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## NGO-State Relations: Freedom House Status and Cooperation Versus Conflict

Jacquelyn Ann Schroeder  
*Wright State University*

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**NGO-STATE RELATIONS: FREEDOM HOUSE STATUS AND  
COOPERATION VERSUS CONFLICT**

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts

By

**JACQUELYN SCHROEDER**  
**Bachelor of Arts, Wright State University, 2010**

**2013**  
Wright State University

WRIGHT STATE UNIVERSITY  
SCHOOL OF GRADUATE STUDIES

December 14, 2012

I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION BY Jacquelyn Schroeder ENTITLED NGO-State Relations: Freedom House Status and Cooperation Versus Conflict BE ACCEPTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF Master of Arts.

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Laura M. Luehrmann, Ph.D.  
Thesis Director

---

Laura M. Luehrmann, Ph.D.  
Director, Master of Arts  
Program in International and  
Comparative Politics

Committee on Final Examination:

---

Laura M. Luehrmann, Ph.D.  
Department of Political Science

---

Vaughn Shannon, Ph.D.  
Department of Political Science

---

Pramod Kantha, Ph.D.  
Department of Political Science

---

Andrew T. Hsu, Ph.D.  
Dean, School of Graduate Studies

## ABSTRACT

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Based on previous academic literature, relationships between non-governmental organizations and governments are categorized as being either generally cooperative or generally conflictual, and vary state to state. Considering an assumption that more freedom afforded to a state provides space in society for a more vibrant third sector, it seems intuitive that states with more freedom will experience more cooperative relationships with the NGO sector than states with less. However, six case studies illustrate that this may not always be a correct assumption. To test this hypothesis, Freedom House statuses between 1991 and 2011 are averaged to provide an overall status of Free (Bolivia and India), Partly Free (Ethiopia and Sierra Leone), or Not Free (Azerbaijan and Vietnam) for these cases studies. Rather than relying on a state's Freedom House status to forecast this relationship, this study finds that leadership policies and international influence also may impact the legal environment for NGOs.

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## **List of Acronyms**

CAPART: Council for Advancement of People's Action and Rural Technology (India)

CBO: community-based organization

CSP: Charities and Societies Proclamation (Ethiopia)

EFA: Education For All

EPRDF: Ethiopian People's Revolutionary Democratic Front

FBO: faith-based organization

FCRA: Foreign Contributions Regulation Act (India)

FSE: Emergency Social Fund (Bolivia)

GONGO: government-organized non-governmental organization

ICNL: International Center for Not-for-Profit Law

IDS: Institute of Development Studies (Vietnam)

LPP: Law of Popular Participation (Bolivia)

MDG: Millennium Development Goal

MoFED: Ministry of Finance and Economic Development (Sierra Leone)

NCO: non-commercial organization

NGO: non-governmental organization

NPC: not-for-profit company

NPDPM: National Policy on Disaster Prevention and Management (Ethiopia)

ODA: official development assistance

SIF: Social Investment Fund (Bolivia)

SLANGO: Sierra Leone Association of Non-governmental Organizations

## **List of Acronyms (Continued)**

UN: United Nations

VUSTA: Vietnamese Union of Science and Technology Associations

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## **CHAPTER 1**

### ***NGO-State Relations: When Do NGOs and Governments Cooperate or Conflict?***

“Ten years ago, there was little talk of civil society in the corridors of power, but now the walls reverberate, at least with the rhetoric of partnership, participation and the role of citizens’ groups in promoting sustainable development” (Edwards 1). This quote by Michael Edwards encompasses the nature of the shift in the relationship between government and the third sector since the 1990s. While many governments now work to support the efforts of civil society, there are also cases of strained relationships in many countries due to mistrust, struggles for power and funding, and other various reasons. When considering the relationship between nongovernmental organizations (NGOs) or faith-based organizations (FBOs) and state governments, the connection between the two entities has been characterized throughout the literature in two general terms, as either cooperative or conflictual. The relationship between a state government and an NGO or FBO can be considered cooperative if the policies of the NGO reflect the policies of the state, and if the state seeks to expand the work and policy initiatives of the NGO (Campbell 6). The relationship can also be considered cooperative if the registration process provides no significant barriers to the commencement of NGO work and limited oversight is required for the duration of operations. Additionally, state government and NGO relations can be characterized as cooperative if there is no limit to the number of NGOs that can operate within the state, and to an even greater extent, are offered tax breaks or exemptions through domestic legislation or policies (Campbell 6).

On the other hand, relations between the government of a state and NGOs that operate within may be defined as conflictual when NGOs promote policies in opposition to those of the government, or when NGOs consider themselves to be advocacy groups that directly contest the actions and policies of the government. The relationship may also be considered conflictual if the state and NGOs compete for resources from foreign donor states, and if the government attempts to limit the number of NGOs entering the state either by capping at a certain number or by making the registration process slow or complicated and the oversight arduous. Arnove and Christina write that “negotiation for power, finances, and control over the nature and extent of programming, as well as the amount of regulation to be applied to NGO activities by the state, is contentious” (Arnove & Christina 48). Conflict and suspicion may also arise if the government structure itself is so weak that “in development work, NGOs...bypass state institutions, establishing ‘parallel’ structures for implementation of projects” (Campbell 9). If NGOs replace the state as the primary social services provider, undermine the legitimacy of the state as a main promoter of development, and receive the majority of development aid, conflict between the state and NGOs will be more likely to develop (Campbell 3). According to John Clark’s model, with three structures of government—liberal democracy, single-party state, and dictatorship—cooperation between NGOs and states decreases as democracy diminishes. In states with weak government structures, NGOs will also create shadow governments or parallel institutions to implement change, in addition to receiving the majority of development aid. Rather than building the institutional capacity of the state, NGOs undermine it by creating these new institutions, again creating more conflict (Campbell 9). States and NGOs may also conflict when the state is in a period of

transition; while they may cooperate if the state is leaning toward becoming more liberal or democratic, the transition period also presents a time for conflict as the state and NGOs fight for power as a leader of civil society, especially when the progress of the transition is unsteady and conflictual (Campbell 10). Relations between NGOs and the state will be more competitive when specific policy documents are created, similar to a policy document in Ethiopia that placed stipulations on the operations of NGOs (Campbell 15).

In order to better study these relationships, this research will focus on a model that can be used in forecasting when states and NGOs will either cooperate or conflict. The literature review and methodology for this study is provided below.

### ***Research Questions and Literature Review***

Categorizing relationships between state governments and NGOs as cooperative or conflictual prompts certain questions. What factors contribute to government and NGO cooperation or conflict? When are these entities most likely to cooperate or conflict? Do domestic political structures, including the type of government, leadership policies, and the environment of civil society drive the nature of the relationship? Do external factors, such as international agreements and the promise of foreign funding play a role? Do these relationships change over time due to political policy changes and NGO policy changes or do they remain stagnant? Iain Attack writes that, “NGOs and the state can be complementary rather than contradictory agents of development, understood as beneficial social and economic change” (Attack 855).

One of the internal factors that may have an effect on the relationship between governments and NGOs is government leadership. Uschi Bay writes of the relationship

between NGOs and the Australian government under Prime Minister John Howard in the late 1990s and early 2000s. Bay notes that before Howard's government, NGOs focused on advocacy and aiding marginalized groups in society were formerly consulted by the government regarding policy and legislative matters. However, with Howard's conservative policy of mainstreaming government, NGOs were forced to consolidate, which weakened their ability to advocate for specific issues. Twenty NGOs which were previously funded and consulted by the government were defunded between 2000 and 2002. In 1999, many women's NGOs were disinvited to roundtable discussions where their research and input could have been considered in policy deliberations (Bay 46-47). The policy of government mainstreaming "shifted power to the Howard government and delimited the capacity of NGOs to lobby on the part of marginalized groups" (Bay 48). The Howard government provides a case where government leadership policies conflicted with the efforts of NGOs, and did not foster a cooperative relationship with NGOs during that administration.

An important aspect in understanding the role of NGOs is to identify the level of engagement or involvement within a state, and the type of services they provide. David Korten identifies "three distinctive orientations in programming strategy: (a) relief and welfare; (b) local self-reliance; and (c) sustainable systems development" (Korten 147). In regard to education service delivery by NGOs, under Korten's NGO service levels, providing primary or basic education can potentially fall between any of the three. Korten describes the first level of relief and welfare as being in response to immediate needs or emergencies, with the second level focused on sustainability and where "NGO activities parallel those of the government, but are defended on the grounds that the

government services are inadequate in the villages in which the NGO works” (Korten 148). The third level is distinguished from the second in that the strategies employed by NGOs reach beyond the local government by recognizing that sustainability may only occur when the goals are shared on a broader, and even national, level. At this level, Korten writes that NGOs attempt to engage the private sector and to influence national policies that impact the local arena (149). Parallel to Korten’s first level, United Nations (UN) agencies at the World Education Forum in 2000 identified the need for more coordination with NGOs to provide basic education services during emergency situations (Dakar 19). However, for the purposes of this study, the NGO level will likely focus on the second and third, especially in discussing organizations which aim to provide long-term impact and sustainability in services, such as education and healthcare.

In addressing NGO legitimacy and representation, Atack writes that where state governments have the ability to represent and serve the entire population on any given issue, NGOs typically cater to a particular service need or underserved population. However, Atack notes the work of Roger Charleton, who argues that “ODA [official development assistance] funding trends prioritizing NGOs encourage them to replicate state institutions and behavior, and weaken their links with those parts of civil society they claim to represent” (Atack 859). A similar concern is expressed by Ramya Ramanath, who acknowledges the recent trend topic known as isomorphism. With increasing pressure by the international community on NGOs to interact in a more cooperative manner with state governments, NGOs begin to mirror the structure and policies of each other and of the state (isomorphism) (Ramanath 51-52). As a result, NGOs begin to have less ability to be creative in their problem solving, and the variety of

NGO approaches becomes limited (Ramanath 52). However, Ramanath asserts that when looking more closely, isomorphism is not as evident as claimed by other scholars. The author argues that this phenomenon is actually dependent on the nature of the NGO itself and its environment, including the resources available (Ramanath 53).

In terms of legitimacy, when NGOs begin acting in a way in which they conform to state expectations in order to foster cooperation with the state government (isomorphism), or when they begin receiving funding from the government, Atack argues that the legitimacy of the NGO can be called into question. He writes that “increased state funding may undermine the legitimacy of NGOs as agents of development, if it weakens their ‘downward accountability’ to their beneficiaries or constituents, because of the increased claims of ‘upward accountability’ to their funders or donors” (Atack 859). While generally assuming cooperation to be beneficial, in this case, cooperation between an NGO and a state government could be considered a liability to the NGO’s legitimacy with the citizens it serves on a daily basis. On the other hand, Atack also writes that conflict or competition between the state and NGOs, while generally assumed to hinder service delivery, can be beneficial, “if it ultimately enhances the ability of communities to participate in or control the development decision-making process, whether through local government or indigenous organizations” (Atack 864).

Within the topic of NGO and state relations, many scholars assume different positions on why either cooperative or conflictual relationships work better than the other. Some authors assume that cooperative relationships are the norm while conflictual relationships are not, or vice versa. There is also an assumption that authors hold regarding whether governments or NGOs should carry the heaviest burden of

responsibility for services. These assumptions vary by author. For example, Robert Arnove and Rachel Christina write in favor of cooperation, with the majority of the responsibility lying with the government, citing that the duality of efforts between the state and NGOs will produce better results when the state remains in control (46). They argue that “the obverse of strengthening the civil sector is the dismantling of the role of the state in providing basic education and health services. We argue that the state cannot be replaced, and that there are certain indispensable things that it must do” (Arnove & Christina 46).

Despite the concerns of Arnove and Christina, since the late 1980s and early 1990s, the number of NGOs within the international community has increased dramatically. According to Rita Jalali, “between 15% and 20% of total overseas development aid is now channeled through NGOs” (Jalali 163). She argues that with the rise of the third, or non-profit, sector, the strength of the capabilities of governments and the confidence in government systems has been in decline, and that “transnational organizations now shape the agendas and behavior of states in many different areas—in the field of education, rules of war, population policy...policies for women’s equality, and environmental issues” (Jalali 163). However, Jalali further argues, that government structure itself, through a state’s legislative power, has the ability to constrain or enhance the work of NGOs within that state (164-165).

Mikako Nishimuko provides evidence on the role that NGOs may have on services, such as access to education within the international community. The role that NGOs and FBOs have within the international community include “(1) cost effectively helping to expand access to, and effectively delivering, tangible services such as health

and education to the vulnerable; ... (3) engendering people-centered social development processes; [and] (4) gaining ‘leverage on national and international policies that condition progress towards social development goals’” (Nishimuko 283). Nishimuko writes that the work of FBOs and NGOs within Sierra Leone has complemented the work of the government in providing access to education rather than created an environment of competition. The author notes how Sierra Leone, as a post-conflict state, remains heavily reliant on foreign donors for service delivery where it does not have the capacity to provide, specifically in the field of education (Nishimuko 281-282). Nishimuko posits how NGOs become more influential in development when the state government structure and capabilities are weak. In situations where governments are weak, NGOs may act as mediators between donors and populations in need, and they tend to have the ability to fill service delivery needs due to their propensity to be cost-effective, inclusive of local participation, and they have the ability to reach poor and rural populations that the government does not have the resources for (Nishimuko 283).

However, some authors argue that NGOs and states can be mired in conflictual relationships. Yolande Miller-Grandvaux argues that tensions between NGOs and the state government will occur when NGOs and the government have conflicting views about each other’s roles, especially in “differing government and NGO assumptions about what their rights and responsibilities are...[and] differing notions of one another’s capacity to provide adequate educational services” (Miller-Grandvaux 6). Ian Gary also argues that states and NGOs will be more conflictual as foreign donors continue to funnel more aid to NGOs, which increases the power of the NGOs while limiting the power of the state (154).

In addition to internal or domestic factors affecting NGO and state relationships, there are also external or global influences that may play a part in how these relationships develop. According to Marie von Engelhardt, the Millennium Development Goals (MDGs) are the world's collective checklist for achieving development. She argues that "by setting out a comprehensive vision for development, they [the international community] initiated a decade of development activism that brought unprecedented attention to the fight against poverty as a responsibility of both developed and developing countries" (von Engelhardt 1132). She writes that the collective effort of the international community to create concrete goals for development is slowly becoming not only collective achievements, but responsibilities nearly mirroring international law, as the commitments continue to be cited and reaffirmed at various international conferences (von Engelhardt 1134). It is possible that with this recognition for MDGs as common goals for each country, state governments will be more apt to cooperate with NGOs in meeting these goals. This also prompts an additional question about whether or not international, or external, pressures have an effect on the behavior of a state government toward NGOs. Do states categorized as Free by Freedom House tend to respond to the expectations of the international community (more so than Partly Free or Not Free states) in dealing with common goals through the NGO sector?

The second Millennium Development Goal, Education for All (EFA), aims to achieve universal primary education by the year 2015. The proposed deadline is swiftly approaching, and while efforts to attain the goal are on-going, it is unlikely that the goal will be met, as with the seven other Millennium Development Goals. Andreas Hipple and Jean Duff argue that approximately seventy-seven million children are still not

receiving access to education, let alone adequate or quality instruction (Hipple and Duff 368). They posit that for the goal of attaining universal primary education, perceptions about education for girls must change. The authors write that governments with weak or limited institutional capabilities are unlikely to reach the majority of the population in order to change perceptions about including girls in attaining universal primary education (Hipple and Duff 370). Do states with weak institutional capacity tend to cooperate with NGOs to achieve their universal primary education, or is it more likely that a state will strive to meet the goal alone? Do the expectations of the global community (meeting the MDGs or other development agreements) have an influence on NGO-state relations?

### ***Research Design***

Campbell proposes a systematic way of determining whether or not a state will cooperate with NGOs. He argues that a liberal democracy will be the most likely to cooperate with an NGO when the purpose of the NGO is to provide for the general welfare of its citizens. The least likely situation for cooperation is where an NGO is operating to promote human rights or advocacy causes within a military dictatorship. Between the categorization of a liberal democracy and a military dictatorship is the single-party state, where NGOs providing welfare services will be most likely to encounter cooperation with the state, though not as much as an NGO operating within a liberal democracy (Campbell 5). The full model is provided in Table 1.1 below:

**Table 1.1: Campbell’s Proposed Types of NGO-State Relations (Campbell 5)**

Regime Type/NGO Function	Liberal Democracy	Single-Party State	Military Dictatorship
Welfare Provision	++	+	0
Grassroots Development	+	0	-
Advocacy/Human Rights	0	-	--

From this model, Campbell tests his theory through a well-developed single case study, Ethiopia. He writes on two specific time periods where he argues the changing of internal political structure affected the relations between the government and NGOs. However, with Ethiopia not making a full transition to liberal democracy, the relationship is still categorized as conflictual or competitive (Campbell 15). For the purposes of this research study, Campbell’s model will be used as a baseline for hypothesis testing, though this study will instead categorize states by their Freedom House rankings rather than the structure of government for each country in the comparison. This study tests John Clark’s model of categorizing conflictual or cooperative relationships between NGOs and state governments, where democracies will be more likely to cooperate because “in theory, NGOs are welcomed as an integral part of civil society and provoke little hostility to government” (Campbell 4).

Rather than attempting to define the stages or degrees of democracy (or authoritarianism) and compare states through their structure of government, this study will use Freedom House categorizations (Free, Partly Free, and Not Free) to assess whether Free states are more likely to cooperate with NGOs. This categorization will

assume that where the government structure of a state is a democracy, the Freedom House ranking will likely coincide as Free, and where the government structure is a dictatorship or a single-party state, the Freedom House ranking will likely coincide as Partly Free or Not Free. The categorization in this study will be more focused on the ranking itself than the label of a government's structure, though the nature of the government structure, leadership policies, and the civil society environment will be taken into account in each of the studies when determining what factors drive the nature of NGO-state relationships.

There are a few limitations to the assumption that Free states will act in the same manner as the liberal democracies of John Clark's model, as well as to utilizing Freedom House as the unit of measurement between the case studies for this research. To develop rankings for states each year, Freedom House utilizes a methodology based on survey questions regarding political rights and civil liberties. The subcategories of the questions for political rights include the electoral process, political pluralism and participation, and the functioning of government. The subcategories of the questions for civil liberties include freedom of expression and belief, associational and organizational rights, rule of law, and personal autonomy and individual rights (Methodology 1). Rather than evaluating the government itself, Freedom House focuses on the level of individual freedom citizens experience within their state, and assumes that people will experience the most freedom in liberal democracies (Methodology 1).

