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'Everything is Politics': Understanding the political dimensions of NGO legitimacy in conflict-affected and transitional contexts

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‘EVERYTHING IS POLITICS’: UNDERSTANDING THE POLITICAL DIMENSIONS OF NGO LEGITIMACY IN CONFLICT-AFFECTED AND TRANSITIONAL CONTEXTS

Oliver Walton, University of Bath

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Contents

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Abstract

This paper examines how national NGOs operating in conflict-affected or transitional regions generate and maintain legitimacy. It considers the experience of NGOs in three such contexts – Sri Lanka, Nepal and the Occupied Palestinian Territories (OPT). The paper argues that existing accounts of NGO legitimacy are unhelpful for understanding the dynamic and highly politicised processes of NGO legitimation that can be observed in these contexts and argues that greater attention should be paid to the contextual and political dimensions of NGO legitimation and de-legitimation.

Key words: NGOs; Legitimacy; Conflict; Sri Lanka; Nepal; Occupied Palestinian Territories (OPT)

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1 Introduction

The paper seeks to understand how national NGOs in conflict-affected and transitional contexts generate and maintain legitimacy by examining the experience of NGO sectors in three such regions (Sri Lanka, Nepal and the Occupied Palestinian Territories [OPT]). This analysis highlights several important ways in which the dynamics of NGO legitimation and de-legitimation in these regions diverge from those described in most existing accounts of NGO legitimacy. The paper provides a corrective to existing accounts of NGO legitimacy, which have depicted legitimacy as arising in a stable fashion in relation to generalisable technical qualities such as downward accountability, representativeness, performance and transparency (Edwards & Hulme 1996; Fowler 1997; Pearce 1997; Atack 1998; Hudson 2000; Slim 2002).

The paper argues that NGO legitimacy in conflict-affected and transitional contexts is closely bound up with broader political and societal legitimacy struggles concerning political authority and state sovereignty. It also finds that processes of NGO legitimation in these environments are liable to fluctuate in relation to changes in the political climate and are likely to be instrumentalised by political actors. Based on an examination of these characteristics, the paper advocates an approach to understanding NGO legitimacy that pays greater attention to the contextual and political dimensions of processes of legitimation and de-legitimation.

This approach was originally developed in the course of research on national NGOs in Sri Lanka (Walton 2008: 2012; Walton with Saravanamuttu 2011), but has been adapted in the course of secondary research on NGOs in the OPT and Nepal. The paper adopts an exploratory approach, seeking to identify some key characteristics of legitimation processes in conflict-affected regions. It is hoped that this analysis will highlight commonalities with other conflict-affected contexts, but it is acknowledged that the findings may need to be refined or further qualified in light of further cases. Furthermore, while the characteristics identified in this paper appear to have particular relevance in regions affected by violent conflict or rapid political transitions, they may also be present in more peaceful or politically-stable contexts.

The next section provides some brief background to the terms 'legitimacy' and 'NGOs', and illustrates why the existing literature on NGO legitimacy is unhelpful for understanding how national NGOs working in conflict-affected countries generate and maintain legitimacy. Section two highlights some of the ways in which processes of legitimation in conflict-affected regions may differ from those in more peaceful regions. Section three provides some brief background to the three contexts explored in the paper (Sri Lanka, the OPT and Nepal), highlighting some of the key differences in how NGOs operate and are perceived in these contexts. The next three sections (four to six) draw examples from the three contexts to demonstrate some of the key factors influencing NGO legitimation processes in conflict-affected environments. These factors include a range of issues that stem from changing patterns in international intervention in these contexts including a trend towards professionalization of NGO sectors and issues of boundary maintenance and transgression associated with liberal peacebuilding interventions. Section eight focuses on NGOs' engagement in political action in these contexts, and how NGO legitimacy is heavily influenced by the legitimation strategies of domestic political actors. The paper concludes by drawing together some key findings from the case studies and making some suggestions for improving understanding of NGO legitimacy in these contexts.

2 Legitimacy and NGOs

This paper understands legitimacy as 'the generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within a social system' (Suchman 1995: 374-5). It refers to a sense that a social entity or organisation 'is lawful, proper, admissible and justified in doing what it does, and saying what it says, and that it continues to enjoy the support of an identifiable community' (Edwards 1999, 258). In this way, legitimacy should be understood as a process of consensus-building amongst a particular group, community or society of actors (Johnson *et al*. 2006). I view legitimacy as a matter of degree rather than as an absolute quality (Collingwood & Logister 2005) and maintain that where NGOs are deemed legitimate, this legitimacy is almost always contested. Furthermore, I recognise that legitimacy can be generated in a variety of different ways, in relation to a range of often conflicting normative and cognitive frameworks.

If generating legitimacy is about building consensus, however, this process is rarely straightforward; several competing frameworks determining what constitutes legitimate behaviour may coexist within a society or group, and different groups or individuals may have different ideas about what might constitute a legitimate actor or legitimate acts (Edwards 1999; Lister 2003; Brown 2008). Furthermore, while legitimacy is dependent upon apparent consensus, this does not necessarily imply actual consensus; legitimacy can be maintained in spite of disagreement from some individuals (Johnson 2006: 57). The ambiguity of these processes of legitimation have led to accusations that the term 'legitimacy' is too woolly and vague to be analytically useful. O'Kane (1993), for example, argues that the term blurs the grounds for compliance or the framework for justifying action and the action itself, rendering it confusing at best and misleading at worst.

Whilst these criticisms highlight important problems with the term, a conception of legitimacy seems useful for explaining how various non-governmental actors are able to influence others without controlling the distribution of resources or coercion. NGO power has an ephemeral quality: much of NGOs' strength and their capacity to influence is often dependent upon an appearance of vulnerability (Bryant 2005). When NGOs appear to be too powerful, their legitimacy may be challenged and influence can be lost.

Legitimacy is a problematic concept because it can be understood "both [as] a belief held by subjects, or by some subjects, and a claim made by rulers" (Barker 1990: 59). This paper recognises both aspects of legitimacy and whilst my aim is to study legitimacy in the sociological sense, I also recognise the relevance of the more normative or self-serving side of legitimacy, particularly in understanding NGOs' own efforts to influence processes of legitimation.

