process of legislation and it is highly regulated. In particular, in Italy and in France, the sector (also called Third Sector – *Terzo settore*) has to follow numbers of rules when it wants to operate at the national or regional level.*

In the countries where legislative processes – and the enabling context for CSOs and Association – have not been so much developed, the room left to it as we know it, in the EU, is quite limited. Indeed, most of the non-fully democratic societies (or democracy newly established) know a rough division of the economic and social activities between *public* and *private*, with a very limited space for anything else. The enabling legislative environment is a constant fight for the development of a civil society sector, which could contribute to democracy and development². The Civil Society indeed needs specific rules for its own sustainability but also to be kept out of the commercial sector (from a legislative and fiscal point of view). The CSOs are pursuing global and collective goals and therefore could be considered with different rules than the regular market.

Democratic Governance of the Civil Society organisations: The legislative framework for the CSOs should however aim at preserving the fundamental characteristics of the civil society organisation, namely the fact they are responding to a collective and societal goal and a no profit making system. In short, the democratic governance of the civil society should be at the centre of the attention. The CSOs could not claim to be democratic actors if they are not democratically regulated and governed. Governance should imply a clear subdivision of powers and democratic representation of the members within the decision-making bodies of the organisation. In many countries, the civil society sector is very badly considered (and somehow we could understand this perception) because it could correspond to a deviance of the private sector (if it does not have a membership basis and democratic governance). A civil society organisation could easily exist thanks to the registration of a limited number of founding members and later being governed only by them, without any perception of global and collective mandate or division between political bodies (Governing Board) and Secretariat. The perception of the global public is that this kind of CSO is only another part of the private sector but with no commercial (and fiscal framework). The civil society sector can only be a democratic actor when it is really democratic governed within its own organisation: who are the members, what is their power of representation, their influence on the decision making, control, etc. A specific effort of the global players and international organisations and donors, should really verify not only how much the CSOs are financially reliable (which is often one of the higher concern for a grant making organisation) but also very how much the CSO is responding to a democratic governance.

² http://www.coe.int/t/ngo/Source/Expert_Council_NGO_Law_report_2008_en.pdf

The registration is not compulsory for being a civil society organisation. As described above, the CSOs in Europe is highly regulated. However, this strong legislative and regulatory process has not to be understood as the only element to support civil society and its engagement in democratic and international development terms. A group or an organisation represents citizens and its member either they are registered as such or not. The importance of the registration exists only if the organisation needs to impose on itself rules of decision-making or because it manages more money or resources. As a matter of fact, the formal registration is important and relevant more in Europe (where, as we said, the regulation is quite developed). In some countries and specific situations (where the State is run a by dictatorship and registrations are basically are not possible), the formal registration of the statute is not a feature of the existence of the civil society sector. As a matter of fact, CBOs (Community based organisations) are also recognised as elements of the civil society. The introduction of this last concept is very important to identify groups that could be actors of democracy and cooperation. This has been recognised by the United Nations in most of its activities in cooperation.

The trend to regulation of the European civil society organisations often does not solve all the problems. The overburden created by the bureaucracy and the system of decision-making could also affect the approach of volunteers and those who are not “professional” of the civil society sector. The democratic value of CSOs should be more valued in understanding fully its goals, mandate and governance rather than to focus only its bureaucratic and accountability system.

A new actor: the citizen. The individual citizen is also a newcomer in the landscape of the democratic actors at the local, national and international level. Indeed, till a few years ago, capacities of lobbying and advocacy were only possible through organized groups of citizens: committees, associations and lobbying organisations (trade unions, NGOs, etc.). Nowadays, and in particular thanks to the media and Internet, every citizen could fill up a form, participate to a wide consultation and express his/her wish on a certain matter. The individual could therefore take part in many democratic processes on an individual basis. Of course, the potential influence of a single person does not reach the one proposed by a group. Nevertheless, this option offers new perspectives for decision making with multilayer approach.