However, David Armstrong expresses the limitations of utilizing Freedom House as a measurement for regime type. He argues that while Freedom House attempts to be uniform in its ranking system, in some cases, states that are ranked the same are actually

substantially different, and states that are ranked differently are actually similar (Armstrong 653-654). Also, he notes that “the numerical ratings are debated by a number of individuals and the final numbers provided for each country are...a result of considerable debate and compromise” (Armstrong 661). At the same time, Diego Giannone writes that there are limitations to relying on Freedom House due to “the lack of specificity and rigorousness in construction, and to the inadequate level of transparency and replicability of the scales” (Giannone 69). Giannone also notes that changes in the measurement criteria by Freedom House in the past makes it difficult to compare cases over time (69). Despite these concerns, the Freedom House measurements will be used in this study as guiding criteria for what to expect from states with regard to their NGO relationships. Changes in status for each case study from year to year will be noted. The model used in this study is presented below in Table 1.2:

**Table 1.2: Proposed NGO-State Relations Model**

Freedom House Rank/NGO Function	Free	Partly Free	Not Free
Welfare Provision	++	+	0
Grassroots Development	+	0	-
Advocacy/Human Rights	0	-	--

While Campbell’s chart is logical, his argument only accounts for the case of Ethiopia. In order to further test his theory, the methodology for this study will be based on the structured, focused comparison method outlined by Alexander George and Andrew Bennett. They write that “the method is ‘structured’ in that the researcher writes general questions that reflect the research objective and that these questions are asked of

each case under study to guide and standardize data collection” (George & Bennett 67). By using the same research questions for each case study, this ensures that the researcher is producing a systematic comparison. They also explain that “the method is ‘focused’ in that it deals only with certain aspects of the historical cases examined” (George & Bennett 67). By comparing multiple cases rather than just one, the theories posited in a research study have the potential to be generalized and applicable to broader cases within the field of international relations (George & Bennett 67). George and Bennett go on to write that “the cases in a given study must all be instances, for example, of only one phenomenon” (George & Bennett 69). In this particular research study, the phenomenon will be state and NGO relationships. The main research question and narrower focus on the issue of state and NGO relations relates to the factors which influence their Freedom House rankings. Are Free states more likely to cooperate with NGOs, and are states with Partly Free or Not Free Freedom House statuses more likely to conflict or compete? Do states with stronger institutions both in government and the civil society sector cooperate more often with NGOs, or do states with weak institutions rely on NGOs to provide services? Several research questions guided the above literature review and will be used as part of the structured, focused comparison method in this study, in order to help generalize the results for future study reference. These questions from above include: What factors contribute to government and NGO cooperation or conflict? When are these entities most likely to cooperate or conflict? Do domestic political structures, such as leadership policies and the type of government have an influence, or does the environment of civil society drive the nature of the relationship? Do external factors, such as international agreements and the promise of foreign funding play a role? Do

these relationships change over time due to political policy changes and NGO policy changes or do they remain stagnant? Do particular leaders influence how the state interacts with NGOs? Each of these questions will be asked throughout each case presented.

### *Hypotheses*

Based on the literature presented, several hypotheses can be proposed as to when states and NGOs will foster a cooperative relationship, or when the relationship will be conflictual in regards to providing education services. First, the main hypothesis of this study will be based on the work of Campbell: Free states will generally be more inclusive of NGOs and uphold more cooperative relationships.

- H1: Free states are more likely to cooperate with NGOs.

On the flip side of the coin, Partly Free or Not Free states will be more apt to conflict or compete with NGOs. Based on the work of Nishimuko, a hypothesis is that in cases where government systems are weak, governments will be more willing to allow the work of NGOs in providing access to services where the government does not have the capacity to do so.

- H2: States with weak government structures are likely to have cooperative relationships with NGOs.

A hypothesis can be drawn from the work of Atack and Ramanath:

- H3: States and NGOs will be more cooperative when NGOs attempt to mirror the position of the state in order to obtain a wider scale of influence.

As posited by Miller-Grandvaux:

- H4: Governments and NGOs will conflict when their assumptions about each other's responsibilities and abilities do not match.

Additionally, a hypothesis may be inferred based on the work of von Engelhardt:

- H5: As the Millennium Development Goals are continuously legitimized and even seen as international agreements mirroring international law, state governments will strive to improve their welfare services through cooperation with NGOs, meaning that external factors also have a role in NGO-state relations.

Finally, a hypothesis can be conjured on the basis of Bay's work:

- H6: Leadership and administration policies may determine whether the government has a relationship of cooperation or conflict with NGOs, more so than the structure of government.

### ***Determining Cooperation vs. Conflict***

The nature of the study will be outlined in two steps. The first will be to test each selected case study as to whether or not the state government has a cooperative or conflictual relationship with NGOs. The second step will be to study each case through the structured, focused comparison method in an attempt to answer the research questions posed with regards to the government structure, leadership, and civil society, and the role it may play in state and NGO relations. In order to determine the nature of the relationship within the first step, several measurements or indicators have been developed which will help to describe whether the relationship is cooperative or not. For the purposes of this study, each case study will be categorized on the basis of the following measurements, and will need to meet three of the five measurements to be solidly categorized. These measurements include:

### ***Measures of Cooperation***

1. State has created at least one government-led agency or institution specifically for the purpose of aiding or promoting the growth of the NGO community.
2. State has adopted official policy of cooperation with NGOs (identified through legislation or in public speeches).
3. State supports the channeling of funds to NGOs, either indirectly by providing tax breaks or by placing no legislative restrictions on foreign aid directed to NGOs.
4. NGO mission, goals, and policies mirror the policies and strategies of the state, where the NGO specifically works to complement and uphold the legitimacy of the government.
5. State does not limit number of NGOs entering the country or the number of NGOs allowed to register for NGO/non-profit status.

### ***Measures of Conflict***

1. NGOs have created parallel government structures necessary to implement third-sector programs when the state government is unable to provide these institutions and prevent NGOs from taking this action.
2. State has created government-organized NGOs (GONGOs) to obtain funding and prevent legitimate NGOs from gaining these resources.
3. State and NGOs compete for foreign aid; State officially restricts amount of funding to NGOs through legislation.
4. State has passed legislation hindering efforts and restricting purview of NGOs (human rights, contentious political issues, etc.).

5. State requires NGOs to not only register with the government, but allow strict government monitoring of activities or intervention (cases of harassment by government officials have occurred).

### *Case Studies*

In all, six case studies of geographically dispersed developing countries will be examined. The Freedom House status of each from the years 1991 to 2011 has been recorded, and is used to determine the most common status for each case study. From these most common statuses, states will be recognized as Free, Partly Free, or Not Free, depending on the majority designation throughout the twenty-one years focused on in this study (rather than the present ranking given by Freedom House for the year 2011). Two of the case studies have been given a Not Free ranking based on this process, two have been categorized as Partly Free, and two have been given a Free ranking. In order to obtain results that can be generalized, these case studies were selected based on dispersed geography and Freedom House rankings. For the years 1991 through 2011, Azerbaijan and Vietnam have each been categorized as Not Free, with Azerbaijan receiving a Not Free ranking thirteen of the twenty-one years and Vietnam receiving a Not Free ranking in all twenty-one years. Ethiopia and Sierra Leone have been categorized as Partly Free for the purposes of this study, with Ethiopia ranked Partly Free seventeen of the twenty-one years and Sierra Leone ranked Partly Free sixteen of the twenty-one years. Bolivia is categorized as Free, where it received the status eleven of twenty-one years. Finally, India is also categorized as Free, having received the status fourteen of the twenty-one years under examination. Three states in this study have been identified by Freedom

House as electoral democracies: Bolivia, India, and Sierra Leone (Puddington 14-18).

The categorizations for this study are illustrated in Table 1.3 below:

**Table 1.3: Case Studies: Majority Freedom House Rankings 1991-2011**

<b>Free</b>	<b>Partly Free</b>	<b>Not Free</b>
Bolivia (11 of 21)*	Ethiopia (17 of 21)	Azerbaijan (13 of 21)
India (14 of 21)*	Sierra Leone (16 of 21)*	Vietnam (21 of 21)

\*Identified as an electoral democracy by Freedom House

**Source:** Table compiled based on data by Freedom House for the years 1991-2011

Based on the hypotheses presented and preliminary research on these case studies, initial categorizations as to whether each state has a cooperative or conflictual relationship with the NGOs operating inside their borders can be estimated before testing in later chapters. However, these initial categorizations will be thoroughly tested in the chapters to come and certainly may change as more structured research is conducted. While some of these initial categorizations seem to agree with the main hypothesis of Campbell's theory, as well as the hypotheses for this research study, as outlined above, some of these categorizations do not fit the expectations of Free states being more cooperative. For example, Azerbaijan, which is ranked as Not Free, adopted a Law on NGOs in 2000 and adopted the "Concept on State Support to NGOs in the Republic of Azerbaijan" (Aslanov, et al. 20-21) in 2007. These documents have officially made cooperation with NGOs state policy (Aslanov, et al. 20-21).

India also seems to initially not fit the model, where under the Foreign Contributions Regulation Act, the government uses its legislative power to limit the impact of NGOs by restricting the flow of foreign funding (Jalali 164-165). Domestic politics and legislation determine how much of an influence NGOs can have on the state,

especially in “high politics” (Jalali 166) areas. In India, the government exercises its power to decide who can receive funds, who can donate funds, and restricts funds depending on the intended purpose (Jalali 168). “The fact that NGOs have to register under the Ministry of Home Affairs (which among its other responsibilities oversees internal law and order and security issues) rather than ministries concerned with development indicates that from the perspective of state authorities NGOs are treated on par with terrorists, fundamentalist, and other political bodies receiving foreign funds” (Jalali 172). With the Freedom House majority status for India as Free and its categorization as an electoral democracy, this initial research shows that India may not be cooperative with NGOs, which goes against the first hypothesis of this study (Puddington 15).

On the other hand, initial research shows that Sierra Leone may be cooperative as an electoral democracy with a Freedom House status of Partly Free for the majority of years under examination (Puddington 17). According to Nishimuko, NGOs, FBOs, and the state worked cooperatively to provide education after the war between 1991-2002. Nishimuko claims that, especially in post-conflict states, NGOs will work with the government to support capacity-building efforts (283). Sierra Leone implemented policies to achieve universal primary education, Education for All, and the MDGs, and is still actively working toward these goals. Education NGOs share similar missions and seek to fill the gaps where the government cannot provide support (Nishimuko 285). Bolivia may also be deemed a state that cooperates with NGOs, as it has a high level of NGO activity (Boulding 460).

Vietnam, however, may be considered as having a conflictual relationship with NGOs, as one author makes note of how dictatorships often co-opt NGOs or exclude them from participation within their state. While Vietnam is a single-party state rather than a dictatorship, he writes that Vietnam has applied the co-optation strategy since 1986 by attempting to include government resources and personnel in an attempt to control any activities (Heurlin 222). Each of these case studies will be studied in a more in-depth manner and will be tested to match whether or not these initial categorizations will hold true after finding evidence of cooperation or conflict based on the previously mentioned measurements. While the primary hypothesis of this study predicts that Free states are more apt to cooperate with NGOs than states categorized as Not Free, several of these initial categorizations do not align with this expectation.

### ***Independent vs. Dependent Variables***

The independent variables in this proposed study, in general terms, will include the Freedom House rankings, as well as factors that influence the Freedom House rankings, including structure of government, leadership policies, and the civil society environment. An additional independent variable is the adherence to international agreements, such as the MDGs. The structure of government will be defined by the type of government identified by the CIA World Factbook for each case study. The civil society environment will be measured in terms of the rank it receives from Freedom House. Leadership policies and legislation that influence NGO activity, to the extent that they exist, will be measured in terms of policy documents or public speeches, if available. Adherence to the MDGs may be measured by UN-affiliated or other documents acknowledging a state's commitment to making MDG progress and the annual

advancements made by relevant case studies. These variables can influence the legislation that is formed within the state regarding NGO operations and the structure and strength of the state's system of welfare services, which in turn will influence the type of services NGOs will aim to provide. The dependent variable in each case study is the nature of the relationship between state governments and NGOs, and is defined by meeting three out of five of the indicators in the measures of cooperation and conflict section outlined above.

### ***Scope and Limitations***

The scope of this study will span from the year 1991 through 2011. The case studies have been chosen based on the Freedom House statuses from the year 1991 to 2011, and their rankings will be recorded from every year starting with 1991 in order to determine if a state's Free, Partly Free, or Not Free rankings and their political rights and civil liberties scores correspond with the state's relationship with NGOs over the span of twenty years. This time frame will hopefully account for the increase in the creation of NGOs in the 1990s and their relationship with states after the establishment of the UN Millennium Development Goals in 2000. This study will only account for policies, speeches, and legislation passed regarding NGOs between these years. In addressing limitations of this study, one may be regarding the legitimacy of NGOs. It may be possible that a state cooperates with what it considers a legitimate NGO, but has more conflictual relationships with those that it sees as less than reputable. This may create a scenario that does not fit the model presented (where a state both conflicts and cooperates with NGOs), though this will be accounted for if the research shows a situation like this to be true. Additionally, as previously mentioned, there are several limitations that

accompany the use of Freedom House rankings. However, the changes in status for each case study from year to year will be taken into consideration, and may provide additional insight as to how Free, Partly Free, and Not Free states interact with NGOs. While the focus of this study will be on the differences between case studies, it is possible that a change in status for an individual case study over time will influence how it interacts with NGOs.

Finally, a third categorization aside from cooperation and conflict may explain the nature of state and NGO relationships, but does not necessarily fit in the model presented. This categorization, cooptation, occurs when the government and NGOs seem to work cooperatively, when in fact, this cooperation drains the NGO of its resources and limits its legitimacy as a representative of “grassroots groups and their members” (Arnove & Christina 46). If this type of relationship seems evident between states and NGOs in any of the case studies after research has been conducted, it will be noted; however, it will be a relationship that exists outside of the model presented.

## CHAPTER 2

### *Free State-NGO Relationships: Likely Cooperation?*

According to the model being used for this study, states ranked as Free by Freedom House should be more apt to cooperate with non-governmental organizations (NGOs) than those ranked as Partly Free or Not Free. At the same time, they should be the most cooperative with NGOs promoting general welfare or emergency services, followed by NGOs supporting sustainable development, and finally NGOs advocating for particular underrepresented groups or human rights issues. In order to test this hypothesis, two case states have been identified as having received a Free status from Freedom House for the majority of the twenty-one years between 1991 and 2011, and will serve as two of the six case studies for the structured, focused comparison that is this study. These two cases are Bolivia and India. The first step in analyzing these case studies is to determine whether or not each cooperates or conflicts with NGOs based on the measurements of cooperation and conflict outlined in Chapter 1. The second step will be to answer the questions proposed for the structured, focused comparison. These questions will remain the same for each case study in this chapter and the chapters following in an attempt to provide standardized data collection and the ability to generalize for broader future studies. These questions include:

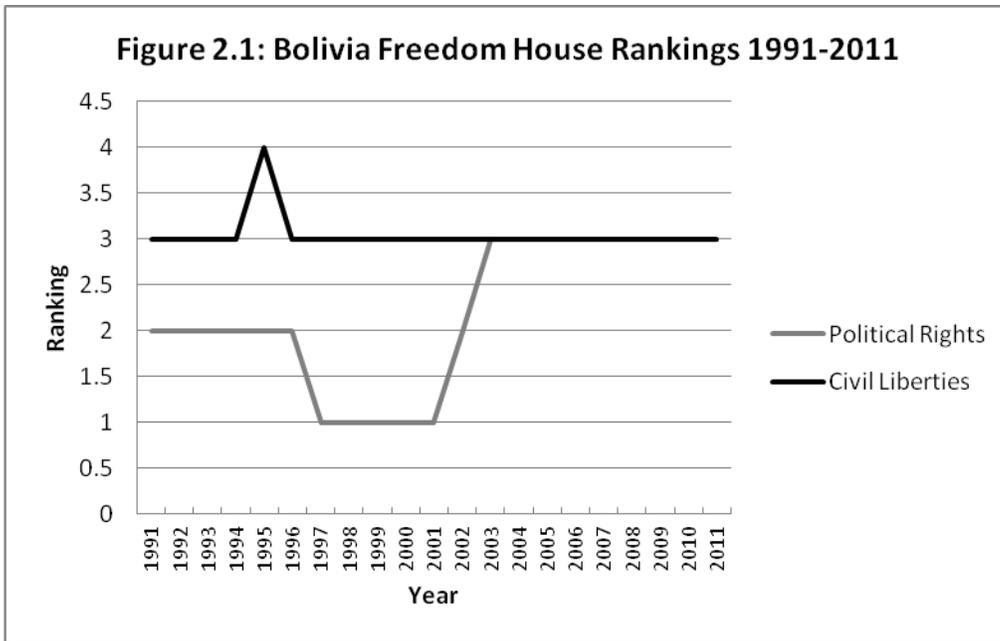
1. What factors contribute to government and NGO cooperation or conflict?
2. When are these entities most likely to cooperate or conflict?

3. Do domestic political structures, such as leadership policies and the type of government have an influence, or does the environment of civil society drive the nature of the relationship?
4. Do external factors, such as international agreements and the promise of foreign funding play a role?
5. Do these relationships change over time due to political policy changes and NGO policy changes or do they remain stagnant?
6. Do particular leaders influence how the state interacts with NGOs?

Once these questions are answered, conclusions can be reached on whether or not each case study aligns with the model adapted for this study.

### ***Bolivia***

Bolivia, the first of the cases to be studied, received the status of Free for eleven of the twenty-one years under examination. While Bolivia has been ranked Partly Free for the past nine years (2003-2011), the average political rights rank of all twenty-one years is 2.2 and the average civil liberties rank for the years 1991-2011 is three (Freedom House). With this case closely bordering a Partly Free status, it may be assumed that Bolivia will have a mostly cooperative rapport with NGOs, though there may be more issues of tension than a state with rankings of (1,1) for political rights and civil liberties. Bolivia's rankings are represented in Figure 2.1 below:



**Source:** Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

According to Ramiro Orias, Bolivia has adopted several laws and policies regarding civil society and the operation of NGOs within its borders. NGOs are permitted to operate in Bolivia under the Political Constitution of the State, Article 21 (4), which allows freedom of association, and are governed by provisions of the Civil Code, as well as Supreme Decree No. 22409, which established the NGO registry (Orias 1). Orias writes that under the Civil Code, NGOs are permitted to set their own missions and purposes, which means that the state allows the creation of NGOs without restrictions (1). Both domestic and foreign NGOs are permitted to operate, though several materials must be submitted for administrative purposes to have the organization’s legal personality recognized. This information includes the organization’s by-laws, which “must indicate its purpose, available assets, source of income, management mechanisms, requirements for the admission or exclusion of member’s rights and duties, and provisions for the dissolution of the institution” (Orias 2). Additionally, information about the founder’s occupation and residence and member approval of the by-laws must

be submitted. Before 1995, information had to be submitted to the central government and required the signature of the president. However, the Administrative Decentralization Law permitted Departmental Prefects to determine the legal personality of each organization seeking recognition, which helped to alleviate the burden of work previously required of the central government and expedited the process by eliminating the requirement of the president's signature (Orias 2). The Law of Popular Participation (LPP), passed in 1994, required that twenty percent of the national budget be distributed among Bolivia's 311 cities. The LPP also required that local organizations be more involved in making budgetary and local planning policy decisions (Kohl 153). In order to develop more participation at the local level, the LPP called for the establishment of five-year municipal development plans and annual operating plans. To help create these plans, NGOs provided technical assistance to local officials who did not have the technical writing skills to write their own (Kohl 156). Carew Boulding writes that, under these new reforms, NGOs held an important role in acting as "advisors to the local governments during the planning phase, assisting with organizing oversight organizations, and educating citizens about their rights to participate in the new processes" (Boulding 461). While the LPP was originally meant to create more efficient local governments, the success of this goal has been marginal, though local governments cooperating with NGOs have experienced more improvement and technical capacity to operate efficiently than municipalities that have not developed relationships with NGOs (Kohl 161).