The term 'NGO' covers a diverse array of entities from small community-based organisations, to large transnational advocacy groups. I adopt Gerard Clarke's (1998: 2-3) definition: NGOs are "private, non-profit, professional organizations with a distinctive legal character, concerned with public welfare goals". My focus is on organisations that have used the label of 'non-governmental organisation' to describe themselves, excluding a range of other bodies often included under the broader banner of 'civil society'. In doing so, it utilises the term 'NGO' principally as a 'claim-bearing label': a public indication that an organisation conforms to expectations of a certain kind of Westernised, professionalised, development organisation that receives foreign funding (Hilhorst 2003: 6).

The paper focuses on a particular subset of NGOs that I refer to as 'national NGOs'. I define NGOs as 'national' on the basis of their spatial rather than territorial coverage. National NGOs, in other words, are organisations that claim to be operating across an entire country, as opposed to the issues of some distinct region or community within it (see Bryant 2005). In practice, there is often a wide gap between NGOs' spatial claims and their actual territorial coverage. National NGOs also vary considerably in terms of their size, organisational character and objectives. National NGOs can be distinguished from both international NGOs (INGOs) and community based organisations (CBOs) and serve as classic 'interface experts' (Lewis & Mosse 2006) capable of providing a bridge between INGOs or funding agencies and local populations. Their appeal to funders lies primarily in their capacity to combine a degree of local knowledge with an understanding of international development discourse.

The term 'legitimacy' has occupied a central place in contemporary accounts of NGOs' work, being generally employed to grapple with the growing dilemmas of NGO accountability, representativeness and performance that accompanied the expansion of NGO activities in the 1990s (Lister 2003; see also Edwards & Hulme 1996; Fowler 1997; Pearce 1997; Atack 1998; Hudson 2000; Slim 2002; Brown 2008). Most of this work has come from a practitioner perspective which highlighted 'technical' deficiencies in NGOs' work and as a result, the concept of legitimacy has been poorly theorised in the NGO literature (Lister 2003). In many cases, rather than being treated as a complex sociological phenomenon to be unravelled via empirical analysis, these authors have tended to see legitimacy as a normative concept 'that defines what the proper political and legal constraints on power should be' (Collingwood & Logister 2005: 178).[1]

These accounts have argued that as NGOs' work has become more diverse, and their financial and political clout has grown, the balance of accountabilities upon which their legitimacy rested has been distorted, and NGOs have become more focused on upwards accountability towards donors, distancing them from their core constituencies (Edwards & Hulme 1997) and eroding the roots in social solidarity 'that legitimize NGOs as independent actors in their own societies' (Edwards 1999: 266). In response, these approaches often emphasised a relatively standardised formula that NGOs could apply in order to rebuild legitimacy; by placing more emphasis on downwards accountability to beneficiaries and improving standards of organisational accountability and transparency (Edwards & Hulme 1996; Fowler 1997; Pearce 1997; Atack 1998; Edwards 1999; Hudson 2000).

While these perspectives are frequently invoked by NGOs operating in conflict-affected contexts, they seem to offer few clues for understanding the crises of NGO legitimacy that can be observed during transitional periods in conflict-affected contexts such as Nepal, the OPT and Sri Lanka. In these contexts, NGOs were not simply being judged in relation to singular benchmarks of accountability and transparency, but instead were being critiqued in different ways by different audiences. Furthermore, the frameworks employed to assess NGO legitimacy were often highly politicised and changeable.

Much more useful to understanding these processes of legitimation and de-legitimation in conflict regions is Lister's (2003) socially-constructed account of NGO legitimacy. This approach places much greater emphasis on NGOs' operating environments and relationships with various

[1] See Hashemi & Hassan (1999: 124-5) for an example of this normative conception of legitimacy.

different actors: "Not only do different organizations operate within slightly different environments, each organization operates within a number of environments with different stakeholders" (Lister 2003: 179).

Lister's approach also recognises that different actors privilege different aspects of NGOs' work and that the "approaches, interests and perceptions of the stakeholders, not the agency, determine which characteristics create legitimacy" (Lister 2003: 181). Drawing on organisational theory and particularly the work of Suchman (1995), Lister (2003) sees NGOs as reliant on four different kinds of legitimacy: normative legitimacy (based on acceptable and desirable norms, standards, and values), cognitive legitimacy (based on goals and activities that fit with broad social understandings of what is appropriate, proper, and desirable), regulatory legitimacy (abiding by laws and regulations) and pragmatic legitimacy (conforming to demands for services, partnership or by receiving private funding). Different audiences will develop their own understandings of these different kinds of legitimacy. The fundamentally contested nature of NGO legitimacy is also acknowledged by authors such as Edwards (1999: 260) who describes how "questions of [NGO] legitimacy involve judgements and choices, struggles and negotiations about what NGOs do and who has what rights to influence organizational decisions" and Brown (2008: 41) who identifies what he terms a 'constructionist perspective' on NGO legitimacy that "assumes that legitimacy and accountability problems involve implicit and subjective standards held by actors with diverse interests, expertise and power". These constructivist approaches draw on Foucauldian understandings of power and, in particular, the idea that power is structured by discourses, which determine which actions are thinkable and which are not (Foucault 1990). From this perspective, NGO legitimacy is seen as determined by NGOs' capacity to conform to dominant discourses in the global and domestic arenas, and their ability to negotiate inconsistencies that arise between these two realms.

One of the problems with the existing literature on NGO legitimacy, for my purposes, has been the fact that, to date, it has focused on problems facing international NGOs (Slim 2002; Edwards 2003; Collingwood & Logister 2005; McGann & Johnstone 2005; Lehr-Lehnhardt 2005). National NGOs are likely to address more concrete political concerns arising from their own national context and may, therefore, pose a greater threat to power holders than INGOs, whose criticisms may be less pointed or easier to deflect.

This literature has also rarely touched on the specific legitimacy problems facing national (or local) NGOs working in 'delicate and contested political fields' that exist in many conflict-affected contexts (Korf 2006). As Lister (2003: 184) has argued, it is important to consider "'which legitimacy matters' and the relative 'weights' of different organizational stakeholders in determining legitimacy". These issues are particularly relevant in conflictual and transitional contexts, where the relative influence of various actors can fluctuate in relation to changing political conditions.