Often, and mistakenly, civil society is considered positive versus to public authorities (often associated to the less good ones). It could be the case but it is not like this, by definition. Civil Society has the capacity to engage citizens and their rights, in particular in oppressed countries with no democracy. However, this concept cannot be accepted without a clear understanding of the level of democracy within civil society itself and its capacities of being well governed. There is no possibility to confirm that, by definition, civil society is “good” and free and independent. As a matter of fact, the whole civil society sector has been heavily affected by external influence and manipulated by different groups of interest. A view on Civil Society sector must be as critical as it is for the other stakeholder of the community.

Local (municipal or regional) authorities

The definition of local authorities is also easier starting from what they are NOT: they are the authorities which are not governmental ones, depending from Ministries and Governments. However, the details, again, present many differences and facets.

Broadly, local authorities could be defined as such if they correspond the criteria of the *European Charter on Local Self Government*³ of the Council of Europe. The requests are basically competences correspondent to financial autonomy, elected bodies and a subdivision between elected representatives and administrative staff. In the EU, a certain understanding and correspondence to these criteria fully exist. Much more difficult and articulated are those requests in countries where decentralisation is not fully implemented and where autonomy of local authorities (especially in financial terms) are still a mere dream. All the countries of the Council of Europe have ratified the Charter but, still, some of the member states have difficulties in the implementation since some provisions of the Charter are not in place. The monitoring of the Charter (implemented by the Congress of the Council of Europe) identify problems in the members states and propose solutions, in case of non-proper implementation of the provisions.

Among the main problems, we could find that the main political representatives of the local authorities are not elected but rather nominated by the central power or the President (it happened for instance in most of the countries of Southern Caucasus, where only recently this trend has been opposed). Certainly, a major problem for the implementation is the lack of resources and autonomy in the decision-making⁴. On the other hand, a political representative from local authorities who financially totally depends from the State and governmental system will naturally feel accountable to the central power rather than to citizens, which might have elected them.

We also find different levels and forms of local authorities: cities, metropolitan areas, province, regions, departments. All of them with differences in terms of competences and possibilities. However, all of them, have a potentiality in international cooperation and are part of the decentralisation process in place in many countries in Europe and in its neighbouring countries.

When we are talking about local authorities, we could also further describe if we are talking about *elected representatives* or *civil servants*. As a matter of fact, both of them are an essential part of the local authority. Elected representatives represent those who are identifying the

³ http://www.coe.int/t/congress/Texts/conventions/charte_autonomie_en.asp

⁴ It is known, for instance, that all the municipalities, except Yerevan, in Armenia, have a very large part of their budget coming from the transfer from the State, with very little influence on how to arrange their needs.

vision for local authorities and main choices: the mayor and the councillors, mostly. They also bear the political responsibility of these choices at the next elections. The civil servants represent the implementers of the policies identified at the local level. But, nowadays, and because of the complexity of tasks to be implemented, their competences and knowledge of the whole institution become fundamental. In these last years, for instance, in Italy, the Head of Departments in the administration have more powers and responsibilities. This could be considered a positive step (because it makes more professional the whole implementation process). On the other hand, too big responsibilities (including penal ones) could – in certain circumstances – block the process of decision and implementation.

In international cooperation where often the topics is the support to local governance and strengthening local authorities, projects are addressed both to elected representatives - with whom to share the visions and the capacities of negotiations and strategic planning -, but also to civil servants, who need concrete capacities and technical support. In some countries, however, the *spoil system*⁵, which links the civil servants to the political bodies, is so strong that a possible change of the political leader may imply a total change among the civil servants. This could vanish, over the night, the effort of decentralised cooperation, which invested for years on some specific competences and people.

⁵ The spoils system describes the practice by which political forces distribute to their members and sympathizers charged institutional ownership of public offices and positions of power, as an incentive to work for party or political organization