Benjamin Kohl writes that this example of cooperation between NGOs and the government is just one instance in a string of collaborative efforts since the government

developed the Social Investment Fund (SIF) in 1990, which began distributing financial aid to NGOs in order to mitigate the effects of neoliberal structural adjustment policies (Kohl 156). The SIF was originally created as the Emergency Social Fund (FSE) in the late 1980s, which was a state agency that accepted proposals for development projects from both local governments and NGOs alike (Arellano-Lopez & Petras 563). The FSE was meant to operate as a three-year program, which turned into a four-year program, and eventually was institutionalized as the SIF (Arellano-Lopez 563). International donors channeled financial aid to the state through this fund (Arellano-Lopez & Petras 562). Once an NGO's project proposal was accepted, the NGO assumed administrative responsibility for the project and the funds it received from the state (Arellano-Lopez & Petras 563).

In addition to providing the state with access to and oversight of international funds, NGOs benefitted as well in a more professional sense, "in areas such as financial administration, proposal preparation, and improved ability to co-operate with state agencies" (Arellano-Lopez & Petras 564). While the FSE and the subsequent SIF were meant to ameliorate the effects of structural adjustment, there was actually more success experienced in providing NGOs and state agencies with a greater capacity to handle finances, administrate development projects, and reduce corruption and the misuse of international funds (Arellano-Lopez & Petras 565).

Once Departmental Prefects recognize a particular NGO as legal, information on the NGO is then filed with the Single National Registry of Nongovernmental Organizations under the Vice Ministry of Public Investment and Foreign Financing, which is overseen by the Ministry of Development Planning (Orias 2, 4). This ministry is

responsible for coordinating relationships between the government and NGOs with the help of other applicable or relevant ministries (Orias 4). However, Lesley Gill writes that, when the NGO registry was originally created in 1990 under President Jaime Paz Zamora, very few NGOs actually registered and argues that the creation of the registry was more of an attempt to regulate and control the behavior of NGOs than to provide the public with information on the NGOs. Even so, these attempts to control NGO behavior largely failed (Gill 152). Despite Gill's claim, Boulding writes that the registry has been updated and made available to the public five times since 1996 (at the time of his publishing in 2010). Information accounted for in the registry includes items such as the NGO's acronym and full name, "the country of origin, the department where the organization is registered...the date the NGO began activities, the date the registration was renewed, contact information, the sectors the organization is involved in, and the location of their work" (Boulding 461).

Foreign NGOs have additional administrative requirements to complete before they are allowed to begin operating. This includes signing a framework agreement with the Ministry of Foreign Affairs and Worship (Orias 2). However, before this takes place, the minister of the department related to the organization's work (such as health or education) must prepare a report "declaring the relevance of the proposed projects to the government's National Development Plan" (Orias 3). Orias goes on to write that the government "claims that this is to ensure that foreign cooperation and aid contribute to, and are aligned with, official State policy" (Orias 3). Once all information has been processed and approved, newly established NGOs may request tax exempt status (Orias 3-4).

NGOs must provide reports every three years on their activities, funds received, and proposed projects for the next three year period. However, NGOs granted tax exemptions must provide annual reports on their activities, as well as financial reports (Orias 4). Once operational, NGOs are able to participate in public policy debate, and NGOs are able to advocate or lobby for their special interests, as there is no law prohibiting advocacy. However, Orias notes that “groups face *de facto* limitations either because of a lack of awareness and information about the mechanisms for engaging in such activities in the various State structures, or because their requests are frequently ignored” (Orias 6).

Additionally, local government officials from several cities in Pando have restricted environmental NGOs from operating in the Amazon region if the organizations receive funding from the United States Agency for International Development (Orias 6). While these officials are enforcing these restrictions outside of the law and their jurisdictions, this is one instance of an increasing trend of limiting civil society’s right to participate and freedom of political expression and association (Orias 6). However, these efforts to hinder the work of NGOs are occurring at a local level, rather than at a national level. The state government does not limit the funding that NGOs are able receive from international donors, and have set up various funds for development projects that NGOs may take on (Orias 7).

### ***Measures of Cooperation and Conflict***

Based on the literature presented on the state of civil society and NGO law within Bolivia, it can be assumed that the Bolivian government and the NGOs operating in Bolivia experience a mostly cooperative relationship with each other, based on the

measures of cooperation presented in Chapter 1. The case of Bolivia meets at least three of the five measures discussed that encompass a cooperative relationship between the state and NGOs. First, while the Ministry of Development Planning was not specifically created to support the NGO community, it has been since charged with fostering relationships between NGOs and the government by coordinating with state agencies (such as health or education) to reach NGOs that are relevant to their missions (Orias 4). Second, the state directly channels international funds to NGOs through the Social Investment Fund, effectively allowing NGOs to administer development projects on the state's behalf. The state also indirectly provides NGOs with financial aid in the form of tax exemptions as permitted by the tax administration (Orias 3).

While the Ministry of Foreign Affairs and Worship must determine that foreign NGOs are implementing projects consistent with the National Development Plan, NGOs have generally taken on the mission of providing social services where the state lacks the capacity (which have been funded through agencies such as the SIF in the past). This has been especially true after the reinstatement of democracy, whereas NGOs previously worked with grassroots organizations to advocate for democracy (which was contrary to the political policies and mission of the formerly authoritarian state) (Orias 2, Gill 148). Finally, the Civil Code does not limit the number NGOs permitted to operate in Bolivia, even though they are required to obtain legal recognition and file information with the national NGO registry (Orias 4).

### ***Transition to Democracy***

Writing in 1997, Lesley Gill posits that, in the 1980s and 1990s, NGOs gained heavier responsibility for poverty alleviation and other issues as the state began to

retrench and transition to a more decentralized and neoliberal structure (147). Under years of military dictatorship, Gill writes that NGOs and the government of Bolivia maintained a conflictual relationship, as NGOs advocated for democracy, especially under General Hugo Banzer's dictatorship between 1971 and 1978. In the period between 1960 and 1980, only one hundred NGOs were operating in Bolivia, as compared to approximately four hundred in the period between 1980 and 1992. By the end of 1990s, the number of NGOs estimated to have been operating in Bolivia is over one thousand (Kohl 157). With the state's transition to more liberal and a more democratic structure of government, the relationship between NGOs and the state also transitioned to a more cooperative rapport (Gill 147). The author writes that "with the return of democracy, NGOs that were once the determined adversaries of the state began to cooperate with it, even as new tensions emerged" (Gill 148). These tensions emerged not between the state and NGOs, but between older, established NGOs and NGOs that began to proliferate under the new political conditions. These old and new organizations started to compete for the increased international funding that began to funnel into Bolivia with the political transition (Gill 148).

The new cooperative relationships between the state and NGOs emerged in part due to a global transition to neoliberal policies, as well as structural adjustment reforms. Sonia Arellano-Lopez and James Petras write that this growing cooperation between NGOs and the state were a result of the reinstatement of democracy, as NGOs previously worked against the authoritarian political structure. They argue that cooperation increased as NGOs began to provide welfare services and administrative development projects where the state lacked the capacity. NGOs also worked to alleviate the effects of

structural adjustment and the new economic system (Arellano-Lopez & Petras 555). They state that, “with the democratic opening, [NGOs] began to change their activities from providing support to grassroots organizations [advocating for democracy], to implementing development projects on behalf of government and international development agencies” (Arellano-Lopez & Petras 556). With the perception of NGOs’ ability to be more flexible, more technically skilled, and more connected to the poor than corrupt government, international donors increased funding to NGOs to help provide social services (Gill 149-150). By the 1990s, differences between old and new NGOs disappeared as they all strove to become more apolitical and professional, which was becoming more necessary, due to international donors’ attention shift to Eastern Europe and their apprehensiveness to contribute to organizations with certain political affiliations. NGOs fostered agreements with the state to provide social services in areas where the state could not provide support (Gill 151-152).

Even while cooperation between the state and NGOs continued to grow, some tension remained between officials in charge of state agencies that now had to compete with NGOs for international funding. During the presidency of Jaime Paz Zamora, the government administration discussed the possibility of taxing the foreign funds NGOs were receiving, though this idea was never put into practice. The administration did, however, create the NGO registry in an attempt to regulate the activities of NGOs. Gill writes that after Paz Zamora’s administration, cooperation once again continued to grow between the state and NGOs after a period of tension (152).

The tension experienced between NGOs and the state during Paz Zamora’s presidency seems to contradict the primary hypothesis of this study, as the state received

the status of Free by Freedom House during each year of his administration, from 1989 through 1993 (Freedom House, Gill 152). The fact that under the succeeding president, Gonzalo Sanchez de Lozada, whose state received the status of Partly Free from Freedom House for one year (1995) during his administration, “the central government and NGOs embarked on an unprecedented period of cooperation” (Gill 153). Personnel from the NGO sector were recruited to fill positions in the state government, particularly in the newly established Ministry of Human Development (Gill 153). The author writes that this exchange of personnel, NGOs’ willingness to follow a more neoliberal agenda, as well as both the government and NGOs attempts to appease international donors helped to foster a more cooperative relationship (Gill 153).

At the same time, Carew Boulding and Clark Gibson argue that NGOs may have either cooperative or conflictual relationships with local government officials, depending on the population of the jurisdiction. Based on their research study of Bolivian politics and NGOs, they find that in jurisdictions with smaller populations, NGOs have a greater influence in challenging the political status quo, meaning that newer political parties and individuals have the opportunity to challenge and win against entrenched, older authorities. In smaller municipalities, it is also more difficult for local politicians to take credit for the social services provided by NGOs, whereas in a larger jurisdiction, the population is less likely to know the true service provider (Boulding & Gibson 481). This threat to incumbent politicians may serve as a cause for strained relationships in smaller communities, but Boulding and Gibson write that politicians in larger cities have more opportunity to claim credit for the work of NGOs, which may lead to more cooperative relationships (Boulding & Gibson 487).

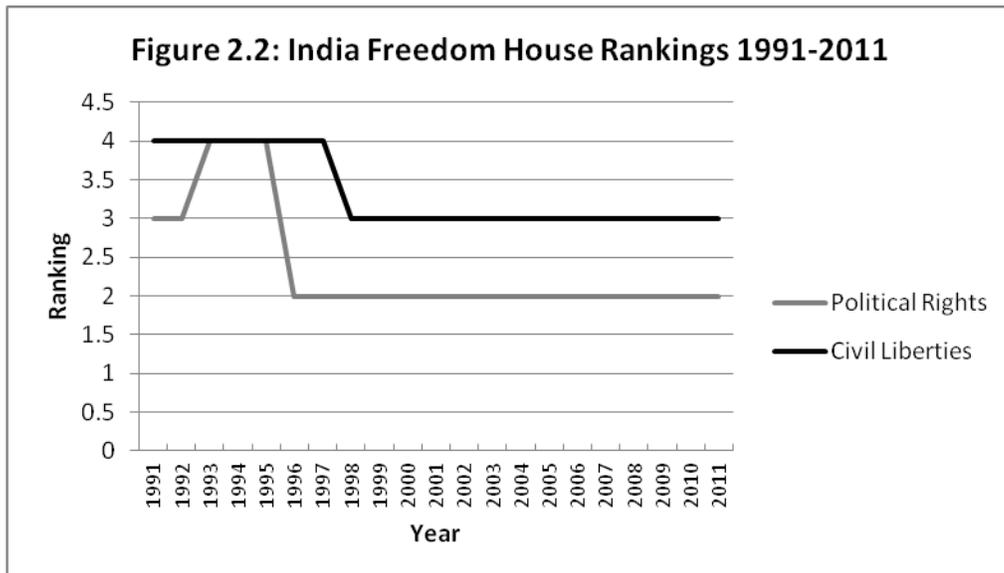
In addressing the questions of the structured, focused comparison design of this study, it can be assumed that, at least in this first case study of Bolivia, structure of government may have the most influence on whether or not NGOs and states cooperate or conflict. Until the reinstatement of democracy in 1982, the authoritarian government and NGOs had a more conflictual relationship, as NGOs cooperated with grassroots organizations to advocate for democracy. Once democracy was reinstated, NGOs shifted their missions to social services and development projects, and also provided relief from the following structural readjustment policies. While Bolivia's government moved toward decentralization with the adoption of the LPP, the state also let go of many of its social welfare responsibilities and allowed NGOs to carry this burden, as regional authorities did not have the technical capacity or funds to provide these services. This aligns with the hypothesis that states and NGOs will cooperate with each other when the state lacks the capacity to provide the services that NGOs do have the ability to support. External factors which may influence the relationship in the case of Bolivia include the worldwide shift to neoliberal policies and the subsequent funding from international donors in support of these policies. There is no evidence from the gathered research on Bolivia that the state and NGOs compete for foreign funding; rather, it fostered a cooperative relationship when foreign funds were channeled through the state's Social Investment Fund until its conclusion in 1995. The government had the discretion as to whether local governments or NGOs received these funds based on submitted project proposals.

However, the differences in administrative policies under Jaime Paz Zamora and Gonzalo Sanchez de Lozada seem to have contributed to cooperation and conflict as well.

Despite receiving the status of Free during his presidency, Paz Zamora brought tension to state-NGO relations with the discussion of taxing the funds NGOs received as well as the creation of the NGO registry. Gonzalo Sanchez, on the other hand, recruited NGO personnel to work for the government, which improved the relationship between government and NGOs and fostered more cooperative efforts.

**India**

The second case study for the states given the status of Free from Freedom House is India. India has been recognized as Free since 1998, meaning that India has been given this status for fourteen of the twenty-one years since 1991. The higher political rights and civil liberties rankings India received in the early- to mid-1990s pulls India’s average rankings closer to a Partly Free status, even though it has received a (2, 3) since 1998 (Freedom House). The average raises this ranking to a 2.4 for political rights and a 3.3 for civil liberties.



Source: Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

While India has been characterized as a Free, electoral democracy by Freedom House, Rita Jalali discusses how India has used legislative measures to limit the impact

of global civil society on Indian civil society. The author argues that “though democratic states allow greater access to transnational actors and are integrated into international society through treaty ramifications, they continue to remain powerful actors setting limits on transnational activities” (Jalali 164). States with democratic structures of government may allow NGOs more space to operate, but they may also claim national security concerns as grounds for prohibiting certain NGOs from working on the ground or for limiting international funding (Jalali 166). Even while India may be the largest democracy in the world, the government is more “statist” or centralized in structure than more liberal democracies such as the United States, particularly concerning issues of the economy and civil society (Jalali 168). Basrajit Ghosh finds that civil society organizations operate on two ends of a spectrum. The first end encompasses social services or cultural organizations, which operate on an apolitical level, while the second includes organizations which advocate for change in government. Even while organizations operate on different ends of this spectrum with widely different purposes, Ghosh argues that, collectively, they serve to challenge the political and economic structure of India (233).

Siddhartha Sen writes that, historically, the relationship between NGOs and the government of India has changed several times. During the period between India’s independence and the late 1950s, Sen discusses how India’s government and NGOs at the time, mainly religious and agricultural NGOs influenced by the work of Gandhi, fostered cooperative relationships. Since these NGOs operated for the purpose of serving the general welfare of society and did not dispute development policies of the state, cooperation grew (Sen 334).

However, more conflict and tension between NGOs and the state emerged in the 1960s and 1970s, as community-based organizations and Action Groups (also known as Non-Party Political Formations) began to criticize the government's development strategies and India's Five-Year Plans, which some leaders of Action Groups argued the benefits of the plans only reached the elites in society (Sen 337). Additionally, international donors began to advocate for empowerment strategies within the development projects of NGOs, which the state did not support (Sen 338). While the state still cooperated with NGOs providing social services, India began to place restrictions on international NGOs and foreign aid. The Asia Foundation, an NGO which obtained permission to operate a local office in India from the government, publicly admitted to being funded by the United States Central Intelligence Agency in 1967. This event later led to the government's creation of the Foreign Contribution Regulation Act (FCRA) of 1976, which will be discussed in greater detail below (Sen 338).

During the 1980s and 1990s, Sen writes that the relationship grew even more conflictual, with additional government measures of state control being implemented (Sen 340). One of the proposed policies in the 1980s that the government advocated was the establishment of National and State Councils, which would serve as umbrella agencies that NGOs would join and adhere to a common Code of Ethics. This proposal was never implemented due to strong opposition and lobbying efforts (Sen 342). The relationship between the state and NGOs in India has certainly varied over time, and many policies regarding NGOs and the voluntary sector have been adopted by the government.

With regard to civil society policies in India, all NGOs that seek state funding are required to register with the Indian government and all NGOs that receive foreign contributions must register with the government as well. NGOs may register under acts such as the “Societies Registration Act 1860, the Indian Trusts Act 1882, the Charitable and Religious Trusts Act 1920, or the non-profit clause under Section 25 of the Companies Act 1956” (Jalali 169). NGOs registered under the Societies Registration Act 1860 are required to wait for a period of three years before applying for their Foreign Contributions Certificate under the FCRA. This means that, unless the NGO has been able to obtain domestic funding, the organization must operate with limited funds for the duration of those three years, as FCRA status allows NGOs to gain foreign funding (Jakimow 555). The Companies Act 1956 allows the government to examine or oversee an organization’s activities (Jalali 169). As noted previously, under the FCRA, the government of India uses its legislative power to limit the impact of NGOs by restricting the flow of foreign funding (Jalali 164-165). In India, the government exercises its power to decide who can receive funds, who can donate funds, and restricts funds depending on the intended purpose (Jalali 168). While the FCRA, originally passed in 1976, determines whether certain international aid contributions may enter the state, it also requires all NGOs to report the nature of foreign funding that they receive (Jalali 167). However, Jalali notes that for the approximately 30,000 organizations that the government approved to receive foreign funding between 2004 and 2005, only 18,000 reported back to the government on the funding they received from foreign donors (167).

Domestic politics and legislation determine how much of an influence NGOs can have on the state, especially in “high politics” (Jalali 166) areas. These areas of concern

include minority populations, and for India, this includes Muslims living in the Kashmir region (Jalali 166). Despite the restrictions the state may place on foreign aid and NGO activities, civil society still holds a large space of its own, with the Indian Home Ministry reporting an approximate 1.2 million NGOs actively working within India's borders (Jalali 168). Ghosh notes that civil society in India has always been strong, with the culture of voluntarism and philanthropy rooted in the principles of Buddha and Gandhi, among others. In the past, the nature of NGOs operating within India includes social welfare, as well as development efforts (Ghosh 233-234).