In conflict-affected environments, the political incentives associated with legitimising or de-legitimising NGOs are often of greater importance to understanding a decline in legitimacy than NGOs' own failure to conform to prevailing frameworks for understanding or justifying NGO action. In the contexts examined in this paper, the stakeholders or audiences identified by Lister (2003) did not simply constitute passive groups looking on at NGOs' behaviour and judging it in accordance with their own frameworks for cognitive and normative legitimacy. Instead, these

groups tended to use NGO legitimacy as a tool to highlight or articulate their own political agendas.

Another aspect of NGO legitimacy that has been underplayed in the existing literature is the role of the state in shaping processes of legitimation. As Clarke (1998) has described, the dominant view of NGOs' legitimate political role varied widely according to context. As will be described below, regions affected by violent conflict are characterised by struggles over political authority that are liable to change, often very rapidly. As a result, dominant perceptions about the legitimacy of NGOs' roles – and particularly their engagement in political action – are also likely to fluctuate as governments change or countries make the transition from peace to war or vice versa.

3 NGOs in Conflict-affected regions

The way in which NGOs engage in politics is an important site of political debate. This debate often hinges on competing notions of legitimate political action. These debates are often especially fraught during a period of war and, in particular, in the transitional moments between war and peace. Political action of all kinds becomes more contentious during a time of conflict because it tends to be framed in terms of its support for one or other of the conflicting sides, accentuating tensions between NGOs' multiple accountabilities (Goodhand 2004). Governments at war cannot be seen as fully legitimate in the sense understood by Beetham (1991) since, according to him, legitimacy requires evidence of consent between the dominant and subordinate parties. Conflict often involves a struggle for power between two or more parties attempting to pursue rival paths towards legitimacy, in accordance with different sets of rules and beliefs. In these contexts, NGO legitimacy becomes framed by a broader struggle for legitimacy between conflict actors.

War zones involve a high degree of contestation over the control of populations. As a result, the involvement of NGOs, either by distributing resources or attempting to influence the way in which power is distributed, is likely to be contentious. Efforts to strengthen the agency of civilians can raise the suspicions of power holders (Korf 2006: 56). In highly contested areas (such as the North and East of Sri Lanka or in the OPT), NGO projects are also liable to become instrumentalised as a means of boosting the legitimacy of other actors.

Conflict often undermines NGOs' capacity to fulfil objectives and may trigger sudden changes in popular perceptions about what constitutes legitimate political behaviour. Conflict also increases the demand from other actors to undermine the legitimacy of NGOs, providing a low-risk opportunity to consolidate political support and promote their own visions for legitimate rule. This makes NGOs more likely to fall victim to 'reputation entrepreneurs', who instrumentalise the reputations of NGOs as a means of articulating their own political agendas (Bryant 2005).

Many conflict regions are governed by weak or emergent state institutions, which may compete with NGOs for material resources or political capital. In Nepal, after the establishment of a parliamentary monarchy in 1990, or the takeover of government by King Gyanendra in 2005, for example, state institutions were unclear about their capacities and powers and introduced new laws to restrict their activities (Heaton Shrestha 2010; Miklian *et al*. 2011). Similarly, in the OPT,

NGOs competed for funds with the emerging Palestinian National Authority (PNA) and were seen as a threat by some elements within the PNA, particularly during periods when the sector received large amounts of funding from international donors (Challand 2009).

The transitional moments between war and peace raise particular issues for NGO legitimacy. NGO legitimacy is closely related to prevailing political norms and agendas, which are likely to change during times of transition. During these transitional periods, expectations from both domestic and international actors regarding what constitutes legitimate political aims of NGOs are likely to shift significantly. As well as being liable to fluctuate in relation to the prevailing political climate, the legitimacy of national NGOs is likely to be closely influenced by the agendas of dominant political actors and these players' own struggles for legitimacy. In each of the three contexts explored in this paper, state institutions clamped down on NGOs in the aftermath of political transitions. In Sri Lanka, the change of government in 2004 led to a nationalist backlash against NGOs which involved a large degree of media criticism and a parliamentary enquiry into NGOs' activities (Walton 2008). As mentioned above, in Nepal, during the political transitions of the 1990s and in 2005, central and local government institutions sought to tighten restrictions on NGOs (Heaton Shrestha 2010). In the OPT after the second intifada in 2000, NGOs came under widespread criticism for being too apolitical and insulated from the national struggle (Challand 2009).

In societies where key political actors are at war, questions of accountability, representativeness and bias become charged with political symbolism. NGO legitimacy in these contexts is often framed by, and hinges upon various political, institutional and territorial boundaries or models of proper NGO action. Different actors may draw on or highlight different boundaries in different contexts, but key lines of contestation include the boundary between the international and national realm, between state and non-state, and perceived boundaries between proper and improper political roles for NGOs. These boundaries are complex and may have political, territorial and social dimensions.

Before moving on, it is important to stress that many of the tensions and difficulties affecting NGO legitimacy during periods of conflict may also be observed during more peaceful periods. In the case of Nepal there appear to be clear continuities between pre-conflict, conflict and 'post-conflict' periods. For example, during all three periods political parties sought to both control or regulate the NGO sector, and to use it as a channel for providing access to valued resources. In this case, however, ascertaining how closely NGOs' legitimation strategies have been determined by the conflict environment, or by an extended period of political instability is made more difficult by the fact that very little has been written about the NGO sector prior to the onset of conflict in 1996 and the fact that the modern NGO sector itself only emerged in the 1990s – a period characterised by a series of political transitions.[2]

4 Three Case Studies: Variations in the environment for legitimation

This section provides a brief overview of the three contexts examined in this paper. Although the paper focuses on several important common features of conflict-affected regions, it is important

[2] I am grateful to Celayne Heaton Shresthra for these points.

to note that the three cases examined here are marked by important differences. After providing a brief introduction to each case, the paper will highlight a few of the key differences between the three contexts. The key features of these three cases are summarised in the table below:

	Sri Lanka	OPT	Nepal
Background to Conflict	Conflict in Sri Lanka is best understood as an outcome of a 'crisis in the identity, policies and legitimacy of the state' (Goodhand 2001, 30). Key sources include state bias, economic liberalisation, uneven development patterns, the politics of exclusion, and ethnic scapegoating.	An international conflict between Israel and the Occupied Palestinian Territories concerning borders, security, and international recognition. After Hamas won control of Gaza in 2006, an internal conflict between the two main Palestinian political parties – Hamas and Fatah has been ongoing.	Anti-government armed revolutionary struggle led by the Communist Party of Nepal (Maoists) in order to establish a new broad-based, inclusive social and political system. The armed struggle (1996-2006) occurred during a longer period of political transitions, including the transition to a parliamentary monarchy, in 1990 and the abolition of the monarchy in 2008.
Role of international actors	The peace process (2002-2006) was heavily internationalised – facilitated by Norway, and supported by four co-chairs – India, Japan, the US, and the EU. Since coming to power, the Rajapaksa government strengthened links with regional powers, which compensated for a shortfall in funding from western donors, and helped to deflect criticism from western countries in international forums.	The conflict has been heavily internationalised, with several external efforts to broker a peace deal since the Oslo Peace Accords in 1993. The PNA has been reliant on foreign aid since it was established in 1994.	United Nations Mission in Nepal (UNMIN) was established in 2007 to monitor the disarmament of the Maoist army, monitoring ceasefire commitments and to help prepare for the Constituent Assembly elections in 2008. A range of other international actors have supported the peace process and supported the transition to a federal system of governance.
Background to the NGO sector	A vibrant NGO sector in the 1970s and 80s, although more radical groups were marginalised during the growing authoritarianism since the late 1970s. The number of development-oriented NGOs expanded rapidly in 1990s, spurred by growth in foreign funding.	Civil society historically played an important role in Palestinian society. The formal NGO sector grew rapidly in 1990s prompted by a rise in foreign funding after the 1993 Oslo Peace Accords. There have been growing divisions between the modern and traditional elements of civil society.	A very limited independent NGO sector prior to 1990. The sector grew rapidly in 1990s and 2000s driven by rise in foreign funding, and government efforts to promote the sector.
State – NGO relations	History of suspicion and opposition from Sinhala nationalist groups. Successive governments have switched from collaboration to opposition.	As the NGO sector grew in 1990s, PNA increasingly saw NGOs as a threat. After second *intifada*, the relationship became more cooperative.	The state provided very limited space for the NGO sector to emerge prior to 1990. Since then, the relationship has been changeable – during periods of uncertainty or transition the state has tried to introduce more rigorous formal regulations for NGOs. Politicians have also seen NGOs as a key channel for accessing of various resources.
Nature of international support to NGOs	Large amounts of funding have been closely linked to support of the peace process. Many funds for NGOs focused on peacebuilding activities during this period.	International funding has been closely tied in with the peace process, but has focused mostly on development work and, in the aftermath of the second *intifada*, on humanitarian relief	Until recently, funding for NGOs in Nepal focused mainly on development and human rights monitoring work. Since 2007, however, donors have funded peacebuilding activities such as local reconciliation and development projects that seek to build a 'peace dividend'

Sri Lanka has experienced a series of political conflicts since the 1970s. These included a confrontation between the Government and a youth-based Marxist group based in the South, the *Janatha Vimukthi Peramuna* (JVP), which occurred first in 1971 and then later in the late 1980s. They also included a long-running civil war against the Liberation Tigers of Tamil Eelam (LTTE), a Tamil separatist group based in the North and East, which began in 1983 and continued until 2009. In line with global trends, the NGO sector grew considerably in the 1990s, spurred on by a growth in foreign funding. President Mahinda Rajapakse came to power in 2005, and resumed all-out war with the LTTE in 2006. The regime was reliant on nationalist parties for support, who were concerned about the role of NGOs in society and were particularly critical of their close relationships with foreign donors and their support of the peace process.

Civil society and NGOs have historically played an important role in the politics and society of the OPT. As in Sri Lanka, the sector grew rapidly in the 1990s after the 1993 Oslo Accords, which prompted a large rise in foreign funding. Funding has tended to be concentrated in the hands of a small number of 'donor darlings' (Youngs & Michou 2011: 13). The relationship between Palestinian NGOs' and the PNA has been changeable. The relative proportion of donor funding channelled through NGOs and the PNA fluctuated throughout the 1990s and 2000s. As funding to NGOs grew, the PNA began to view them as a threat, damaging relations between the two sectors (Hammami 2000). The relationship has become more co-operative since the second *intifada*, although the space for dialogue and dissent from NGOs has diminished since the 2007 split in the PNA (Walton 2010). It is important to note that operational context for NGOs in the West Bank is very different from the environment in Gaza. Since it won control of Gaza in 2006, Hamas has tended to view human rights and democracy NGOs as opponents (Youngs & Michou 2011).

The NGO sector only emerged as a significant feature of Nepali politics and society after the National Democratic Movement of the 1990s (Chand 2002). The sector grew rapidly in the 1990s and 2000s and, as with the other contexts examined in this paper, received high levels of foreign funding. Like the OPT, Nepal is highly aid dependent. In the period between 1995 and 2002, aid constituted nearly 9% of Nepal's GDP.[3] NGOs played an important role in supporting the 2006 Democracy Movement, which eventually led to the abolition of the monarchy and the Comprehensive Peace Accord, signed in November 2006. This period, however, also highlighted tensions between NGOs and other civil society groups (Heaton Shrestha 2010; Heaton Shrestha and Adhikari 2011). Most of these tensions related to the fact that NGOs were widely seen as professionalised and factional (Heaton Shrestha & Adhikari 2011; Nikolov 2011).

The remainder of this section will highlight some key differences between the three contexts examined in the paper. One of the most important points of variation concerns state capacity and state legitimacy. Since 2006, when Hamas took control of Gaza, the Territories have been internally divided, with both the Hamas government in Gaza, and the Fatah-led government in the West Bank claiming to be the legitimate representatives of the OPT. The Territories' international legitimacy is also contested, with only 132 of 193 UN members formally recognising Palestine as a sovereign state. State institutions in both Gaza and the West Bank are

[3] By comparison, the figure for Sri Lanka during the same period was only 3% (Bhattarai 2007), while the figure for the OPT was 14% in 2009. One recent study of Nepal estimates that international aid constitutes over a quarter of the annual state budget (Miklian *et al*. 2011).

very weak. The OPT are heavily dependent on aid, and funding levels decreased significantly after Hamas won control of Gaza in 2006 (Walton 2010).

State institutions in Nepal and Sri Lanka are less divided, and the countries' international sovereignty is not contested. Nevertheless the Nepali state has undergone a number of importance transitions since 1990 and has faced an existential threat in the face of the Maoist insurgency between 1996 and 2006, which affected 50 of the country's 75 districts. The state's capacity to monitor and regulate the NGO sector is poor, particularly in more remote districts.