Jalali writes that the number of NGOs receiving foreign funding in the twenty-year period between 1984 and 2004 has been increasing, but also argues that this influx of international aid does not necessarily elude the government's restrictions on civil society. "The fact that NGOs have to register under the Ministry of Home Affairs (which among its other responsibilities oversees internal law and order and security issues) rather than ministries concerned with development indicates that from the perspective of state authorities NGOs are treated on par with terrorists, fundamentalist, and other political bodies receiving foreign funds" (Jalali 172). NGOs are not allowed to publish news regarding public activities or make statements regarding public news. Political organizations are not permitted to accept foreign funding unless granted explicit permission from the government, which is an obstacle for NGOs promoting political activity and citizen participation that in any way that may criticize the government or view the government in a negative light (Jalali 173). Through these restrictions outlined in the original FCRA, India's government is given the right to pick and choose organizations that are allowed to receive international contributions and "control and

deny foreign funds to groups that engage in political activity that the state deems unfavorable” (Jalali 173).

Both the FCRA amendment in 1984 (which expanded the types of organizations the government could refuse foreign funding) and the Commission of Enquiry in 1981 were prompted by Indira Gandhi, who believed NGOs were misusing funds and engaging in corrupt activities. The Commission of Enquiry recommended both regulatory and punitive measures against NGOs found to be misusing funds or engaging in questionable activities. The Commission led to harassment of NGOs by the government, interference with their activities, and blocking aid (Sen 343). This led to a strained relationship between the government and NGOs by creating additional antagonism and mistrust between these entities (Jalali 173). Additionally, India revoked the availability of many tax exemptions for NGOs during this period with the passing of the Financial Act of 1983 (Sen 343).

However, during his time as Prime Minister, Rajiv Gandhi strove to improve these relationships and increase cooperation between the government and NGOs. For example, in the Seventh Five-Year Plan of 1986 to 1990, NGOs were recognized as having an important role in providing development projects to regions of rural India. NGOs were consulted in planning activities, and the government allocated 1.5 billion rupees for social welfare projects related to poverty alleviation. There have been some critics, however, who argue that the state’s definition of NGO in the plan was very narrow and only included organizations that promoted social welfare, rather than those that supported empowerment (Sen 343). Even so, the Eighth Five-Year Plan of 1992 to 1997 also increased cooperation between the state and NGOs (Ghosh 234). By 1994,

“the Planning Commission organized a meeting of over a hundred NGOs with government officials which drafted an ‘action plan’ to create a collaborative relationship between NGOs and the government” (Jalali 173).

By the late 1990s and early 2000s, the government and NGOs typically maintained at least somewhat cooperative relationships, with a few exceptions. This new cooperation can be attributed to the government’s decentralization efforts by left wing officials in the late 1990s (Thomas et al. 361). These cooperative relationships, however, may have been a result of NGOs pandering to the government in order to not be stripped of their FCRA registration. Ghosh warns that in gaining these closer ties to the government, as well as with their international donors, NGOs have less flexibility to serve their target populations in the best manner possible (239). On the other hand, several authors argue that the fear of an NGO becoming too closely tied with the state is misleading. Rather, “even in instances where ‘institutional pluralism’ has created prolonged conflicts, these have ultimately resulted in innovative institutional transformations and increased access of the poor to social resources” (Thomas, et al. 360). In instances of increased tensions, some organizations have accused the government of arbitrarily imposing the FCRA, and in 1999, the government issued warnings to various women’s NGOs for signing a political advertisement campaigning against the Bhartiya Janata Party (Jalali 174). Despite these tensions, the number of NGOs granted FCRA registration status nearly doubled and the amount of foreign contributions admitted into the state more than tripled between 1996 and 2006 (Ghosh 241). Between 2000 and 2009, the Council for Advancement of People’s Action and Rural Technology (CAPART), a government agency which provides financial resources

to local NGOs, increased its funding dramatically between 7,500 NGOs. This increase in funding to NGOs from the government is one of the explanations for the proliferation of these organizations, which had expanded to a number of 1.5 million (including unregistered NGOs) by 2008 (Ghosh 234).

Even as the relationship between NGOs and the government seemed to be improving, the government proposed an updated version of the FCRA, known as the Foreign Contributions (Management and Control) Bill 2005, which was eventually revised and passed as FCRA 2010 (FCRA 1). This updated version essentially restricts funding from international donors and NGO operations even further. New restrictions include the prohibition of NGOs operating in a “political nature” (Foreign 1). Any NGO deemed to be operating in a “political nature” by the government will no longer be able to obtain foreign funding. Additionally, any NGO found to be contributing information to any news media organization will have their status revoked. Furthermore, registration must now be renewed every five years, and new registration fees have been implemented. NGOs may also not spend more than half of the foreign funds they receive on administrative expenditures. These additional restrictions imposed by the FCRA 2010 were passed under the government’s claim that they are simply measures to enhance national security. However, as one human rights organization noted, “it is absurd to assume that the ‘anti-national’ or ‘separatist’ forces supposedly targeted by the FCRA would seek FCRA registration for their activities and then be caught as a result” (Foreign 1). The organization argues that instead of addressing national security concerns, the new restrictions impair the efforts of legitimate welfare and development organizations (Foreign 1).

The new provisions of the FCRA also seem to run counter to the government's National Policy on the Voluntary Sector, which was developed and published by the Planning Commission in 2007. The provisions in this policy document outline the government's "commitment to encourage, enable and empower an independent, creative and effective voluntary sector" (National 1). Most notably, the government includes in their realm of support organizations which are engaged in "political" issues, as well as social welfare and religious organizations (National 1). Additionally, the government supports their efforts to gain financial aid from foreign donors in order to carry out their activities (National 2). However, the policy document acknowledges that international funding plays only a small, though important, role in providing social services to the state's rural poor; at the same time, the Planning Commission also recognizes the stringent registry process and rules that must be abided by under the FCRA (National 5).

Furthermore, the Planning Commission supports cooperation between the government and the organizations that comprise the voluntary sector, as these organizations may have "alternative perspectives; committed expertise; an understanding of the local opportunities and constraints; and perhaps most importantly, the capacity to conduct a meaningful dialogue with communities, particularly those that are disadvantaged" (National 6). In order to foster more cooperation and coordination, the government, through this national policy document, promotes the creation of discussion forums between NGOs and all levels of government (National 6-7). The policy document recognizes that forums such as these would help to develop shared goals and mutual understanding and respect (National 7).

### *Measures of Cooperation and Conflict*

In attempting to determine whether or not India has a conflictual or cooperative relationship with the NGOs operating within its borders, it is safe to admit that India has experienced both. With regards to the measures of cooperation outlined in this study, India has adopted an official policy on cooperating with the voluntary sector (the National Policy on the Voluntary Sector of 2007). It has also supported the channeling of funds to NGOs, as it does allow foreign funding through the FCRA (though critiqued as arbitrarily), as well as through the CAPART, which the government established and funds. Together, these measures meet three of the five outlined in Chapter 1. At the same time, India's conflictual relationship with NGOs is notable, especially in the 1980s under the Commission of Enquiry, which led to harassment of NGOs and blockage of funds. Additionally, while the government has not completely restricted the purview of NGOs, its definition of NGOs only accounts for those serving public welfare rather than those advocating the empowerment of underserved populations. At the same time, it does limit NGO activity regarding mass communication under the newly adopted version of the FCRA in 2010. While these actions taken by the government match the measures of conflict (and the government has either officially adopted measures or came very close to adopting all five), not all match the timeframe of this study. If considering measures taken by the government from 1991 to 2011, its actions more closely align with the measures of cooperation, despite the revised FCRA adopted in 2010. In considering the structured, focused comparison questions, the structure of government has not necessarily played a role in how the government interacts with NGOs. Instead, the motivations of NGOs tend to provide a more prominent prediction in whether the state will cooperate, as

noted by several of the above authors. The government has had a consistent relationship record of cooperation with social welfare NGOs, but has responded with restrictive legislation regarding the more politically motivated NGOs.

## **CHAPTER 3**

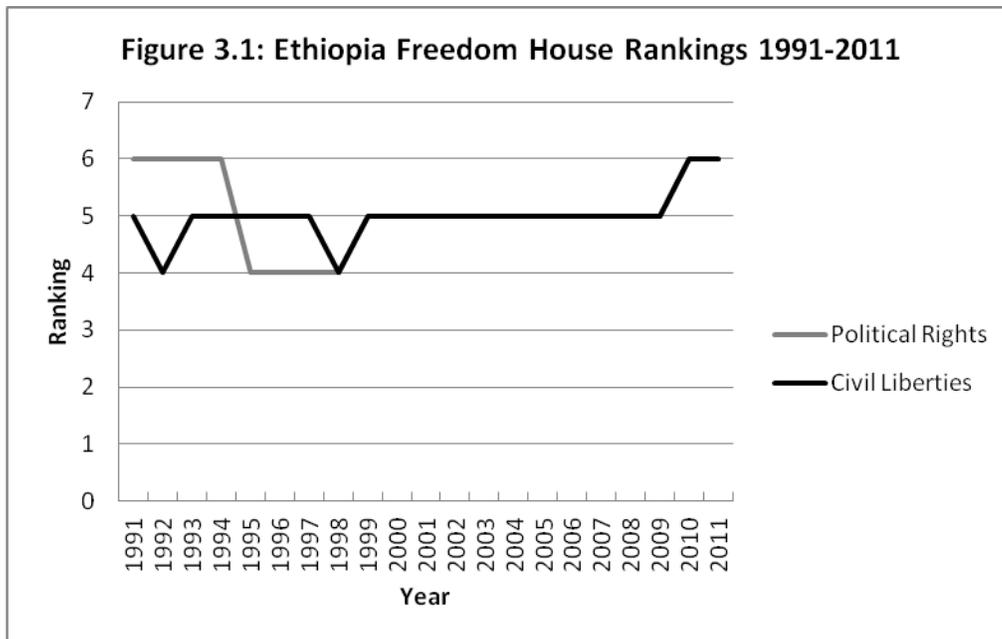
### ***Partly Free State-NGO Relationships: Mixed Results?***

Bearing in mind the varying degrees of cooperation between state government and non-governmental organizations (NGOs) within India and Bolivia over the past twenty-one years, as well as the model of this study, the following Partly Free case studies of Ethiopia and Sierra Leone may amount to more volatile NGO-government relationships. One might expect stricter NGO laws for Partly Free states as compared to the previous Free case studies of Bolivia and India as well. One distinction to make between Ethiopia and Sierra Leone concerning their Freedom House statuses and rankings is that, while Sierra Leone may have had an additional fifth year of being ranked Not Free over Ethiopia's four, the rankings Sierra Leone has received generally fall in the three to four range, while Ethiopia's rankings typically range between four and five for the years with Partly Free status (consistent fives for both political rights and civil liberties 1999-2009). Considering the hypothesis that Free states will more likely cooperate while states labeled Not Free will be less likely to cooperate, with the middle category of Partly Free, one may also expect a greater level of uncertainty regarding how states and NGOs will interact, given the various reasons a state may be deemed Partly Free by Freedom House.

#### ***Ethiopia***

Ethiopia has been ranked by Freedom House as Partly Free for seventeen of the twenty-one years since 1991, while it received Not Free statuses in 1993 and 1994, as

well as the most recent years of this study, in 2010 and 2011. Figure 3.1 tracks the political rights and civil liberties rankings of Ethiopia by year from 1991 to 2011 below.



Source: Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

The average political rights ranking for 1991 to 2011 is 5.1 and the average civil liberties ranking is five. The Freedom in the World 2011 report notes that the most recent change from Partly Free to Not Free is due to the government’s control of the 2010 national elections and campaign funding for the Ethiopian People’s Revolutionary Democratic Front (EPRDF), the ruling party, as well as the suppression of NGO activities through the 2009 Charities and Societies Proclamation (CSP) (Ethiopia 1). This new law, which came into effect on February 13, 2009, despite international criticism, deems any organization that obtains ten percent or more of its finances from international donors to be a “foreign NGO” (Africa 17831). Once an organization is recognized as “foreign,” it may no longer carry out research or activities related to “democratic and human rights, conflict resolution or criminal justice” (Africa 17831). Debebe Hailebebriel elaborates

on the new categorizations of civil society organizations as defined by the CSP and notes that there are three different legal classifications under Article 2 of the CSP.

The first of these is Ethiopian Charities or Ethiopian Societies, which are controlled by Ethiopian citizens and receive no more than ten percent of their funding from foreign donors. The second are Ethiopian Residents Charities and Ethiopian Residents Societies, which are also run solely by Ethiopians but receive more than ten percent of their funding from foreign sources. The third category consists of Foreign Charities, which receive more than ten percent of their funding from international donors and are either controlled by or include members who are not Ethiopian citizens. Under these definitions, neither Ethiopian Residents Charities and Societies nor Foreign Charities may participate in activities related to advocacy or the promotion of democratic and human rights (Hailebebiel 10). Even two of Ethiopia's largest domestic associations, the Ethiopian Human Rights Council and the Ethiopian Women Lawyers Association, relied on foreign funding for nearly ninety percent of their budgets.

While the CSP has yet to be fully implemented, the bank accounts of the Ethiopian Human Rights Council and the Ethiopian Women Lawyers Association were frozen in August of 2010 for breaching the law regarding foreign funding (Nega & Milofsky ii44, Ethiopia 1). Almost all Ethiopian domestic organizations now fall in the government's definition of "foreign" organizations, and the only organizations that do not are government-organized non-governmental organizations (GONGOs) (Africa 17831). The Africa Research Bulletin writes that even the slightest administrative infringement of the law may prompt "disproportionate and criminal penalties" (Africa 17831).

The Charities and Societies Proclamation permits “government surveillance of, and interference in, the operation and management of civil society organizations” (Africa 17831). The newly established Charities and Societies Agency is charged with the responsibility of reviewing mandatory registration applications (a step that was previously voluntary) for any organizations wishing to operate legally within Ethiopia. The registration process must be completed within three months of an association’s establishment in order to continue operations (Hailegebriel 11). According to the CSP, organizations are prohibited from raising more than 50,000 Ethiopian Birr before successfully completing the registration process (Proclamation 4546). In addition to the registration application, which includes an explanation of the organization’s intended mission, goals, and activities, foreign CSOs must also submit a letter of recommendation from both the embassy of its origin and the Ethiopian Foreign Affairs Ministry, proof from the organization’s home office that it intends to operate in Ethiopia, an authentic copy of its registration certificate from its country of origin, and must grant power of attorney to its Ethiopian representative (Hailegebriel 11-12).

Once these materials are submitted to the Charities and Societies Agency, the Agency may deny legal status to organizations for several reasons. The granting of legal personality may be withheld for even seemingly trivial details, such as the name of the association, if it is too similar to other already established groups or if it is “contrary to public morality” (Hailegebriel 12). Additionally, the Agency may deny legal recognition if the proposed organization is found to have illegal intentions or that will disrupt “public peace, welfare, or good order in Ethiopia” (Hailegebriel 12).

Perhaps one of the most challenging aspects for aspiring organizations to be granted legal status is that the organization must include members from or have locations in at least five of Ethiopia's nine Regional States. This requirement is especially difficult to fulfill if the CSO's mission is to specifically work for the citizens of a single location or if the organization's financial ability cannot support operations in five different regions or recruitment procedures for members from five different regions. If the Agency finds that the organization applying for registration is lacking in any of these requirements, the Agency is not required to notify the organization via written communication (Hailegebriel 12). Several of these requirements echo similar characteristics of the 1994 General Guidelines for the Implementation of the National Policy on Disaster Prevention and Management (NPDPM). The NPDPM restricted the number of expatriates able to work for NGOs and also allowed the Relief and Rehabilitation Commission (previously responsible for registering NGOs) to assign NGOs to work in specific regions (Campbell 15-16).

As additional measures of intervention and control, the CSP dictates the internal structure of CSOs, where all Charities and Societies "must have a general assembly, executive committee and an internal auditor" (Hailegebriel 13). Organizations are required to provide in writing a notice to the Agency of a general assembly meeting seven days prior to the engagement. The CSP also allows the Agency, at the request of any member of the organization, call the meeting to order on its own and may nominate members of the organization to be Chairman of the general assembly (Hailegebriel 14). The law gives the Agency nearly unlimited freedom to intervene in the affairs of NGOs if it deems any actions taken by the NGO as unfavorable. The Agency may "suspend

officers, restrict the organization's transactions or the nature or amounts of payments made, or order the retention of property" (NGO Law Monitor: Ethiopia 5).

With the powers granted to the newly established Agency, in November 2011, the Agency ordered a new rule on how every active organization must divide its budget between administrative and operational expenditures. The Guideline on Determining the Administrative and Operating Costs of CSOs restricts all organizations working in Ethiopia, both foreign and domestic, from spending more than thirty percent of their budgets on administrative expenditures. The remaining seventy percent must be utilized for operational costs (NGO Law Monitor: Ethiopia 5). This new restriction is even more stringent than India's new Foreign Contributions Regulation Act (FCRA) of 2010, which allows half of an organization's budget to be used for administrative costs.

As mentioned previously, only Ethiopian Charities and Societies (Ethiopian controlled organizations that do not obtain more than ten percent of their funding from international donors) may engage in activities that are deemed political or advocacy-related issues (Proclamation 1430). These activities, outlined in Article 14 (2) of the CSP are as follows:

- j) the advancement of human and democratic rights;
- k) the promotion of equality of nations, nationalities and peoples and that of gender and religion;
- l) the promotion of the rights of the disabled and children's rights;
- m) the promotion of conflict resolution or reconciliation;
- n) the promotion of the efficiency of the justice and law enforcement services (Proclamation 4529).

However, Ethiopia's constitution is centered on democratic principles, including freedom of association and assembly. Article 31 of the constitution reads that "every person has the right to freedom of association for any cause or purpose. Organizations

formed, in violation of appropriate laws, or to illegally subvert the constitutional order, or which promote such activities are prohibited” (Hailegebriel 9). While the right to assemble and freedom of association are guaranteed in this article, the constitution also provides a subjective and broad line for government interference within civil society organizations and activities (Hailegebriel 9). The 1994 constitution also guarantees the right to hold opinions, thoughts, and free expression under Article 29. The right to free expression is guaranteed without any interference and includes the right to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice” (NGO Law Monitor: Ethiopia 3).

Within the three legal classifications of Charities and Societies under the CSP, Ethiopian Residents Charities and Societies and Foreign Charities are prohibited from engaging in the advocacy-related issues listed above. The CSP, at least in part, denies freedom of expression and freedom of assembly to Ethiopian citizens who wish to work in an organization that supports these activities, but may no longer operate due to the funding restrictions for international donors. While the new NGO policy is quite stringent, this controversial law does not stand alone in the international community. The CSP is considered a reflection of the NGO Act in Uganda and the proposed 2004 NGO Bill in Zimbabwe (which did not pass into law, though elements have re-emerged in legislation since) (Moyo 8).

When the CSP was introduced as the upcoming government policy for NGO regulation in Ethiopia, many civil society groups protested and requested meetings at the time with Prime Minister Meles Zenawi to discuss the crippling impact the new CSP

would have on CSOs (Moyo 9). Despite their objections, the Prime Minister defended and upheld the law in a statement, saying:

It does not undermine the independence of Ethiopian civil society organizations. What it undermines is the funding of civil society organizations in Ethiopia who are involved in political activities from foreign sources. And I believe the practice in all developed countries is that political activities are funded from local sources (Moyo 9).

Prime Minister Zenawi's claim that the CSP is only meant to hinder the ability of international influence on the political process seems to disregard the fact that the CSP places significant financial burden on NGOs whether or not they participate in political or human rights activities.

Despite the many restrictions and hindrances the government of Ethiopia now has in place for NGOs, the federal government does meet one measure of cooperation through the tax code. While donations made by individuals or businesses are considered non-deductable, other donations, membership fees, and grants are considered tax-free. Humanitarian or welfare organizations are free from paying duties on imported goods. However, any activities that produce additional income for the organization are not exempt from paying income taxes (NGO Law Monitor: Ethiopia 4).

During the dictatorship of Mengistu Haile Mariam between 1974 and 1991, the state allowed limited access for NGOs engaging in humanitarian or development activities, though organizations that openly opposed government policy were strictly prohibited from operating (Campbell 12). When famine plagued the country from 1983 through 1985, humanitarian assistance organizations were given greater access to provide emergency aid. By allowing this form of international aid, Campbell writes that the Derg (the ruling military committee) "could be seen to be assisting its own people in the north

and east of the country” (13). As in parts of Bolivia, welfare NGOs were permitted to operate with more ease as the government was able to take credit for the assistance activities NGOs were carrying out. However, the Marxist-Leninist regime of the Derg was challenged and eventually defeated in 1991 by the EPRDF, which promised a new regime of human rights and open political space (Welch, Jr. 322-323).

Between 1991 and 1995, Ethiopia went through a period of transition from a centralized, socialist dictatorship to creating regional governments and upholding principles of political and economic liberalization. The EPRDF set up a Transitional Government during this period (which also produced the new constitution) to operate until national elections were held in 1995, in which the EPRDF won by a large margin (Campbell 14). Campbell writes that with the transition to economic and political liberalization, starting in 1991, the number of NGOs expanded in Ethiopia as the political space for a more free and open civil society grew (15). With the emphasis on human rights by the EPRDF, the number of advocacy NGOs increased, in addition to humanitarian NGOs (Welch, Jr. 323). During the early 1990s, organizations such as the Ethiopian Human Rights Council were permitted to “publicly question government actions, while international human rights groups such as Amnesty International could hold the regime responsible for fulfilling its promises of greater openness and democratization” (Welch, Jr. 323).

However, tensions between the state and NGOs remained high with the introduction of the NPDPM by the Transitional Government, which some NGO officials claimed to be even more stringent than the policies held under the Derg (Campbell 15). While the government welcomed prospective NGOs at first, it soon began to fear the

influence NGOs might have on certain issues, as well as its own political power. Berhanu Nega and Carl Milofsky write that the government began to create their own issue-oriented statewide NGOs, or government-organized non-governmental organizations (GONGOs), with the intent of overshadowing the influence of more local, grassroots NGOs (ii44). The authors argue that the fear of NGO influence was solidified after the 2005 election, which the EPRDF lost but held power through military means and by imprisoning opposing party members and those who disputed the election results (Nega & Milofsky ii44). Nega and Milofsky posit that the CSP is a direct result of the government's will to "ensure that there will be no independent organizations of any type that can potentially challenge the firm totalitarian grip it has established on the Ethiopian society since the 2005 electoral debacle" (ii44-ii45). Even with the CSP now in place, the International Center for Not-for-Profit Law (ICNL) estimates the number of charitable organizations operating in Ethiopia to be more than 4,000 as of August 2012 (though this does not compare to India's 1.5 million) (NGO Law Monitor: Ethiopia 1).

### ***Measures of Cooperation and Conflict***

Within a single Ethiopian law, the CSP, the state already meets three of the five measures of conflict between states and NGOs. First, as mentioned above, the law severely (though indirectly) restricts foreign funding to Ethiopian NGOs and CSOs. Many of the restricted activities listed in Article 14 of the CSP are the main purposes and missions of organizations actively working in Ethiopia, but may no longer operate due to the ten percent rule. The law directly restricts funding by prohibiting NGOs from raising more than 50,000 Birr before acquiring legal status through the registration process. As an extension of the CSP, the Agency passed the Guidelines on Determining the

Administrative and Operating Costs of CSOs which also limits funding by restricting the amount organizations may budget for administrative expenditures to thirty percent.

Second, the CSP dramatically limits the scope of NGOs to where only Ethiopian citizens may manage organizations that take on issues such as human rights, democracy promotion, and sound rule of law, and organizations that meet the citizen requirement still may not receive more than ten percent of its funding through international donors. Additionally, with the requirement of having an office in five Regional States, this may limit the scope of activities, depending on the needs of the populations and the capabilities of the organizations to have locations in five places.

Third, after a strenuous registration process, the CSP allows government monitoring and intervention in NGO activities via the Charities and Societies Agency, which may intervene in general assembly meetings and place nominations for Chairman. The ICNL has called the Agency as having “excessive...discretion in the registration process” (NGO Law Monitor: Ethiopia 4), specifically with foreign NGOs having to provide letters of recommendation from both the Ethiopian Ministry of Foreign Affairs and the embassy of the organization’s origin.

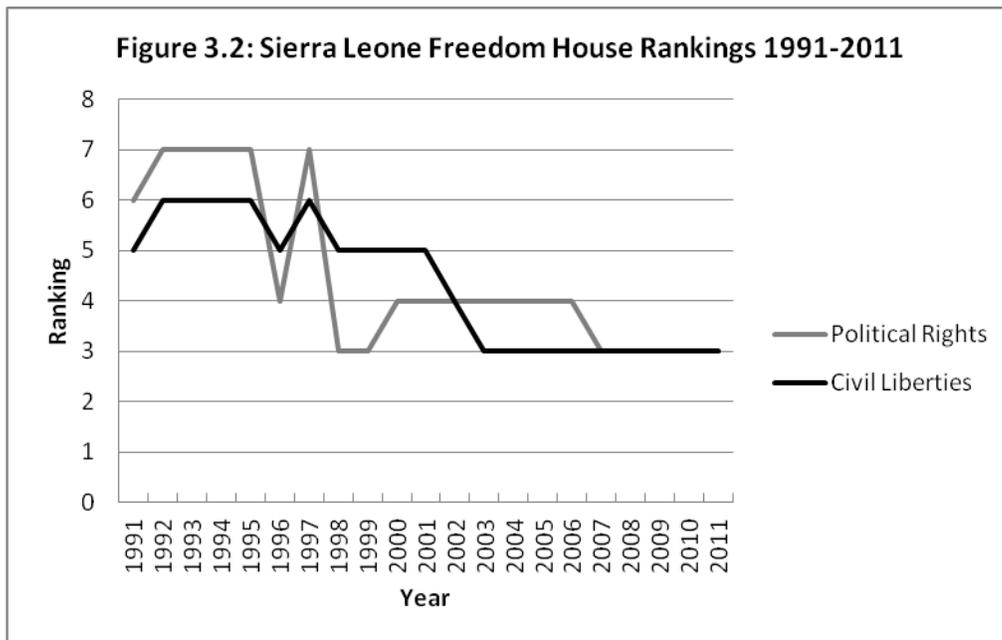
Before the establishment of the CSP, the Ethiopian government also created mass GONGOs designed to eclipse the efforts of genuine organizations regarding specific issues, such as women’s rights. These actions taken by the government mark a fourth measure of conflict outlined in Chapter 1 of this study. Taking account of the presented literature and the recently passed CSP, one may safely assume that the relationship between the Ethiopian government and NGOs is marked by conflict and mistrust.

Concerning the questions posed as part of this structured, focused comparison, it seems that in the case of Ethiopia, economic and political liberalization of the early 1990s are not enough to produce lasting cooperative relationships. While the number of both humanitarian and advocacy-related NGOs grew during the transition period much more so than under the military regime of President Mengistu Haile Mariam, the government began to suspect the influence NGOs might have on its own political power, especially after the 2005 election. This resulted in the creation of GONGOs and eventually the establishment of the severely restrictive CSP, arguably one of the most contentious NGO laws that has been passed around the world (NGO Law Monitor: Ethiopia 1). While Ethiopia's constitution is based in liberal and democratic principles, the government does not operate as a liberal democracy. As a government that is run by individuals in the EPRDF who fear the dissolution of their own political power, Ethiopia has taken steps to ensure that civil society organizations may not influence sensitive issues that may impact the political status quo.

While the promise of international resources encouraged government leaders to allow humanitarian organizations to operate in the 1980s, international influence has not played a large part in determining the relationship between the government and NGOs since, aside from the growth of NGOs in the early 1990s due to liberalization. As with the case of Presidents Jaime Paz Zamora and Gonzalo Sanchez in Bolivia, Ethiopia's relationship with NGOs seems reliant on the government's administrative policies of the time rather than international pressure or the environment of civil society.

## *Sierra Leone*

In the case of Sierra Leone, Freedom House has labeled the state Partly Free sixteen of the twenty-one years under study. Its average ranking for political rights is 4.5 while its average ranking for civil liberties is 4.3. While Sierra Leone was considered Not Free between 1992 and 1995, as well as 1997, it has been given the rank of Partly Free in the years since, and has been given a consistent rank of three for both civil liberties and political rights since 2007. The Freedom House rankings for Sierra Leone between 1991 and 2011 are presented in Figure 3.2 below:



**Source:** Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

The case of Sierra Leone differs from that of Ethiopia in that over the course of the past twenty years or so, Sierra Leone's Freedom House rankings have been gradually improving, whereas Ethiopia's have been consistently high. While Sierra Leone has received a three on both political rights and civil liberties since 2007, Ethiopia was

ranked as a five on both between 1999 and 2009, only to go up to a six for both in 2010 and 2011 (which moved them from the Partly Free category to the Not Free category).

During the 1991-2001 civil war, NGOs were able to operate, though in 1997, when violence worsened and human rights abuses were occurring, many NGOs had to cease their operations due to the conflict. It is estimated that the number of NGOs operating by late 1996 was approximately seventy, and included NGOs that strove to educate women and girls on their civic duties and civil rights (Zack-Williams 157-160).

In the aftermath of the 1991-2002 civil war, Sierra Leone has become heavily dependent on foreign donors, as fifty percent of the government's budget is supported by international funding (Nishimuko 281). Additionally, Sierra Leone relies on civil society organizations to provide services where the government does not have the funds to support. For example, faith-based organizations (FBOs) own and operate approximately seventy-five percent of primary schools throughout the country (Nishimuko 284). The government of Sierra Leone has been dedicated to the prospect of achieving universal primary education, as it reorganized its education system in 1993 to meet this goal. It has also committed itself to achieving the objectives set out by the Millennium Development Goals (MDGs) that relate to Education for All (EFA). Nishimuko writes that Sierra Leone is striving to meet "international targets set out in the EFA and MDGs and has stressed the need for this work to be conducted in a participatory manner that encourages the involvement of civil society in the country" (285). These shared goals allowed an opportunity of partnership and cooperative relationships between the government and CSOs to the point where the government of Sierra Leone views regional CSOs working

in education to be the service providers in the areas in which they operate (Nishimuko 293).

The ICNL also acknowledges Sierra Leone's willingness to work with NGOs, as they have gained a certain "performance legitimacy" (Abdulai 1, 2012) after aiding the government with reconstruction efforts in many areas covering several different issues after the end of the civil war in 2002 (Abdulai 1, 2012). While the 1991 constitution enshrines familiar democratic principles, such as the freedom of expression and association, human rights, and rule of law, the constitution also gives the government of Sierra Leone a certain leeway in which these rights may be suspended in the name of "securing peace, order, and good government" (Abdulai 56, 2010). Ultimately, the common good of society as a whole is given precedence by the constitution over individual rights (Abdulai 55, 2010).

Sierra Leone has operated with two different NGO laws over the past two decades, the first of which being a 1994 policy under the National Provisional Ruling Council that had several requirements for NGOs. Emmanuel Saffa Abdulai notes the effects this 1994 policy had on the NGO community, which included: increased certain financial capabilities for those NGOs applying for registration, new annual audited reports, a designated office location (where officials may visit unannounced), and required NGOs to have five employees before being granted registration status. The policy also introduced the Sierra Leone Association of Non-governmental Organizations (SLANGO), an umbrella organization under which registered NGOs must join and pay a membership fee (Abdulai 57-58, 2010).

The second and most recent update to NGO law in Sierra Leone is the Revised NGO Policy Regulations 2009 (NGO Policy). The Government of Sierra Leone recognizes three legal statuses for non-profit and charitable organizations, which include NGOs, not-for-profit companies (NPCs), and community-based organizations (CBOs). The definition of NGOs provided by Article 2.1.1 of the NGO Policy specifically excludes organizations that take part in political activities, as the definition encompasses “any independent, not-for-profit making, non-political and charitable organization with the primary objective of enhancing the social, environmental, cultural and economic well-being of communities” (Abdulai 4, 2012). The requirement for NGOs to register with SLANGO is still in place, and once they have joined the umbrella organization, they must also register with the Ministry of Finance and Economic Development (MoFED) through the NGO Unit (Abdulai 4-5, 2012).

In order to successfully register to obtain legal recognition, NGOs must submit a registration application to MoFED which includes a statement of the organization’s mission, a Memorandum of Association (legal document recognizing the group’s formation), a copy of the organizational logo, as well a list of names of all of the NGO’s employees (Abdulai 58, 2010). Organizations are also required to have proof of at least five full-time or part-time employees, an office space and corresponding postal address, a bank account for the organization itself, as well as appropriate signage visible outside of the office space (Abdulai 5, 2012). After the application is reviewed and accepted, NGOs must submit to a visit by the NGO Unit of MoFED of the office location in order to verify the operation’s existence. The NGO staff may be interviewed by the NGO Unit as a government measure of determining the legitimacy of the organization in question.

Additionally, a registration fee is required, though the amount due is reviewed and changed from time to time by Sierra Leone's NGO Supervisory Committee.

International NGOs must seek "accreditation from their government or embassy, proving their status and credibility before they can operate in Sierra Leone" (Abdulai 5, 2012).

Furthermore, international NGOs need to provide proof of registration from their own country as well as a copy of the organization's mission to Sierra Leone's NGO Unit of MoFED (Abdulai 59, 2010). A notable characteristic of the international NGOs working within Sierra Leone is that many of these, although originating abroad, are founded and managed by expatriates of Sierra Leone now living in the United States or Canada (Zack-Williams 159). This may be an additional factor in influencing whether or not governments and NGOs cooperate or conflict, though difficult to measure. Finally, each registered NGO is required to draw an "Agreement" with the government which details the organization's intended activities and projects (Abdulai 6, 2012). Through this agreement, each project to be implemented within Sierra Leone by registered NGOs is first approved by both MoFED and the ministry with which each project purpose is related (Abdulai 6, 2012).

Once an NGO is operational, it may be subjected to unannounced visits by the NGO Unit of MoFED for site and project examinations. Extensive annual financial reporting is required, which includes the amounts received from donors, how donor funding is utilized, and the names of and information regarding donor organizations (Abdulai 6, 2012). According to the NGO Policy, NGOs do not own what they have purchased for their organizations; instead, "all assets purchased or acquired with donor

funds should be the property of the people of Sierra Leone who are the beneficiaries” (Abdulai 6, 2012).

The government makes re-registration a separate process and requires additional documentation, perhaps more so than the initial application process, as NGOs must renew every two years and provide annual reports on their activities. The MoFED conducts performance reviews and must also receive audited reports of the NGO’s funding and financing of projects and verification of the NGO’s registration with SLANGO (Abdulai 5, 2012). NGOs may be denied their MoFED registration renewal if they cannot provide a confirmation of their SLANGO registration, a supposedly independent organization (Abdulai 6, 2012). While the government maintains that SLANGO is meant to be a united voice for the NGO sector, there has been some concern over what SLANGO’s clear purpose is and the power that it holds over the NGO sector (Abdulai 59, 63, 2010). What is clear is that the government has determined through the NGO Policy that any donor funding or assets intended for the capacity-building of NGOs must first be channeled through SLANGO and MoFED (Abdulai 62, 2012).

Once an NGO has obtained legal status, it qualifies to obtain tax exemptions as well as exemptions from paying duties on imports. While NPCs are also allotted tax exemptions, CBOs are not qualified to receive tax exemptions and may not attempt to register as NGOs in order to receive them (Abdulai 4-5, 2012). Religious and ethnic organizations are also prohibited from seeking NGO status (Abdulai 57, 2010). However, both local and international NGOs are qualified to receive tax exemptions. International NGOs must submit information about donations received to SLANGO and the government. These details include the amount donated, how the donation will be

dispersed, the purposes for the donations, information about the donor organization, and any other relevant information concerning the nature of the donations (Abdulai 62, 2010).

While NGOs are prohibited from working on issues that involve human rights or political matters, the NGO Policy does not require that organizations or associations seek NGO status through the registration process (Abdulai 6, 2012). Both citizens and foreigners are permitted to associate by founding and operating organizations without registering and may participate in political and human rights activities (Abdulai 4, 2012). However, there have been reports of harassment and death threats received by political and human rights activists, though it remains unclear as to who is responsible (Abdulai 6, 2012).

The question as to whether NGOs and the government of Sierra Leone have cooperative or conflictual relationship is less clear cut than the case of Ethiopia. According to Bhekinkosi Moyo, the approach taken by the Ethiopian and Sierra Leonean governments in forming their NGO laws are separate and distinct. Moyo describes the process of introducing these policies as either state-driven or consultative with CSOs. In Ethiopia's case, Moyo argues that the process was state-driven, as the Prime Minister agreed to meet with CSOs on two separate occasions to hear their opposing opinions, though this did not result in any change in the CSP (Moyo 9). On the other hand, Moyo writes that Sierra Leone's process of introducing the law was inclusive of civil society, as "about three consultative workshops took place between 2003 and 2008 involving government, civil society and development partners" (Moyo 10).

The government of Sierra Leone also claims that the NGO Policy is intended to guarantee a cooperative relationship between the government and the NGO sector;

however, the government only refers to cooperation on the part of NGOs with the government, a seemingly one-way street. The government claims that the intent of the law is to ensure “the effective coordination and monitoring of the activities of both National and International NGOs in order to enhance their cooperation and collaboration with the Government of Sierra Leone (GOSL) and ensure maximum benefits to the people of Sierra Leone” (Abdulai 57). Additionally, the government has defended the new NGO Policy as a way to make NGOs and CSOs more accountable for their activities to the citizens of Sierra Leone, as well as a way to ensure that NGO priorities are supportive of the priorities of the government (Moyo 8).