During the conflict between the government and the LTTE in Sri Lanka, the government lost territorial control of large parts of the North and East, although these regions were won back during the final phase of war between 2006 and 2009. Although governance has continued to become more centralised and politicised since the end of the war, state institutions are generally robust and the government is able to closely regulate the NGO sector.

While in Nepal and the OPT, state institutions and NGOs have at times existed as serious rivals for international funding and legitimacy (see Heaton Shrestha 2010; Challand 2009), in Sri Lanka, the NGO sector has been viewed as a threat more for security, political or symbolic reasons (Walton 2008). While struggles over state legitimacy are a common feature of all conflict-affected regions, this struggle is particularly intense in the OPT. Here, NGOs operate within a series of multi-layered legitimacy struggles at the Palestinian, regional and international levels. The questions of Palestinian sovereignty, the Israeli occupation, and the rights of populations living in the OPT are embedded in international politics to an unusual degree. As a result, the legitimacy struggles taking place on the local, regional and global levels are particularly entangled (Slim 2008).

The nature of international support to NGOs has been different in the three contexts. In the OPT, international funding has been closely tied in with the peace process, but has focused mostly on development work and, in the aftermath of the second *intifada*, on humanitarian relief. In Sri Lanka, funding has also been closely linked to support of the peace process, but more explicitly focused on peacebuilding activities. Until recent years, funding for NGOs in Nepal focused mainly on development and to a lesser extent human rights monitoring work. Since 2007, however, donors have funded peacebuilding activities such as local reconciliation and development projects that seek to build a 'peace dividend' (see for example UNPFN 2011).

The following sections will highlight a number of important common features that exist in the three cases and examine ways in which legitimation processes in conflict regions deviate from the processes described in the mainstream literature on NGO legitimacy. It is important to note that while these dynamics appear to be specific to conflict regions, they are often driven by factors (such as a rapid growth in donor funding for NGOs) that also have relevance to other contexts. Furthermore some of these dynamics (such as a growing professionalization of NGOs) can also be observed in more peaceful contexts.

5 The impact of liberal peacebuilding interventions on NGO legitimacy: professionalization and association with foreign agendas

Powerful anti-NGO discourses exist in many developing countries, and are usually based on fears that NGOs are providing a surreptitious means for foreign governments to influence domestic politics. The sites of experiments in 'liberal peacebuilding' of the 1990s and 2000s provided particularly fertile ground for domestic opposition to NGOs.[4] In these contexts, funding for NGOs grew rapidly, whilst NGOs became simultaneously associated with the often contentious political objectives of their Western governmental backers. The NGO sectors in Sri Lanka, the OPT and Nepal all suffered from 'crises of credibility' during periods of political transition and during the transitional moments between war and peace (Hammami 2000; Jensen 2005; Jad 2007; Wake 2008; Walton 2008; Walton with Saravanamuttu 2011; Walton 2012; Heaton Shrestha 2010).

Heavy international engagement with national NGOs has created increasingly elite-dominated, western-oriented, professionalised NGO sectors in each of the three cases examined in this paper. In Sri Lanka, the majority of modern national NGOs emerged relatively suddenly in the 1980s and 90s, in response to a contraction in government funding for welfare programmes and a concomitant growth in foreign funding (Fernando 2003: 27; Wickramasinghe 2006: 315). Before this rise in funding for NGOs from bi-lateral and multi-lateral donors, many important Sri Lankan development NGOs were funded by church-based international NGOs and foundations. These funders tended to adopt a less technical and more politically progressive view of NGOs (Fernando 2003). Growing foreign funding for NGOs since the late 1970s has facilitated the rise of a small group of English-speaking NGOs whose work and values reflect the liberal approach of their funders. Regional and local NGOs continued to decline in the 1980s and 1990s, driven by donor preferences and the growing dominance of the LTTE in the North and East.

After the ceasefire agreement in 2002, Sri Lanka became one of the most popular sites for international experimentation in NGO peacebuilding (Walton 2008). Most aid to Sri Lanka after the ceasefire was allocated to supporting the United National Front's economic agenda (Bastian 2009), and peace-related activities tended to be funded by a small group western donors (led by the EC, Norway, Sweden, Germany, Canada, the US and the UK). This close association between the peacebuilding strategies of international donors and well-funded national NGOs has added a new dimension to the criticism of these organisations by nationalist political groups. After 2005, NGOs came under several waves of intense scrutiny and criticism from a number of political groups, who focused specifically on their close links with donors' peacebuilding efforts (Walton 2008; Walton with Saravanamuttu 2011).

In the OPT, the rise in foreign funding for NGOs since the 1990s has had a significant impact on the character and orientation of the sector. NGOs have become more pre-occupied with funding (MAS 2007) and have become increasingly distant both from the communities they purport to

[4] I use the term 'liberal peacebuilding' to refer to the dominant approach to peacebuilding pursued by inter-governmental, multilateral and bilateral donors since the end of the Cold War. The model that emerged in the 1990s combined a more aggressive pursuit of long-standing international policy goals of economic and political liberalisation, with a commitment to reaching an internationally-backed peace settlement and by managing local level conflicts through a range of measures designed to improve the security of local populations.

serve and from political parties (Hammami 2000; Shafi 2004; Hanafi and Tabar 2005; Challand 2009). Some argue that donor efforts to support civil society have de-politicised and divided the sector (Jad 2007). Others suggest that donor aid has generated a new 'globalised elite', which is politically oriented towards western donors and European forms of social organisation (Hanafi and Tabar 2005; Challand 2009, 2010). Increased aid has had a number of negative effects on the NGO sector including increased internal competition, reduced accountability to communities and an inability to articulate a common strategic vision (Songco *et al*. 2006). The un-coordinated and short-term nature of donor engagement with NGOs has undermined its effectiveness (MAS 2007; CIDSE 2008).

Accepting foreign funding in the Palestinian context is widely seen as providing implicit support to the peace process. In line with a widely-held criticism of international aid in the Palestinian context, many Palestinians view the work of foreign-funded NGOs as undermining efforts to resist the occupation (Youngs & Michou 2011). Some argue that the absence of social movements capable of mobilising effectively against the occupation is partly due to the tendency for "qualified grassroots activists to take up employment with international NGOs" (Youngs & Michou 2011: 13). Hanafi and Tabar (2003) note that, since the second *intifada*, NGOs have adopted a strikingly apolitical stance, a position they argue has been motivated by NGOs' growing reliance on funding from international donors.

The NGO sector in Nepal emerged in the 1990s and was closely linked to the growing involvement of foreign funders in the country during this period. Since many donors were unwilling to channel large sums through the state, support to NGOs constituted a large proportion of total donor funding. As in the other cases, the national NGO sector was dominated by foreign-funded organisations based in the capital Kathmandu. These organisations were widely seen as professionalised and lacking the requisite links with the general population to support popular mobilisation.

The view that NGOs and NGO workers were money-driven is also prevalent in the Nepali context. This perception is particularly relevant for NGOs involved in peace work: one civil society activist interviewed in a recent study (Nikolov 2009: 23) described a 'peace market' where NGOs compete for donor funding in this area, while Miklian *et al.* (2011: 295) note that the UN's white SUVs are "viewed cynically as 'where the peace-building money trail ends'". Some voices within Nepali politics and civil society have claimed that NGOs are engaged in activities that undermine Nepalese sovereignty and further the strategic interests of their funders (see Brar 2011).

As the NGO sector attracted more resources, it also became attractive to established political forces. The influx of foreign aid to Nepal since the 1990s, and particularly in the aftermath of the Peace Accord, has encouraged national-level politicians to forge links with or establish their own NGOs as a means of extending patronage networks (Miklian *et al*. 2011). As a result, it has been argued that the growth of NGOs has stifled the emergence of social movements and exacerbated the urban/rural divide (Rehman 2006).

As is demonstrated in each of the three cases, processes of NGO professionalization were driven primarily by a general rise in donor funding. In each case, however, tensions surrounding the professionalization of NGO sectors have been exacerbated by political transitions or conflict and NGOs' involvement in peacebuilding activities. In all three contexts, NGOs' close links with

donors meant that they were increasingly associated with these donors' support for the peace process, even if these organisations themselves were not directly involved in peacebuilding work. Large national organisations based in capital cities tend to be most susceptible to these criticisms.

This association with an externally-imposed liberal peacebuilding agenda appears to have heightened the degree to which NGOs have been attacked by nationalists and other critical groups. In the OPT, this association meant that NGOs found themselves increasingly at odds with nationalist or Islamic groups (Youngs and Michou 2011). In Sri Lanka, NGOs' public support for the peace process set them against various nationalist political groups that made a revival after the defeats of the United National Front at parliamentary elections in 2004 and presidential elections in 2005 (Walton 2008).

Weak NGO legitimacy also stemmed from the fact that the legitimacy of liberal peacebuilding interventions themselves was precarious. Liberal peacebuilding operationally and institutionally draws together several hitherto separate strands of political thought about peace (Heathershaw 2008). While NGOs have been typically involved in civil or socio-relational aspects of peacebuilding, the liberal peacebuilding approach also increasingly implicated them in the state-building strategies of their governmental or multilateral partners. As noted above, this growing intimacy between NGOs and international donors was problematic and fuelled concerns that these organisations were being used as Trojan Horses by Western donors. In the OPT, this problematic association between NGOs' bottom-up efforts to support the peace process and the harder, security-driven interests of donors through an increasingly explicit statebuilding agenda was particularly marked (Franks 2009; Youngs and Michou 2011).

Liberal peacebuilding interventions have often been built on fragile social and political foundations. The failure of the peace process in Sri Lanka after 2002 has been linked in the academic literature to the failure of governments and international donors to address welfare concerns of communities in the South (Goodhand & Korf 2011). Similarly in the OPT, liberal peacebuilding has been unable to foster any meaningful improvement in human development levels, or to bolster human rights and the rule of law (Franks 2009; Challand 2009).

This 'virtual peace' (Richmond & Franks 2007) left a vacuum for domestic actors to challenge the motivations and effectiveness of international engagement and to promote alternative visions, which often directly challenged the liberal norms implicit in international peacebuilding efforts. In Sri Lanka, a heavily internationalised peace process helped to fuel a nationalist resurgence. In the OPT, donors' narrow support for professionalised NGOs has undermined community associations and networks, creating a vacuum that has been filled by Hamas (Jad 2007; Challand 2010). In Nepal, donor peacebuilding efforts have fuelled a growing rural/ urban divide, which has undermined international peacebuilding efforts (Rehman 2006; Shah 2008). In each case, the broader negative outcomes associated with international peacebuilding interventions have undermined NGO legitimacy.

6 The impact of liberal peacebuilding interventions on NGO legitimacy: blurring boundaries

NGOs' growing involvement in state-led peacebuilding interventions affected legitimation processes in other ways. The expansion and increasing diversity of NGO activities associated with contemporary peacebuilding interventions made NGOs' objectives less tangible, raising issues of accountability and contributing to some actors' concerns about NGOs' motivations. In Nepal, donors encouraged NGOs to pursue peacebuilding, advocacy and human rights work alongside service delivery. This blurred the boundaries between different spheres of NGOs' work, which created tensions and lack of clarity about NGOs' aims (Shah 2008).

Donors increasingly prized NGOs' capacity to transgress political, institutional and territorial boundaries (Goodhand & Walton 2008). In the Sri Lankan context, this involved working more closely alongside or at times inside, government institutions, for example by providing training to government workers in conflict resolution. NGOs also became increasingly involved in facilitating interaction across territorial boundaries, particularly between government-held and LTTE-controlled areas. Donors saw NGOs as useful because of their capacity to facilitate interaction or build consensus between divergent or conflicting political groups. These transgressions became key focal points for criticism during the transition back to war as conflict actors increasingly worked to reassert or harden political boundaries such as the borders between sovereign countries, or the boundary between the state and the LTTE. Critiques often focused on situations where NGOs had overstepped the perceived boundaries of legitimate political action. NGO activities in LTTE-controlled areas became the focus of misappropriation scandals in which NGOs were accused of providing resources to the LTTE (see, e.g., Sunday Observer 2008). Similarly, instances where NGOs were deemed to have become too heavily involved in the governmental arena (for example by engaging in projects such as conflict resolution or human rights training for the military) were often used to highlight the allegedly sinister motivations of nongovernmental action in Sri Lanka (see PSCNGO 2008).