Another telling sign as to whether governments and NGOs cooperate or conflict is reflected in the government agency under which NGOs must register and are monitored. Moyo posits that the relationship is likely to be cooperative between the government and NGOs if the ministry responsible for NGO oversight is also accountable for development-related activities (10). Conversely, the relationships may be more conflictual where the responsible agency is unrelated to social development, such as a ministry related to justice, security, or internal order. This is the case with Ethiopia, as its Ministry of Justice is responsible for NGO monitoring alongside the Charities and Societies Agency, whereas in Sierra Leone, the Ministry of Finance and Economic Development is in charge (Moyo 10).

### ***Measures of Cooperation and Conflict***

The fact that the government of Sierra Leone relies on international funding for approximately fifty percent of its budget and relies on NGOs and FBOs to provide basic services to its citizens might indicate a cooperative relationship between civil society

organizations and the government. The government has also released a statement of commitment to fostering cooperative relationships with NGOs and CSOs within the NGO Policy. Sierra Leone also asserts that the new NGO law is intended to hold NGOs more accountable to Sierra Leoneans, every NGO's local beneficiaries, and to better align the policies of the government and the civil society sector. At the same time, the statement reads as though the onus is placed on NGOs to cooperate with the government and uphold the policies the government puts forth. The government ensures NGOs do not work on projects that deviate from government priorities by requiring an Agreement to be signed between NGOs and MoFED, which provides approval for every NGO project by MoFED and the relevant government ministries. Essentially, this eliminates the possibility of NGOs working on political or human rights activities that the government deems unfavorable. Under these conditions, Sierra Leone meets a measure of conflict between NGOs and the government, as the government restricts the scope of activities NGOs are permitted to carry out. Moreover, the government's definition of NGO notably excludes organizations which support political activities.

However, the NGO Policy does not require registration, which ultimately disqualifies organizations that are not registered with SLANGO and the government from receiving tax exemptions, though unregistered organizations are permitted to work on any issues, including those related to politics and human rights. The NGO Policy also does not place any financial requirements on NGOs or CSOs, unlike the strict requirements of the CSP and the Guideline on Determining the Administrative and Operating Costs of CSOs of Ethiopia. Aside from the registration fees, there is no limit to how much an organization may fundraise before receiving its registration status and there is no

mandatory percentage for how much NGOs must use for administrative versus operational costs.

Ultimately, the NGO sector in Sierra Leone seems to be largely influenced by the government's need for international support in providing government funding and basic services for its citizens after the war. The case of Sierra Leone loosely meets all five measures of cooperation, though there seem to be catches with each, and it also meets two measures of conflict, but again, the adherence to these measures is questionable. As for the measures of cooperation, the government has created an NGO Unit responsible for NGO regulation under MoFED and also requires registration with SLANGO, a semi-independent organization, which the government views to be the voice of the NGO sector. The government also views the NGO Policy as a means of fostering cooperation, though the extent of the cooperation seems one-sided. The state does not restrict the flow of funds to international or domestic NGOs, and it provides tax exemptions on income as well as waivers on import duties. However, funds to be utilized for capacity-building of the NGO must first be channeled through SLANGO and MoFED. NGO missions, goals, and policies are designed to mirror the priorities of the state, as both the NGO and the government must sign an Agreement detailing the organization's plans before projects may commence. Finally, Sierra Leone does not limit the number of NGOs entering the country or the number allowed to register; however, the definition of NGO is narrow and excludes NGOs wishing to work on political or human rights issues.

Sierra Leone also meets a few measures of conflict, considering religious, ethnic, and community-based organizations are not permitted to seek NGO status and the definition of NGO limits the scope of activities in which NGOs may participate. At the

same time, organizations are not necessarily required to register at all, and may participate in these activities without restraint. At the same time, there have been reports of political activists receiving death threats and other forms of harassment for carrying out activities the government deems unfavorable. The monitoring of activities through the registration process and reporting requirements may be considered excessive, though it also introduces more accountability on the part of NGOs.

The case of Sierra Leone presents somewhat expected results for a Partly Free state, where it meets both measures of cooperation and conflict to some extent, and behaves more favorably toward NGOs and CSOs that engage in welfare activities rather than those related to advocacy. International agreements and funding seem to play a role in the case of Sierra Leone's cooperation with NGOs. For example, the government is striving to meet EFA and the MDGs by 2015 and welcomes the aid of international organizations through the United Nations (UN) as well as FBOs in providing primary schooling throughout the country. International funding also helps the government operate, with fifty-percent of the budget relying on foreign donations.

While the case of Sierra Leone is less clear cut than previous case studies, ultimately it can be considered as having cooperative relationships between NGOs and the government, even though the cooperation is carefully managed. This cooperation has emerged in part due to the “internationalisation of public welfare”, as well as the fragility of the state” (Zack-Williams 158), but also as a result of the need for international assistance in post-civil war conditions. Additionally, cooperation may be attributed to the government's commitment to achieving international sustainable development standards.

In contrast to several previous case studies, this leaves little indication that the cooperation may be a result of any particular party or leader's administrative policies.

## **CHAPTER 4**

### ***Not Free-State NGO Relationships: Inevitably Conflictual?***

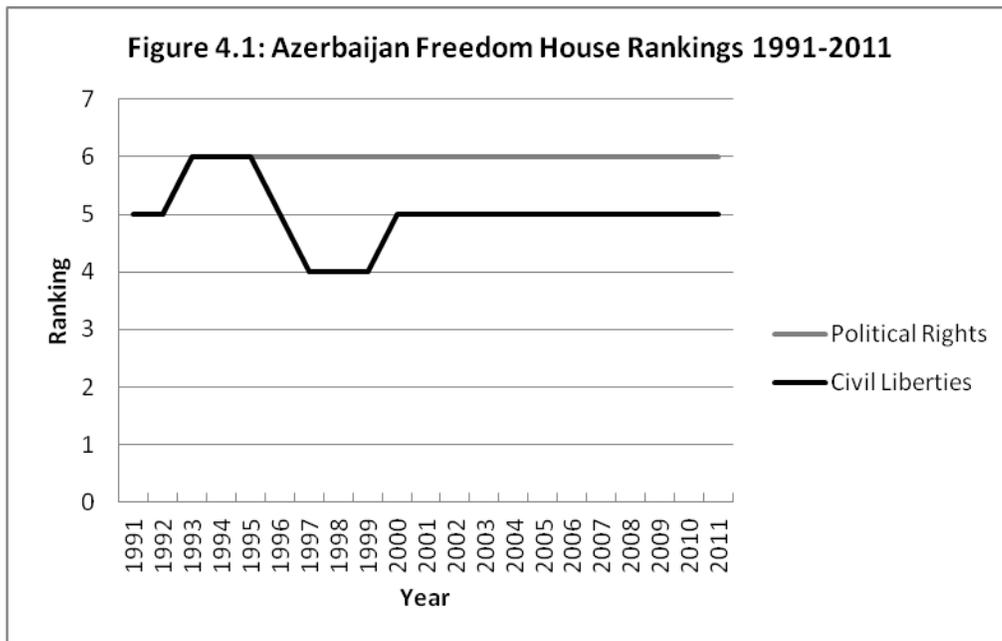
Given the model for this study, one may expect that states earning Not Free statuses by Freedom House would most certainly have conflictual relationships between states and non-governmental organizations (NGOs). However, noting the degrees of difference between the Partly Free states of Ethiopia and Sierra Leone, these expectations may be less certain. With Ethiopia's policies being as severe as they are, according to the model, Not Free states might be expected to completely block any association from forming at all. At the same time, Sierra Leone generally relies on the work of the third sector to provide services, which may signal more reliance or cooperation if a government is unable or unwilling to provide basic services. Relationships between Not Free states and NGOs may turn out to be less predictable than the model of this study provides.

Returning to the hypothesis that Free states will be more likely to cooperate with NGOs, it may be assumed that, for the following two case studies, Azerbaijan and Vietnam, the relationships between these governments and NGOs are conflictual, as both of these states have been given the status of Not Free by Freedom House for a majority of the years between 1991 and 2011. However, the cases have a few differences in the number of years each has been given the Not Free status, as well as the number rankings each have been given for political rights and civil liberties over the years. These differences may reveal variations in the relationships, especially as Vietnam has been

given a Not Free status every single year, while Azerbaijan has been given Partly Free statuses for a number of years. While it might be expected that both will maintain conflictual relationships, the relations between Vietnam and the NGOs operating within that state may be even more rigid, with more stringent regulations and monitoring enforced by Vietnam.

### ***Azerbaijan***

Azerbaijan has earned the Not Free status by Freedom House for thirteen years in the period between 1991 and 2011. These years include from 1993 to 1996 and from 2003 to 2011. Over the twenty-one year period, the average rank it has received for political rights is 5.9 and the rank it has received for civil liberties is 5. The rankings of political rights and civil liberties between 1991 and 2011 are traced in Figure 4.1 below:



**Source:** Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

As a former republic of the Soviet Union, Azerbaijan gained its independence on October 18, 1991 (Kazimov 1). Civil society in the country has been defined as having two separate focuses between its independence and the present; during the 1990s, CSOs

centered on “humanitarian assistance and psycho-social rehabilitation programs” (Kazimov 3), which catered to internally displaced persons and refugees after the Nagorno-Karabakh conflict between Azerbaijan and Armenia. Since the late 1990s, the focus for CSOs has shifted to strengthening the “legal environment for NGOs” (Kazimov 3) and advocacy-related issues. Within Azerbaijan, a large majority (ninety percent) of active NGOs are located in the capital city of Baku (Kazimov 6). One of the most recent and perhaps one of the most influential factors defining the relationship between NGOs and the government is that, in 2007, a Presidential Decree ordered the creation of the Council of State Support of NGOs, which was established to channel grants and other forms of government support to the NGO community (Kazimov 5). The eleven-member Council is comprised of three public representatives and eight representatives of the NGO sector in Azerbaijan (Aslanov, et al. 29). By August 2008, a competition was held in which 337 NGOs vied for \$1.5 million (USD) in grants from the Council; 191 NGOs were awarded (Kazimov 5). Since then, over 500 NGOs have received grant money from the government through these grant competitions. Azerbaijan’s competitive grant distributing practices have been described as transparent and “among the best in the former Soviet Union” (NGO Law Monitor: Azerbaijan 1). In the months preceding the creation of the Council, the president also signed the Concept of State Support to Non-governmental Organizations of the Republic of Azerbaijan, which provided an overview of the nature of the NGO community, the ways in which the government was already supporting NGOs, identified how improvements could be made, and avenues for providing financial aid to the NGO sector (Aslanov, et al. 29). Along with overseeing the grant competitions, the NGO Support Council helps promote legislation that will

“improve the regulatory environment for NGOs, and engages NGOs in the legislative drafting process” (NGO Law Monitor: Azerbaijan 1).

In the period between 1995 and 2007, many NGO coalition organizations began to form, including the National NGO Forum, the Azerbaijani NGO Alliance on Children’s Rights, and the NGO Coalition Against Human Trafficking, among others. Around the same time, the government and the United Nations (UN) collaborated on a project, “Strengthening Civil Society in Azerbaijan,” which helped to improve relations between the NGO community and the government between 1997 and 2003. The efforts of this project led to the passing of the Law on NGOs in 2000 (which replaced a 1992 law), as well as the establishment of several NGO Resource and Training Centers, where “hundreds of NGO representatives were trained on NGO management” (Aslanov, et al. 20, NGO Law Monitor: Azerbaijan 1). By December 2010, the government had registered 2,612 NGOs, while over 1,000 organizations remained unregistered, though active. NGOs in Azerbaijan are currently participating in a wide array of activities, including “human rights, education, culture, health, social protection, [and] environmental protection,” (NGO Law Monitor: Azerbaijan 1), among others.

Despite the aforementioned advancements the government of Azerbaijan has made toward cooperation with NGOs in the past fifteen years, there remains some room for tension, specifically with the registration process and the requirements on financial reporting. With regard to dealing with registration denials, NGOs may have a difficult time with initiating the registration process, as materials must be submitted in person in Baku. This proves especially difficult for NGOs which are not based in Baku and may not have the capacity to travel to the capital city (NGO Law Monitor: Azerbaijan 7). The

International Center for Not-for-Profit Law (ICNL) reports that it can be extremely difficult for even a domestic NGO to achieve registration status, and that the government has lost five or more cases in the European Court of Human Rights for denying registration to certain NGOs or involuntary dissolution, which the Court has found to be an infringement on the freedom of association, a right that Azerbaijan guarantees in its own constitution (NGO Law Monitor: Azerbaijan 1, 3). Of the previous case studies, Azerbaijan is the only to have lost a case in the Court regarding NGO registration and dissolution issues. Partial reasoning for this situation may be that in Azerbaijan, international agreements (those that Azerbaijan is party to) take precedence over domestic law in situations where they conflict, though with the exception of the constitution. With such high regard for international agreements outlined in Article 151 of the constitution, this situation of losses in the Court for Azerbaijan may be better explained (NGO Law Monitor: Azerbaijan 4).

With regards to the required financial reporting process, many NGOs are ill-equipped to provide such information, and the government may impose strict penalties for those NGOs that do not fulfill their requirements (NGO Law Monitor: Azerbaijan 1). While there is no limit to the amount of money that NGOs may obtain through international or domestic donors, the Ministry of Justice must receive a copy of the application and a notarized agreement for any grant awarded within thirty days of the grant agreement date (NGO Law Monitor: Azerbaijan 2). If the organization fails to turn in these materials, the government may impose fines of over \$3,000. For grants received from international donors, in order to be notarized, the copy of the grant agreement must be translated from English to Azerbaijani and also bear a seal, which they often lack.

Failure to provide copies of the grant application letter and a notarized copy of the grant agreement to the Ministry of Justice does not prevent organizations from receiving the international donations, though it nearly guarantees that the organization will be forced to pay the fines for non-compliance (NGO Law Monitor: Azerbaijan 8-9).

The current constitution was originally adopted in 1995, and has since been amended twice, once in 2002 and again in 2009 (NGO Law Monitor: Azerbaijan 3). Under Articles 49 and 58, citizens of Azerbaijan are guaranteed the right to assemble and the freedom of association, respectively (NGO Law Monitor: Azerbaijan 4). Azerbaijan's NGO Law identifies terms for which organizations may operate as NGOs or non-commercial organizations (NCOs), which are utilized interchangeably and are taken to mean entities that do not operate for profitable purposes. Three distinct types of NCOs include public unions, foundations, and unions (or associations) of legal organizations. The NGO Law defines a public union as a non-profit, "voluntary, self-governed, non-governmental organization, established on the initiative of several physical and/or legal persons, joined on the basis of common interests" (NGO Law Monitor: Azerbaijan 6). According to the ICNL, a large majority of NGOs within Azerbaijan that are registered with the government operate as public unions (NGO Law Monitor: Azerbaijan 6).

A common trait among the previous case studies is that many of the governments offer tax benefits for non-profit organizations. Azerbaijan has a similar policy within its tax code; however, the definition of those qualified to receive tax exemptions is a charitable entity carrying out charitable activities which include: "rendering direct assistance, to include the transfer of monies, without compensation, to physical persons in need of material or other assistance...or other activities performed in the public

interest” (NGO Monitor: Azerbaijan 6). Since NGOs and NCOs are not directly defined in this manner, and there is not an existing process in which organizations may gain the status of being “charitable,” they are virtually ineligible to receive these tax benefits, which include exemptions on profits (except where gained through business-related activities) (NGO Law Monitor: Azerbaijan 6). Grants or donations and membership fees are also included in the tax exemptions, though the law refers directly to NCOs, rather than charitable organizations, with regards to these benefits, meaning that NCOs or NGOs may be eligible (Guliyev 96).

While the registration process has been described as arduous, similarly to Sierra Leone, there is no penalty for remaining as an unregistered NGO in Azerbaijan (NGO Law Monitor: Azerbaijan 6). The Ministry of Justice only requires a letter written within thirty days of the organization’s establishment notifying the government of the organization’s formation. This notification letter provides a legal authorization for their projects and activities (Guliyev 95). However, for international organizations, they must first gain permission from the Cabinet of Ministers before carrying out specific projects and activities. The Cabinet of Ministers then passes on a justification for registration of the organization to the Ministry of Justice (NGO Law Monitor: Azerbaijan 6).

For those NGOs that wish to seek registration status, there are specific requirements which the organization must follow. The only real requirements are that a founding member must be at least eighteen years of age and any founding member that is not a citizen of Azerbaijan must have a permanent residence in the country. There are no requirements for foreigners who simply wish to become members of an NGO operating in Azerbaijan (NGO Law Monitor: Azerbaijan 6). Upon formation, an NGO Charter

must be submitted to the Ministry of Justice, which must provide details such as the organization's name, its mission or description of proposed activities, management structure, procedures for amending the Charter, and procedures and rules to be followed in the event of liquidation (Guliyev 94-95). In general, the registration process is meant to take forty days or less, unless further verification of documents is required, which may extend the period for thirty additional days (Guliyev 95).

Like the Charities and Societies Proclamation (CSP) in Ethiopia, the NGO Law in Azerbaijan provides a broad array of issues that may be grounds for registration denial, many of which are similar to those in Ethiopia. For example, an organization may be denied registration if its name is the same as an already registered organization. Under the 2003 Law on the State Registration and State Register of Legal Entities, the Ministry of Justice gives prospective NGOs twenty days to resubmit corrected or missing materials if regulatory officers find fault with the initial registration application; if not resubmitted within twenty days, the government may deny registration. Other grounds for withholding registration status include when the organization's submission materials detail goals or missions that violate the constitution or other laws (NGO Law Monitor: Azerbaijan 7).

The government officials who review application materials have a history of arbitrarily "exercising broad discretion in applying the grounds for denial" (NGO Law Monitor: Azerbaijan 7), which is part of the reason why Azerbaijan has lost many cases in the European Court of Human Rights regarding freedom of association. In addition to the required registration materials, the Ministry of Justice also charges a \$15 (USD) fee for public unions. If organizations are found to be submitting false information, the

government may charge a penalty of approximately \$5,100 (USD) (NGO Law Monitor: Azerbaijan 7).

Along with being responsible for the registration process, the Ministry of Justice is also charged with monitoring NGOs as they carry out their projects and ensuring that they are conducting their activities within the confines of the Law on NGOs (Guluzade & Bourjaily 44). The monitoring activities of the Ministry may include participation in “the internal events of an association, request any internal documents, and demand provision of any information about an NGO or its managers or members” (Guluzade & Bourjaily 48). If Ministry officials find that an NGO has acted in a manner contrary to the Law on NGOs or other relevant legislation, the NGO receives an official warning notice. NGOs charged with violating the Law on NGOs must take corrective measures in order to comply with the law; otherwise, it may be risking receiving a second letter from the Ministry (Guluzade & Bourjaily 44). However, the government does not explicitly express the amount of time an NGO is given to take these corrective actions (Guluzade & Bourjaily 48). If the Ministry cites the NGO for being in violation of the law twice within a single year, it may take the necessary steps to seek the dissolution of the NGO in court. While the NGO may have the right to appeal the letters citing the law violations, the court is known for siding with the Ministry officials and “taking into consideration only the Ministry’s findings and ignoring other facts presented by an NGO” (Guluzade & Bourjaily 44). Even if the NGO is able to provide evidence that a violation of the law did not occur, the court may still choose to disregard the NGO’s information and decide to go forth with the dissolution of the NGO (Guluzade & Bourjaily 44).

Mahammad Guluaze and Natalia Bourjaily write on the evolving weaknesses and improvements within Azerbaijan's laws regarding NGOs and civil society, and note that in addition to the five cases Azerbaijan has lost in the European Court of Human Rights, the Court has received letters from hundreds of Azerbaijan's citizens since 2002 trying to obtain registration for their NGOs (43). After the most recent case that Azerbaijan lost in 2009, the government has been attempting to improve its registration procedures, and "has begun to settle issues relating to registration in favor of NGOs and their founders" (Guluzade & Bourjaily 43).

Despite these claims, in June 2009, the office of President Ilham Aliyev introduced proposed amendments to a new NGO Law to the parliament for consideration. These proposed modifications to the bill included a restriction on international funding for an NGO to fifty-percent of the NGO's financing, which would put nearly all NGOs that receive funding from foreign donors in violation of the law. The president's proposed amendments would also only allow citizens of Azerbaijan to form and operate NGOs within the country, rather than leaving the opportunity open for foreigners. Similar to Ethiopia's CSP, the proposed changes introduced a requirement for NGOs to have office locations operating in "at least one-third of Azerbaijan's 69 administrative regions" (Hayden 1). Additionally, if passed, the amendments would create an NGO activity ban for individuals who have been found to be non-compliant with the law, which may last for five years (Hayden 1). Finally, the changes to the bill introduced the idea that international NGOs would only be allowed to operate through signed bilateral agreements between Azerbaijan and the NGO's country of origin, though the specific kind of international agreement was not stated (Hayden 2).

At the time that these changes were introduced, members of the NGO community were committed to pressuring the government to not pass the amendments, though it was believed that the amendments would become law. Members of the NGO sector released a statement saying, “It’s expected that the parliament, which is totally controlled by [the] executive power, will gladly accept the amendments, which are similar to those that passed in Belarus and Uzbekistan” (Hayden 1). However, due to civil society’s protest, the final draft of the law excluded several amendments, including the amendment regarding the restrictions on international funding for NGOs to fifty percent of their resources. At the same time, the amendment regarding the requirement for bilateral agreements for international NGOs to legally operate did pass (Simon 3).

### ***Measures of Cooperation and Conflict***

The case of Azerbaijan proves to be a continuously evolving process regarding cooperation and conflict between the government and NGOs. Based on the measures of cooperation and conflict of this study, it can be determined that Azerbaijan meets more of the measures of cooperation than conflict. For the measures of conflict, Azerbaijan specifically meets just one, where the government operates a difficult registration process and allows Ministry of Justice officials a wide breadth in monitoring activities. Ministry officials are permitted to take part in NGO events or activities, request information on members of the NGO, and may request to view the organization’s documents on activities on any time. This intervention is an easy way for the Ministry to find fault with the organization and accuse the NGO of being in violation with the Law on NGOs or other relevant legislation. This may eventually lead to the dissolution of the NGO in

court, for reasons that are likely arbitrary. At the same time, there are no penalties for remaining an unregistered entity.

However, the case of Azerbaijan meets four of the measures of cooperation, but not without exceptions. First, the government has created at least one government-led agency or program specifically for the purpose of aiding or promoting the growth of the NGO community. It meets this measure through the NGO Resource and Training Centers established after the passing of the Law on NGOs. It also meets this measure of cooperation through the creation of the Council of State Support of NGOs in 2007. This NGO Support Council was established as a tangible result and commitment to the Concept of State Support to Non-governmental Organizations, which was a Presidential Decree announced a few months prior. The Concept of State Support meets a second measure of cooperation, where the state adopted an official policy of cooperation with NGOs.

The work of the NGO Support Council leads to a third measure of cooperation, where the government has supported the channeling of funds to NGOs through the competitive grant awards that have been distributed since 2008 (and have been described as transparent and among the best in Eastern Europe). The Council was also created as a means of providing legislative support to NGOs and communicating with NGOs on their interests in the legislative process. While the government does require a copy of the grant application and a notarized copy of the grant agreement on grant money received from international donors, if this notification is not received within thirty days and the fee is imposed, the government still does not block the NGO from receiving this donation. Also, there is no limit on how much an organization may receive from international

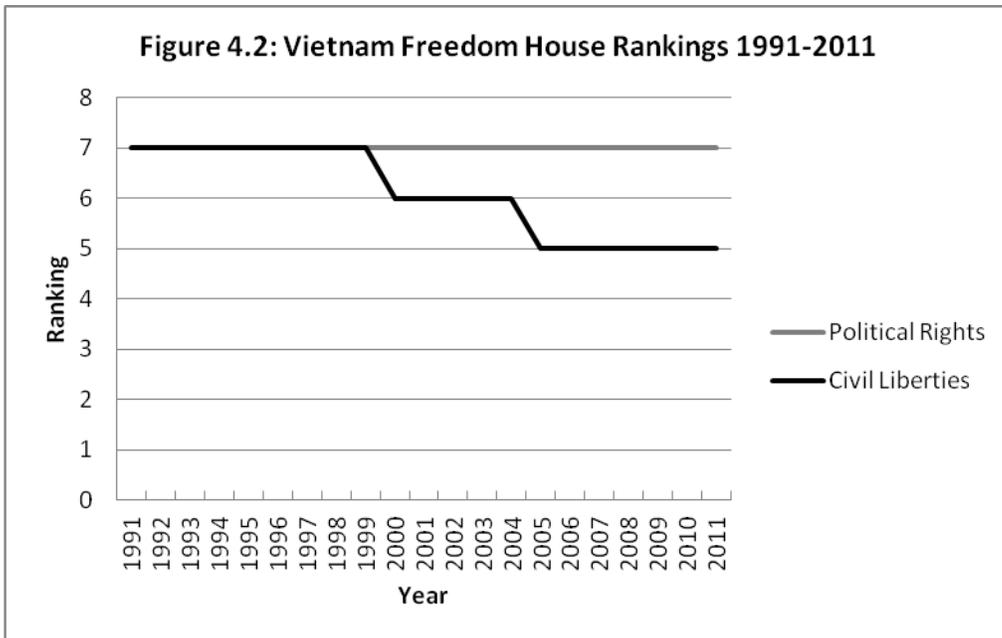
donors, despite the proposed amendment in 2009. While the government also offers tax breaks, it remains difficult for NGOs to benefit from these exemptions in reality. Finally, the government does not limit the number of registered NGOs entering the country or established domestically, though the registration process still remains a difficult obstacle for organizations to overcome.

The environment for civil society in Azerbaijan has been continuously evolving, and the focus for civil society organizations since the late 1990s has been to improve the legal framework for NGO and CSO operations. In addressing the structured, focused comparison questions regarding the case of Azerbaijan, it seems as though both international pressure and administrative policies of the government, with both the influence of the parliament and the office of the president, have had all had an impact in determining whether the relationship between Azerbaijan and NGOs is cooperative or conflictual. In addressing administrative decisions, President Ilham Aliyev has oddly introduced both cooperative and conflictual policies. Under his Presidential Decree, he established an official policy of cooperation in 2007, though in 2009, he proposed the amendments that included limiting foreign funding to fifty percent of an NGO's budget and requiring office locations in one-third of Azerbaijan's regional administrations. However, Azerbaijan's parliament took civil society's concerns into consideration when voting on the measures and ultimately did not pass these controversial policies. As for international influence, the cases Azerbaijan has lost in the European Court of Human Rights has prompted the government to start taking on the registration issues more seriously and introducing more favorable outcomes for NGOs, according to Guluzade and Bourjaily. Earlier international influence includes the project "Strengthening Civil

Society in Azerbaijan” between the government and the UN, which ultimately prompted the passing of the more progressive Law on NGOs in 2000, as well as the creation of the NGO Resource and Training Centers.

### ***Vietnam***

Out of all six case studies being reviewed, Vietnam has certainly received the worst rankings from Freedom House for political rights and civil liberties. Between 1991 and 2011, Vietnam has seen a ranking of straight sevens for political rights, and has gradually improved its civil liberties score from seven to five. As it has earned a seven for political rights every year, this keeps the average at seven as well, while the average for civil liberties is 6.1. Since 1991, Vietnam has only seen a difference in scores twice, once when its civil liberties ranking went from a seven to a six in 2000, and again when it moved from a six to a five in 2005. With these scores, Vietnam has earned the status of Not Free for all twenty-one years of this study. Vietnam’s Freedom House rankings are tracked from 1991 to 2011 in Figure 4.2 below:



Source: Freedom House, <http://www.freedomhouse.org/report-types/freedom-world>

According to Gerard Clarke, the rising numbers of NGOs within Vietnam has been a result of government control over society rather than institutional weakness or instability. When domestic NGOs were given legal permission to operate in 1991, it was given under the condition that NGOs would be “obliged by law to adhere to the Vietnamese Communist Party programme” (Clarke 41). By 1998, NGOs were gradually being given more independence to operate outside of the large organizations controlled by the state (Clarke 41). These mass organizations include the “Vietnam Fatherland Front, Labor Confederation, Ho Chi Minh Communist Youth League, Vietnam Peasants Association, Vietnam War Veterans Association, and the Vietnam Women’s Union” (Sidel 54). The Vietnam Fatherland Front is the organization that all socio-political organizations fall under, and it is in direct communication with the state (Gray 697). This umbrella organization houses twenty-nine registered entities. The Vietnam Women’s Union employs a staff of three hundred and its members number over twelve million, marking it as the largest mass organization in Vietnam (Thayer 3).

Elaine Scudder writes that there are generally two types of organizations in Vietnam. The first are associations, which include the mass organizations mentioned above that are closely tied to the Vietnamese Communist Party. Funds or foundations are the second type of organizations, which are established as charities or grant-distributing entities (Scudder 1). Tens of thousands of grassroots or local organizations are active in Vietnam, as well as many thousands more at the national and provincial levels (Scudder 5).

However, Clarke describes how, apart from many developing countries, Vietnam’s NGO sector does not operate in alignment with civil society designed by

liberal democracy of the West that recognizes the legitimacy of Korten's second and third generation NGOs (development and advocacy). He writes that NGOs do not operate as advocacy organizations in the Western sense, and that the purpose of advocacy for NGOs is insufficient to describe the type of reform and environment of civil society that NGOs in Vietnam are working to achieve (Clarke 51). Michael Gray elaborates on this subject, notes that, "research to date [as of 1999] indicates that the NGO sector in Vietnam is in many respects a *construct* of the state: the state has created the frame within which NGOs operate, and control over the 'political space' available to NGOs remains firmly in its hands" (Gray 694). However, even with such control over NGOs and civil society, Gray argues that the relationship cannot necessarily be defined in terms of cooperation or conflict, for civil society is "neither inherently 'in opposition' to the state, nor inherently immune from the influence of the state, or even outright co-optation" (Gray 697).

Mark Sidel writes that the government in Vietnam holds more power and control over the NGO sector than in most other countries, and that it pays specific attention to a few organizations that it views to be a threat to the political order or as likely to challenge the political status quo (52). Rather than evolving its NGO laws to be more progressive, Vietnam has virtually been operating on the same civil society laws since 1957, when strict regulations went into effect. However, a few exceptions do exist. For instance, in 1992, the Ministry of Science, Technology and the Environment sought to have the government provide a way for research groups to be legally recognized through a registration process. The Ministry's efforts succeeded, as the 1992 Science and Technology Regulations and Decree 81 were passed. These laws provided regulatory guidelines for the operations of independent research-based NGOs. In 1999, the

government allowed for the establishment of social or charitable funds, though it still retained a “traditional mechanism of dual control by a government management agency and by a government ministry or agency working in the particular substantive field of the fund (such as health or education” (Sidel 53).

However, since the beginning of the 1990s, efforts to replace the strict regulations established in 1957 were introduced. The topic of passing a new comprehensive and flexible Law on Associations was being discussed in the 1990s, but became widely and intensely debated in 2005 and 2006, when the government put a stop to further debate by taking the item off the agenda. The idea of passing a new law was of interest to both the government, which wanted to retain control over NGOs and CSOs, as well as promoters of civil society who wanted to expand and develop the sector. A few years prior, Decree 88, the Decree on Associations was passed in 2003 and was subsequently amended in 2010 as Decree 45. Decree 45 expanded the law to allow for special treatment of a few national umbrella organizations and increased the amount of state control over associational activities (Sidel 53). Decree 88 outlined a very restrictive and strict regulations on the establishment of associations, narrowly limited the scope of activities in which organizations could take part, and required government oversight in the internal structure of the organization, including any changes regarding those managing the association (Sidel 54). When debating the highly contested Law on Associations in 2006, the government advocated keeping the basic tenants of Decree 88, while those involved in the NGO sector advocated for more flexibility. According to Sidel, the NGO sector in Vietnam viewed Decree 88 as “overly restrictive to the sector, preventing a range of

organizations from registering and expanding their operations through maintenance of a highly detailed and restrictive system of approval” (54).

When the government introduced the Law on Associations to the NGO sector, many of the restrictions from Decree 88 were included in the draft. This led to many objections from the associational sector. While the draft contained new terminology for the associational establishment and legal recognition process that changed “approval” to “registration,” the same stringent procedures as the 1957 law were detailed in the draft. Associations also objected to the special treatment that the government was proposing for the mass organizations backed by the state, which was essentially their exclusion in the draft so that the rules would not be applicable to these mass organizations. Other restrictions that the associational sector objected to included the prohibition of advocacy-related activities, as well as the limitation that “only one association in each field could be legally formed in each locality” (Sidel 55). The government did not consider these objections, and in response, the Vietnamese Union of Science and Technology Associations (VUSTA) decided to draft their own Law on Associations for consideration. Their efforts to draft a different version mark the first time in Vietnam that society-driven objection to a law proposed by the government has resulted in a “‘rebellious’ alternative law” (Sidel 55) that was written for consideration. VUSTA’s version of the law included a more progressive registration process and limited the government’s oversight to being more of a management system for registration rather than controlling all aspects of the development and activities of associations (Sidel 55).

In 2010, Decree 45 replaced Decree 88 and provided similar privileges and legal protection to many national umbrella organizations as the state-controlled mass

organizations. New privileges for these organizations included the ability to comment and provide critiques on government policies within their field of interest (Sidel 62). At the same time, Decree 45 permitted government funding to be allocated to these umbrella organizations. However, the law includes language which restricts activities of associations, or umbrella organizations, to those that are “at the request of state agencies” (Scudder 7). Even so, the nature of NGOs in Vietnam tend to endorse and uphold the policies of the state, and see themselves as delivery agents of the government’s social or welfare programs (Thayer 7). The new law also stipulates that for aspiring organizations seeking registration, at least one hundred signatories are needed to be considered national, fifty to be considered provincial, twenty to be considered a county-wide organization, and ten for a township (Sidel 63). Furthermore, establishment committees for organizations must be officially recognized by a government ministry at the relevant level (Sidel 64). This Decree is currently used as the legal foundation for the establishment and registration of all associations in Vietnam (Scudder 4).

Between 2009 and 2010, the government proposed a new law regarding foreign NGOs and their operations within Vietnam. The newly drafted Decree on the Registration and Operation of Foreign Non-Governmental Organizations in Vietnam outlined a number of vaguely-termed activities that international NGOs were prohibited from participating in, including profit-generating activities (Sidel 56). In Article 4(1) of the draft document, these activities include those “of religious and/or political nature or detrimental to the national interests, security and defense and/or the national solidarity of Vietnam” (Sidel 58). Article 4(4) expands prohibited activities to include those that are “detrimental to social morals, fine habits and customs, national traditions and identity of

Vietnam” (Sidel 58). Additionally, the term “profit-making” is not given a definition within the law, which leads to even more uncertainty regarding the activities NGOs would be permitted to participate in and the way in which they may fundraise for their operations (Sidel 58). In contrast, Decree 45 specifically states that NGOs may engage in business-related activities in order to raise funds for their operations (Scudder 8).

Furthermore, Article 4(3) discusses the issue of “tax avoidance,” which is another undefined term that the government of Vietnam is proposing in the draft as a prohibited activity for NGOs. As with many of the previous case studies, there are usually provisions regarding tax exemptions within government tax codes or NGO regulations specifically for non-profit entities. The ICNL believes that the inclusion of “tax avoidance” in the government’s list of prohibited activities provides a possibility for the government to target NGOs seeking typical tax exemptions as organizations engaging in prohibited activity (Sidel 58-59). However, the government does provide for tax exemptions for charitable entities as outlined in three separate laws since 1996. These tax exemptions do include duties on imports and on the organization’s income, as long as profits are not resulting from business transactions (Scudder 2). With the terminology used for the prohibited activities in the draft, the government would be given a window of wide judgment when determining whether or not an activity being carried out by an NGO is legal (Sidel 57). As of 2010, this policy had not yet been passed.

While the government adopted the 1992 Science and Technology Regulations that allowed independent research-based organizations to operate outside of a state-controlled umbrella, in 2004, it began to target the independent Vietnam Institute of Development Studies (IDS). The IDS was involved in discussions regarding both social and economic

development, as well as government policy, much to the chagrin of government officials. However, the organization was funded by the former Prime Minister, Vo Van Kiet, who supported the work of the Institute's members, who were many of "Vietnam's leading intellectuals and technocrats" (Sidel 60). It was not until after the death of the former Prime Minister that the government passed a law, Decision 97 of 2009, that made virtually all activities that the IDS was involved in illegal. By omission in the law, organizations not operating under a state-controlled umbrella are no longer permitted to engage in "economic policy, public policy, [or] political issues" (Sidel 60). It also prohibited these organizations from publishing information about certain advocacy issues regarding public policy (Scudder 5). Even though the government restricts these activities, it does provide wide support for organizations that wish to engage in social welfare activities (Scudder 6).

### ***Measures of Cooperation and Conflict***

One of the difficulties in understanding the nature of international NGO development in Vietnam is that not all laws and regulations are made publicly accessible. Sidel notes that, "the current haphazard availability of these legal documents is not beneficial to the functioning of the foreign NGO sector in Vietnam and is not fully transparent" (57). This not only creates a difficult situation when attempting to analyze the legal standing of NGOs in Vietnam, but also leads one to believe that the law does not necessarily matter; instead, the government will decide on a case-by-case basis regarding which organizations will be permitted to operate. Regarding the measures of cooperation and conflict, Vietnam loosely meets two of the measures of cooperation. The first is that the government does support the channeling of funds to NGOs both through tax

exemptions and its own financial aid. Secondly, as Thayer suggests, NGOs view themselves as providing service delivery in the name of the state and work to uphold the policies of the government. At the same time, the nature of civil society in Vietnam is substantially different than civil society in any of the previous case studies, as the central government controls all aspects of the establishment and development of associations and independent organizations. The environment for civil society is constructed around the policies of the state, while NGOs wait for more freedom to operate independently and carry out activities with less government approval and oversight. However, this is not to say that the state-controlled associations do not make a difference in the communities that they work. For example, Gray notes that in 1992, the Women's Union implemented a project that helped issue micro-credit loans to low-income women. Over the course of four years, more than \$50,000 in loans had been distributed (Gray 704).