Tensions between the international and national realms can be observed in post-war Nepal, where the government has sought to limit the role of international NGOs by restricting their ability to directly implement projects. International NGOs have sought to get around these laws by establishing local NGOs that are nominally independent, but remain closely linked to the 'parent' international NGO (Miklian *et al*. 2011).

In the OPT, donors encouraged NGOs to actively support efforts to strengthen the PNA and to avoid confrontation with government (Abusrour 2009). Donors such as USAID established projects that strengthened the capacity of NGOs to engage and form partnerships with government institutions (USAID 2011). These modes of engagement between donors and NGOs strengthened the perception that NGOs were serving the strategic goals of international actors.

The evidence from these three cases then suggests that liberal peacebuilding interventions tend to create tensions by encouraging NGOs to transgress established territorial, institutional and political boundaries. The legitimacy of NGOs' actions in these contexts was partly dependent upon maintaining these boundaries, and these tensions provided excellent opportunities for reputation entrepreneurs to critique and de-legitimize national NGOs.

7 Legitimacy and NGO politics

In each of the three contexts, NGOs' engagement in political action can be seen as central to processes of NGO legitimation and de-legitimation. This, in itself, is not unusual. NGOs generally have an uncomfortable relationship with politics, and tensions surrounding their engagement in politics are not unique to conflict-affected regions. This discomfort arises from the fact that despite primarily justifying their work in moral terms, NGOs are also concerned with pragmatic social action, and their objectives frequently overlap with the concerns of political actors. This starting point is problematic since it situates them on a knife-edge between sincere and contrived behaviour; altruistic behaviour can easily be confused with behaviour that is motivated by self-interest or an ulterior political motive and uses normative claims to disguise its baser objectives (Bryant 2005).

As mentioned above however, these tensions are particularly fraught in contexts affected by violent conflict. In these contexts, fundamental questions about the character and goals of the state are usually highly contested, both domestically and internationally. Furthermore, in each of the three cases examined here, power changed hands between groups with very different visions about what state (or proto-state) institutions were for and how they should operate. This high degree of contestation provides a much more fraught backdrop for NGO legitimacy than usually exists in peaceful environments. In contexts where the state's own legitimacy is widely questioned or challenged, NGOs that engage in political action can be viewed and depicted not merely as posing a political threat, but as representing a fundamental threat to state sovereignty. In each of the three cases examined here, debates about NGOs' political action tended to revolve around more fundamental questions about whether or not NGOs were undermining or supporting the state (or a particular political party). Debates around what kind of political strategy was most effective or appropriate were also evident, and in some cases became central to NGOs' reputational management strategies.

In the OPT, Hamas and Fatah have divergent visions of a legitimate political settlement and the most desirable road to peace. Because domestic political actors fundamentally disagree about the form that any eventual solution to the conflict should take, NGOs can be criticised by some for working to normalise relations with Israel by working with Israeli organisations, receiving funding from certain western donors, or working closely with the PNA (Brown 2003; Youngs & Michou 2011). At the same time, they can also be criticised by others (particularly liberal international actors) for adopting a very different stance – refusing to work with Israeli organisations, or opposing the peace process (Youngs & Michou 2011). As the Peace NGO Forum, an organisation that facilitates cooperation between Palestinian and Israeli NGOs, stated in a recent FRIDE report, in the OPT, 'everything is politics' (Youngs & Michou 2011). In this competitive political terrain, even NGOs that eschewed explicit political action found it difficult to maintain legitimacy with all sides. Those that did seek to influence the peace process, or build peace at a local level, face an even greater challenge. Unlike the other two contexts examined here, NGOs in the OPT are expected to 'assert and advance' Palestinian sovereignty (Songco *et al*. 2006). In this context, peacebuilding activities were often interpreted as 'normalisation' or an attempt to reinforce the status quo. As Gawerc (2012: 91) has noted, "for Palestinians to maintain legitimacy in their society, the political needed to be stressed and clear". The dual expectation that NGOs should both support the government in providing services *and* resist the occupation is a key source of tension (Songco *et al*. 2006).

In Sri Lanka, tensions existed between on the one hand a more populist/ nationalist vision of Sri Lankan politics espoused by nationalist groups (and after 2005, the ruling SLFP party) and on the other, a more liberal cosmopolitan vision promoted by the architects and supporters of the peace process – western donors and the United National Party. Liberal actors conferred legitimacy on NGOs on the basis of their capacity to support reform of existing systems of governance, while nationalists deemed NGOs legitimate only insofar as they were able to contribute to a state-led process of political change and did not undermine cultural norms (Walton 2012). Although the divisions between these two visions remained dormant through the early years of the ceasefire period (between 2002 to 2005), they became more intense in competitive environment that emerged after 2005, and NGOs' capacity to influence social and political processes became double-edged: "it boosted legitimacy in the eyes of liberal peacebuilders, whilst de-legitimating them in the eyes of nationalists" (Walton 2012: 31).

These cases suggest that NGO legitimacy was most challenged during periods of transition, when new groups were establishing themselves and the boundaries of legitimate political action shifted. These transitional moments that occurred between periods of peace and war, or during and after and change in government, created uncertainties around issues of political authority and influence. This either led to NGOs being perceived as a greater threat (as in Nepal and the OPT), or created new configurations of political power, which provided space for critical groups to generate political capital out of attacking them (as in Sri Lanka).

In response to these tensions, NGOs sought to bolster their positions by adapting their political strategies and policing the accepted boundaries of NGO political action. Conflicting visions of NGOs' legitimate role in politics were highlighted by disputes within the NGO sector and broader civil society about what constituted legitimate or effective forms of political action.

In Nepal, Heaton Shrestha highlights tensions between NGOs and the broadly-based movement, the Citizen's Movement for Democracy and Peace (CMDP), formed in 2005, and the NGO sector. The CMDP rejected the NGO sector on the grounds that these organisations were highly factional and motivated by a desire to promote their group's interests for "personal and institutional benefit, rather than that of the 'voiceless' group itself'" (Heaton Shrestha & Adhikari 2010: 306). The CMDP deliberately sought to distance itself from the political realm, attempting to maintain a counter-political realm by setting limits on the extent to which NGOs could engage with the movement (Heaton Shrestha & Adhikari 2010).[5] This counter-political approach responded to the fact that national political parties had used NGOs as a means of rewarding supporters or bolstering grassroots mobilisation (Miklian *et al*. 2011).