Even so, outside of the state-controlled entities, it is very difficult to obtain legal standing through the registration process. According to a staff member of an NGO in Vietnam, “the government studies NGOs very carefully...to get permission, most NGOs have been formed by well-connected people, as the government wants to prevent political trouble” (Gray 708). The government of Vietnam meets the measure of conflict regarding government-organized non-governmental organizations (GONGOs), as it continues to maintain the Vietnamese Fatherland Front and the Women's Union, among others. A second measure of conflict is met as the government has passed several laws restricting activities regarding political or economic policies and other advocacy-related issues. Finally, the government maintains a strict registration process and, for all intents

and purposes, has unlimited discretion to approve or deny registration status for organizations seeking legal recognition.

These measures of conflict, however, relate to conflict between NGOs operating in a Western point-of-view of civil society. Instead, as Gray notes, Vietnam seems to operate its civil society on a level closer to Antonio Gramsci's definition of civil society. Gramsci's definition of civil society is "a social sphere or a public 'space' where political thought is transformed into action" (Gray 695). Carlyle Thayer labels the case of Vietnam similarly, as a growing "political civil society," though his term includes civil society organizations which attempt to alter the political status quo (1). From Gramsci's point of view, the actions taken by the government of Vietnam are not necessarily measures of "conflict," but rather, measures of construction via strict management and control.

## CHAPTER 5

### *Conclusions: Complex Relationships*

In light of the findings of the researched relationships between state governments and non-governmental organizations (NGOs) in the six case studies presented, including Bolivia, India, Ethiopia, Sierra Leone, Azerbaijan, and Vietnam, it can be concluded that these relationships are often quite complex. The main purpose driving this study is to determine whether or not states ranked as Free by Freedom House are more likely to have cooperative relationships with NGOs. Are Free states more likely to benefit from a cooperative relationship, and are Not Free states inevitably going to experience conflict and mistrust in their relationships with NGOs? The model of this study is meant to help forecast environments in which states and NGOs will either support each other in cooperative efforts or where the relationship will be mired in tension and conflict. Table 5.1 below illustrates this model.

**Table 5.1: NGO-State Relations Model**

Freedom House Rank/NGO Function	Free	Partly Free	Not Free
Welfare Provision	++	+	0
Grassroots Development	+	0	-
Advocacy/Human Rights	0	-	--

The relationships between government and NGOs in the six case studies are generally influenced by the NGO laws, civil codes, and constitutions of each, as well as the broad histories or major socio-political events of each country over the past few decades. However, in each case, it is necessary to attempt to determine the factors that have influenced the creation and nature of such laws, as well as the environments in which these laws came to be. While the model provides the categorizations of Free, Partly Free, and Not Free environments concerning civil liberties and political rights, as well as the motivating factors of NGOs (welfare, development, and advocacy), in several of the cases, the structure of government and individual administrations seem to have had more influence than other factors. Influence from international donors and international agreements have also played a part in determining the relationships states and NGOs have developed.

However, before establishing the reasons why states and NGOs have either cooperative or conflictual relationships, it is first necessary to answer the essential question of this study. Are Free states more likely to have cooperative relationships with NGOs? The main hypothesis of this study states that Free states are more likely to cooperate, based on a review of the literature written on the subject and is reflected in the above model. In order to answer this question in a systematic way, measures of cooperation and conflict were devised to evaluate each case study. These measures are outlined below, along with instances from the case studies where the measures were met.

## *Measures of Cooperation*

- 1. State has created at least one government-led agency or institution specifically for the purpose of aiding or promoting the growth of the NGO community.**

India's Council for Advancement of People's Action and Rural Technology (CAPART), a government agency, provides support to the NGO sector by channeling domestic funding to civil society organizations. In Bolivia, the government's Ministry of Development Planning helps to foster relationships between the NGO community and the government by coordinating with the relevant state agencies, such as those related to health or education, to reach NGOs that work in those fields. In order to help organize NGO registration, the NGO Unit was created under Sierra Leone's Ministry of Finance and Economic Development (MoFED). Azerbaijan has instituted the NGO Resource and Training Centers for the purpose of supporting and promoting the growth of the NGO community.

- 2. State has adopted official policy of cooperation with NGOs (identified through legislation or in public speeches).**

In 2007, India adopted the National Policy on the Voluntary Sector, which made cooperation with civil society organizations the official policy of the state. The government of Sierra Leone views their NGO Policy as a means to cooperation with the third sector, though the onus seems to be placed on NGOs to work with the government and align themselves with government priorities. The Concept of State Support in Azerbaijan is an official adopted policy of cooperation with NGOs.

**3. State supports the channeling of funds to NGOs, either indirectly by providing tax breaks or by placing no legislative restrictions on foreign aid directed to NGOs.**

In India, the Foreign Contributions Regulation Act (FCRA) allows NGOs to receive foreign funding while CAPART provides domestic funding for NGOs. Bolivia has channeled international funding to NGOs through the Social Investment Fund to help these NGOs carry out development-related projects. Sierra Leone does not place any specific restrictions on aid directed to NGOs, though funding meant for capacity-building must first be channeled through MoFED. The NGO Support Council of Azerbaijan provides domestic funding through a competitive grant award process developed in 2008. Many of the case studies provide various tax exemptions for registered NGOs.

**4. NGO mission, goals, and policies mirror the policies and strategies of the state, where the NGO specifically works to complement and uphold the legitimacy of the government.**

Foreign NGOs in Bolivia work to provide social services that the government cannot and operate in a manner consistent with the National Development Plan, as the Ministry of Foreign Affairs and Worship must approve projects before implementation. NGOs operating in Sierra Leone sign an Agreement with the government detailing the nature of their projects before implementation, which generally favor the priorities of the state. In Vietnam, NGOs are seen as service delivery mechanisms of the state, and their priorities and strategies match.

**5. State does not limit number of NGOs entering the country or the number of NGOs allowed to register for NGO/non-profit status.**

Through their Civil Codes and NGO laws, many of the case studies do not limit the number of NGOs allowed to register or enter the country, including Bolivia, India, Sierra Leone, and Azerbaijan.

### *Measures of Conflict*

- 1. NGOs have created parallel government structures necessary to implement third-sector programs when the state government is unable to provide these institutions and prevent NGOs from taking this action.**

In the cases reviewed, none of the countries met this particular measure of conflict, though the literature shows that this remains a possibility in countries with weak government structures.

- 2. State has created government-organized NGOs (GONGOs), to obtain funding and prevent legitimate NGOs from gaining these resources.**

Two of the case studies have created GONGOs in order to inhibit the work of potential local NGOs, including Ethiopia and Vietnam. In Vietnam, GONGOs are prevalent, including the Vietnamese Fatherland Front and the Women's Union.

- 3. State and NGOs compete for foreign aid; State officially restricts amount of funding to NGOs through legislation.**

Ethiopia's Charities and Societies Proclamation (CSP) is the most stringent of the case studies in restricting funding. While it does not directly restrict funding, it does outlaw certain activities for NGOs if they receive more than ten percent of their budgets from foreign funding, which essentially creates the same effect as directly restricting the flow of funding would have. The CSP also limits the amount an NGO may fundraise before becoming a registered entity. Furthermore, Ethiopia requires that NGOs limit

administrative expenses to thirty percent of their budgets. India provides another case of limiting administrative expenses, though the restriction applies to foreign funding only, and allows up to fifty percent of foreign funding to be utilized for administrative expenditures. India's FCRA also allows the government to restrict the flow of foreign funding by deciding which NGOs may receive funding and which organizations may donate funding.

**4. State has passed legislation hindering efforts and restricting purview of NGOs (human rights, contentious political issues, etc.).**

The CSP in Ethiopia inhibits the scope of many NGOs by prohibiting human rights activities with the ten percent rule for "foreign" entities. In Sierra Leone, religious, ethnic, and community-based organizations are prohibited from registering as NGOs, and the definition of NGO excludes any political or human rights-related activities. Vietnam also restricts advocacy-related activities, while India prevents NGOs from participating in political activities.

**5. State requires NGOs to not only register with the government, but allow strict government monitoring of activities or intervention (cases of harassment by government officials have occurred).**

Once again, the CSP allows for government intervention in NGO activities after the registration process is complete, including placing nominations for leaders of the organizations. In Sierra Leone, there have been reports of harassment by activists. Ministry officials in Azerbaijan are permitted to engage in NGO activities and may request information about an NGO's activities or members at any time. In Vietnam, the

government strictly monitors activities of organizations permitted to operate in the country.

Overall, only two of the case studies met more measures of conflict than cooperation. Ethiopia, a Partly Free state, met all five of the measures of conflict while meeting just one of the measures of cooperation regarding tax exemptions. Vietnam, a Not Free state, met three of the five measures of conflict while also meeting two of the measures of cooperation. However, as mentioned in Chapter 4, Vietnam's case does not necessarily fit the description of "conflict" between the government and civil society; rather, the government controls every aspect of the third sector and CSOs are willing to provide services and carry out policies on behalf of the government. While this leaves both of the Free case studies as meeting at least three of the five measures of cooperation, and it would seem that Free states are more likely to have cooperative relationships with NGOs than Not Free states, many of the case study categorizations as either cooperative or conflictual are not clear cut. Additionally, Azerbaijan, a Not Free state, loosely meets four of the measures of cooperation, which is more than can be said for Ethiopia, a Partly Free state which met just one, and India, a Free state which met three, but has had a history of meeting nearly all five measures of conflict (although outside of this study's timeframe). The findings from each of the case studies on the measurements of cooperation and conflict lead to some conclusions regarding the hypotheses outlined in Chapter 1.

### ***Hypotheses***

- H1: Free states are more likely to cooperate with NGOs.

When looking at the overall picture of the case studies of Bolivia, India, Ethiopia, Sierra Leone, Azerbaijan, and Vietnam, it would seem that Free states are more likely to cooperate with NGOs than states ranked as Partly Free or Not Free, as both Bolivia and India met at least three out of five of the measures of cooperation. However, both of these states have experienced, to some extent, some of the measures of conflict due to the FCRA of 2010 in India and proposed policies by individual leaders in Bolivia. As mentioned above, Azerbaijan, as a Not Free state, meets four of measures of cooperation, which leaves room for dispute concerning the hypothesis that Free states are more likely to cooperate. The Partly Free case studies, Ethiopia and Sierra Leone, on the surface level, seem to meet expectations about how Partly Free states interact with NGOs. Based on the model of this study, Partly Free states are less likely to have cooperative relationships with NGOs than Free states, but the possibility remains that a Partly Free state would go either way. However, the case of Ethiopia provides an extreme example of a government that has enacted very strict regulations regarding NGOs, which creates a situation that would be more expected of a Not Free state.

- H2: States with weak government structures are likely to have cooperative relationships with NGOs.

The case study of Sierra Leone provides an example of where this hypothesis is supported. In the aftermath of civil war, Sierra Leone relies on international funding for half of its budget and relies on NGOs to provide basic services for its citizens where it does not have the capacity. However, a distinction must be made between NGOs which provide service delivery and NGOs which advocate for human rights issues. Sierra Leone requires an Agreement to be signed which essentially ensures cooperation between

the government and NGOs working to provide basic services or supporting other government priorities. Sierra Leone generally restricts human rights activities by excluding these activities in the state definition of NGO.

- H3: States and NGOs will be more cooperative when NGOs attempt to mirror the position of the state in order to obtain a wider scale of influence.

As mentioned above in the case of Sierra Leone, cooperation is essentially deemed necessary by the government through the Agreement requirements, and many NGOs focus on service delivery. A few of the case studies show that NGOs will share the state's priorities in order to be allowed to carry out their activities. Bolivia requires that NGOs carry out activities that are aligned with the National Development Plan, and NGOs plan projects that are designed to match these priorities. These actions may not necessarily be considered free and open two-way cooperation, but rather a system of agreeing to specific activities first, then cooperating to successfully implement these activities.

- H4: Governments and NGOs will conflict when their assumptions about each other's responsibilities and abilities do not match.

Many of the case studies provide evidence in support of this hypothesis. In cases where NGOs find it necessary to participate in advocacy-related activities, one might assume that members of the NGO community believe that the government is not taking responsibility in protecting the rights of its citizens. At the same time, the government may interpret NGOs as attempting to take power away from the government or change the status quo, and in turn, restrict activities that may enable NGOs to make unfavorable changes to the social or political landscape. Many of the cases in this study provide

instances where the government prohibits NGOs from carrying out certain human rights or political activities, including India, Ethiopia, Sierra Leone, and Vietnam. Limiting the scope of activities of NGOs is one of the most important factors in determining the relationship between the government and NGOs. While the focus of this study is on the differences between Freedom House's Free, Partly Free, and Not Free states, it seems as though relationships between governments and NGOs may be more predictable depending on the nature of civil society and the activities NGOs carry out. The model of this study shows that states and NGOs will have the least favorable relationships when NGOs partake in advocacy-related activities and most favorable relationships when NGOs carry out general welfare or service delivery activities. Limiting the scope of activities may be more telling as to the relationship than the status as Free, Partly Free, or Not Free. For example, Ethiopia, a Partly Free state that meets more measures of conflict than cooperation, restricts activities much more so than Azerbaijan, a Not Free state, which meets more measures of cooperation than conflict.

- H5: As the Millennium Development Goals (MDGs) are continuously legitimized and even seen as international agreements mirroring international law, state governments will strive to improve their welfare services through cooperation with NGOs, meaning that external factors also have a role in NGO-state relations.

The case of Sierra Leone provides evidence for this hypothesis, as it is actively striving to meet development standards with the help of international donors and NGOs. However, cooperation with NGOs may also be an effect of over a decade of civil war and its reliance on international aid for reconstruction efforts. The case studies provided in

this research show that commitment to international agreements, such as the MDGs, does not always mean that NGOs and governments will have cooperative relationships. What may be of more importance is the issue of dependence and to what extent a state relies on external factors to provide services. The more a state can rely on its own capabilities, the less certain one can be about the level of commitment to international agreements or cooperation with NGOs. Sierra Leone provides a case where the government relies heavily on international aid and is also committed to the MDGs. Even more intriguing is the case of Azerbaijan, which allows international agreements to take precedence over domestic law in cases where they conflict. This may be a determining factor in its efforts to improve its legal environment for NGOs after losing several cases in the European Court of Human Rights. Bolivia provides another case of where international standards or norms influence a government's relationship with NGOs. Economic and political liberalization of the 1990s seem to be a defining aspect of Bolivia's cooperative relationship with NGOs.

- H6: Leadership and administration policies may determine whether the government has a relationship of cooperation or conflict with NGOs, more so than the structure of government.

Leadership policies play a role in several of the case studies regarding the relationships between government and NGOs. Most notable is the case of Azerbaijan and President Ilham Aliyev's Concept of State Support to Non-governmental Organizations and the Council of State Support of NGOs. His Presidential Decree made cooperation with NGOs an official policy of the government, while the Council of State Support initiated a competitive grant-awarding process. However, President Aliyev also proposed

restrictive amendments (which did not pass) that included a limit of international funding to fifty percent of an NGO's budget. In Bolivia, Jaime Paz Zamora brought tensions when introducing the possibility of taxing funds NGOs received, while Gonzalo Sanchez de Lozada helped foster cooperative efforts by recruiting NGO personnel to work for the government.

### ***Structured, Focused Comparison Questions***

After outlining the relationships between state governments and NGOs in six countries, the research questions driving the focus of this study may be answered to some extent. What factors contribute to government and NGO cooperation or conflict? When are these entities most likely to cooperate or conflict? Do domestic political structures, such as leadership policies and the type of government have an influence, or does the environment of civil society drive the nature of the relationship? Do external factors, such as international agreements and the promise of foreign funding play a role? Do these relationships change over time due to political policy changes and NGO policy changes or do they remain stagnant? Do particular leaders influence how the state interacts with NGOs?

The case studies presented illustrate that many factors may influence the relationships between NGOs and state governments. These factors include international influence through agreements and international development standards, individual leadership policies, the missions of NGOs and the state's willingness to accept their intended activities, as well as the shift to political and economic liberalization in the 1990s. The case studies of Bolivia, India, Ethiopia, Sierra Leone, Azerbaijan, and Vietnam are each unique in their experiences with NGO-state relationships, though some

general observations can be made. With the exception of Vietnam, where the government and the Vietnamese Communist Party are the deciding factors in the formation and activities of civil society organizations, the case studies have experienced one or more of the abovementioned influences on NGO-state relations.

Out of all of these factors, individual administration policy changes seem to have more of an immediate impact on NGO-state relations than the others, though each of these factors influence the relationships in the cases reviewed. Individual leadership policies in the cases presented have the most impact when either the state relies on its own capabilities and does not necessarily need the support of the NGO sector to carry out activities or when the administration is insecure about its power and political status quo. This is especially evident in the case of Ethiopia, where leadership held power in a contested election and has since implemented stringent NGO policies. At the same time, Bolivia has experienced both cooperation and tension with changes in administration, though external factors and its transition to more liberal economic and political policies are more influential to the cooperation experienced between NGOs and Bolivia's government. As a Free state, India is generally cooperative with NGOs, but it has also experienced tension brought on by administrative policies.

Aside from the influential factors at the international, regime, and leadership levels, the differences in NGO missions (advocacy, development, or general welfare) are also important in forecasting relationships between NGOs and state governments. Welfare activities are typically more well-received than advocacy-related activities in most of the case studies reviewed. These factors and relationships remain complex,

however, as Azerbaijan provides an example of where the state does not limit the scope of activities or missions of NGOs, but is ranked as a Not Free regime.

Recognizing that this research includes only non-Western developing states as case studies, while Freedom House measures political rights and civil liberties of both Western and non-Western, as well as developed and developing states, the ability to generalize NGO-state relationships in all Free, Partly Free, and Not Free states is limited. There are also limitations to utilizing Freedom House data, as Armstrong and Giannone have argued, in that the ranking system may classify two states similarly when they are actually very different or vice versa, and that the Freedom House system is difficult to replicate and achieve the same results. Another limitation to this study is in deciphering whether or not policies of the state regarding NGOs are meant to be simple regulatory measures or genuinely restrictive. For example, when the registration system for NGOs in Bolivia was originally introduced, this seemed to increase tensions between the state and the NGO sector, but the process is now the standard for obtaining legal recognition and also provides information to the public about active NGOs.

While the model for this study provides an outline for general expectations, there are exceptions, most notably with Azerbaijan and its efforts to make the legal environment for NGOs more favorable, as well as the extreme policies of Ethiopia in comparison with its Partly Free counterpart, Sierra Leone. Both of the Free case studies of Bolivia and India meet at least three out of five measures of cooperation, though India restricts political activities for NGOs and limits funding for administrative expenses. For almost all of the case studies, it is more likely that the government will cooperate with NGOs when NGOs carry out welfare activities or development activities rather than

political or human rights activities. However, as many of the case studies have experienced, as government leadership, priorities, and capabilities change, it is likely that the legal environment for NGOs will also change.

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