In-fighting within civil society and between NGOs can also be observed in the OPT. Franks (2009), for example, interviews NGO representatives who argue that some peacebuilding NGOs are undermining the grassroots peace process. A number of internal divisions existed amongst NGOs who worked closely with the PA, and those that chose not to (Hanafi & Tabar 2003). Shawa (2005) shows how a number of NGOs in the OPT argued that their effectiveness as service providers was reliant upon distancing themselves from politics and political factions. Gawerc (2012: 80) describes how a number of peacebuilding NGOs 'managed the normalisation taboo'

[5] The term 'counter-political' is taken from Jonathan Spencer (2007) and is used to refer to 'the performative construction of a realm the logic of which is meant to contrast with that which guides politics (Heaton Shrestha & Adhikari 2010: 299).

by reducing their cross-border peacebuilding initiatives and focusing instead on uni-national community service initiatives.

In Sri Lanka, NGOs pursued a variety of strategies to negotiate the contested political terrain that confronted them after 2005. One of the most prominent and well-known organisations in the country – the Sarvodaya Shramadana Movement – pursued a counter-political model of change that rejected the norms of the party political arena and drew on Gandhian and Buddhist concepts. Another large national NGO – the Foundation for Co-Existence – responded to attacks from nationalists by emphasising the technical aspects of its peacebuilding work. In both cases, these organisations' irresolute engagement with politics generated tensions with their key audiences (domestic political actors on the one hand and international donors on the other). While these organisations were able to make their political approaches more palatable to one or other side, their strategies failed to satisfy all audiences (Walton 2012). Both organisations were criticised by other NGOs for adopting approaches that were seen as apolitical or ineffective (see Walton 2012).

Another important feature of the three contexts was that struggles for NGO legitimacy were intimately tied up with other domestic actors' own efforts to establish or consolidate their legitimacy in a divided and contested political context. In some cases, processes of NGO legitimation and de-legitimation were instrumentalised – discrediting or promoting NGOs was used as a strategy for other actors to boost their own legitimacy. Rebel groups used NGOs as a means of boosting their credibility. In Sri Lanka, during the peace process, the LTTE used engagement with NGOs as a tool for consolidating its own credibility. During the ceasefire period, the LTTE used its relief wing, the Tamils Rehabilitation Organisation (TRO) as a means of bolstering its humanitarian credentials to the outside world (Walton 2008). In Nepal, the Unified Communist Party of Nepal (Maoist) had stridently opposed NGOs but began to adopt a more conciliatory approach towards the sector as they worked closely with the civil society groups that led the Democracy Movement (Shah 2008). This collaboration was arguably critical in restoring the Maoists' legitimacy internationally (Shah 2008: 47).

Opponents of NGOs in Sri Lanka used critiques as a means of promoting their own political visions for a more morally-informed society or highlighting the threat posed by international actors to Sri Lankan sovereignty (Walton 2008). In the OPT, the PA government sought to de-legitimise the NGO sector during various critical moments. As Hammami (2000) has described, these moments followed efforts by donors to provide significant funds directly to the sector – for example, after the World Bank established a $15 million NGO fund in 1995, and after the UN provided $20 million to human rights NGOs in 1999. Palestinian NGOs were also used by donors as a means of legitimating their own strategies of engagement in the region. There was a tendency to use the provision of funds to NGOs as a means of being seen to be 'doing something' in Gaza, without engaging with Hamas or addressing more fundamental political questions (Youngs & Michou 2011: 16).

8 Conclusions

This paper has highlighted a number of important and unusual features associated with NGO legitimation processes in conflict-affected and transitional contexts. First, in these contexts, the credibility of NGO sectors has been damaged by a growth in foreign funding and NGOs'

increasingly close links to international funders. In each of the three cases examined here, these links have increased internal competition amongst NGOs, and driven a process of professionalization and depoliticisation. While this trend can also be observed in peaceful contexts, what is unusual about the contexts examined here is the way in which growing concerns about NGOs' motivations and political objectives have become closely bound up with broader concerns about international efforts to build peace. In the conflict-affected environments analysed here, a growth in NGO funding has fuelled accusations that NGOs are being used by foreign donors to pursue their political agendas or that they are posing a threat to state sovereignty. The fact that NGOs became closely associated with wider international support for a peace process or a wider peacebuilding strategy was damaging in all of these three contexts. This damage was related to the questionable efficacy and legitimacy of liberal peacebuilding interventions themselves.

Second, NGOs' growing involvement in liberal peacebuilding and statebuilding interventions in these contexts involved transgression of political, institutional and territorial boundaries. These interventions also blurred the boundaries between previously distinct categories of NGOs' work. By blurring distinctions between NGOs, international donors and the state, these modes of engagement exacerbated existing tensions surrounding NGOs identities and damaged their legitimacy.

Third, the paper has described how, in these contexts, NGO legitimacy is heavily politicised. NGO legitimation and de-legitimation was intimately linked to the state and other domestic political actors' own struggles for legitimacy, which made them more liable to fluctuate during political transitions and be instrumentalised by a variety of political actors. NGOs in all contexts employed various tactics and strategies to alleviate tensions posed by changes in the political environment to varying degrees of success.

Existing accounts of NGO legitimacy rarely acknowledge these critical dimensions of NGO legitimacy in conflict-affected and transitional contexts. Most research and commentary has placed issues relating to NGOs' accountability, representativeness and performance and the heart of attempts to understand legitimation processes. While the tensions surrounding NGOs in the contexts examined in this paper show that issues of accountability and representativeness are not irrelevant in conflict-affected regions, the analysis has demonstrated that these processes of legitimation are primarily driven by their association with international actors and their peacebuilding strategies on the one hand, and by the legitimation strategies of domestic political actors on the other.

In conflict-affected environments, NGO legitimacy is better understood as a highly contested and politically symbolic set of properties closely shaped by changes in the broader political climate. The political incentives associated with legitimising or de-legitimising NGOs are often more important than NGOs' own performance. The cases have also demonstrated that legitimacy is a highly contextual phenomenon. NGO legitimacy should not be viewed as related to characteristics that are generalizable across countries, but rather is best understood in relation to the particular power relations and the social, cultural and political discourses that exist in any given national arena. In the contexts examined here these power relations fluctuated significantly as new groups came to power and new political settlements were established. These periods of transition tended to be particularly challenging for NGOs, who

often faced more direct opposition from ascendant political groups, and had to adapt their political strategies to function effectively in the new political environment.

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