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Revolutionary, Advocate, Agent, or Authority
Context-based Assessment of the Democratic Legitimacy
of Transnational Civil Society

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As transnational civil society has become a prominent feature of international relations, a number of problems have arisen regarding its study. Early research and analytical theory on civil society in international relations was dominated by a desire to demonstrate the potential for an alternative to the state-based study of international affairs. Thus the early literature, particularly from the constructivist school, focused on demonstrating civil society's impact. Now that that impact has been proven, new questions have arisen regarding the civil society's impacts and behavior. Civil society is frequently heralded as a key component of more responsive, just, or democratic global governance. Nonetheless, a variety of researchers have called into question civil society organizations' motivations, representivity, and democratic credentials (Bowden 2006; Cooley and Ron 2003; Foley and Edwards 1996; Nelson 1997).

The majority of authors still hold that civil society can contribute positively to global governance, but they suggest a wide variety of prescriptions for judging or improving civil society's legitimacy. Some authors stress transparency or accountability (Scholte 2004; cf. Nelson 1997). Others emphasize participation or deliberation (Nanz and Steffek 2004; Payne 1996). Representation of disempowered populations is another common source of credibility (Keck and Sikkink 1998; Grzybowski 2000; Nelson 1997). Still others judge civil society primarily by its impacts, usually emphasizing its positive ones (Rich 1994; Florini 2003; see also Lipschutz 1992). This wide divergence reflects a clear lack of consensus on the criteria by which legitimacy should be judged. This lack of consensus, in turn, has led to a fractured literature and a dearth of clear-cut debates. The literature itself fails to highlight clear axes of argumentation which might be evaluated and comparatively judged.

This article seeks to identify common flaws in the modeling of the legitimacy of transnational civil society and to offer a clear, democratically-based standard of civil society legitimacy. Placing the question of civil society's legitimacy within the larger context of discussions regarding democratic global governance, it argues that civil society's legitimacy is based not on wholly endogenous factors like transparency or participation, but rather on civil society's impact on the democratic rights of the populations it impacts. The democratic needs of the population vary by context and thus, in different contexts, civil society actors must be judged differently. The article divides the concept of democratic legitimacy into three categories, and shows how the relative importance of civil society's input, throughput, or output legitimacy varies depending upon the other democratic protections available to the applicable demos.

To help highlight the impacts of context and the ways in which civil society can respond to it in a democratically legitimate way, I have used the language of 'roles.' Within the national context, civil society can act as a *Revolutionary*, seeking to reform or replace an undemocratic regime and install a democratic one, or as an *Advocate* representing the interests of particular groups within a democratic system. In either the state or international context, civil society can act as an *Agent* working on

behalf of the state or international institutions. Finally, in the global context, civil society may also act as an *Authority* contributing actively to the creation and enforcement of global norms and policy. The reasons why each of these roles is associated with a specific context is explained below.

As noted, this approach requires deconstructing democratic legitimacy into three parts: input (such as grassroots participation), throughput (such as transparency), and output (mainly impacts) and examining the relative importance of each element in a given context. This method has several virtues. First, it allows us to examine and compare the standards of legitimacy currently applied to civil society. This helps organize the literature, laying the framework for future debates. Second, by separating the state and international contexts, it shows which elements of domestic legitimacy may be applied to international actors, contributing to (and hopefully clarifying) the ongoing debate on the relevance of the domestic model in the analysis of international civil society. Third, it allows me to use the national-international comparison to demonstrate the need to develop new standards of legitimacy for international actors.

This article will proceed in five parts. I will begin by reviewing the literature on transnational civil society and identifying questions in need of clarification. Next, I will disaggregate democratic legitimacy and discuss its various elements. Third, I will identify the four contexts in which civil society may act, and elaborate the rationale for judging democratic legitimacy differently in each context. Fourth, using insights from this analysis of contextual legitimacy, I will highlight two important problems in the current analysis of the legitimacy of transnational nongovernmental actors. Finally, I will discuss ways that a contextual understanding of legitimacy can contribute to the remaining questions in the literature.

Framing the Problem

Academic writing on civil society and international affairs dates back over thirty years. In 1976 Mansbach, Ferguson, and Lampert defined “the interstate nongovernmental actor” as encompassing “individuals who reside in several nation-states but do not represent the governments of these states”, and included such actors alongside states and intergovernmental organizations as key players in the international system (pp. 39-40). Other early writings focused on international pressure groups and the international impact of trade unions (Willetts 1982; Taylor 1984, respectively). Literature on international civil society, however, did not reach critical mass until the early 1990s, when a more regular dialogue began on the role of transnational civil society in global affairs (Florini and Simmons 2000 p. 8). Whereas earlier efforts were largely empirical, these new writings were prompted by a variety of theoretical, normative, and empirical interests. Since then, shifting foci within the field, combined with a multiplicity of approaches has led to a fractured and at times meandering body of literature.

Some of the first instances of the term ‘global civil society’ appear in articles published by Martin Shaw and Ronald Lipschutz in 1992. Lipschutz wrote that global civil society was creating new “imagined communities,” a form of transnational demos that would “challenge, from below, the nation-state system” (p. 391). He applauded this change and embraced an explicitly normative agenda, calling for academics to “undertake the reconstruction of world politics” to facilitate civil society’s growing role (p. 420). Shaw took a slightly more cautious approach. He agreed that the growing power of civil society “challenged the principles of sovereignty and non-intervention” at the heart of the state system (p. 432), and that

civil society's growing power required a rethinking of international theory. However, he did not think the "global society perspective" would "become central to world politics in the short or medium term" (p. 434). These pieces were followed by a host of others, many of them arguing for the potential of civil society to revolutionize global governance. Some argued for civil society's democratizing potential (e.g. Held 1995; Spiro 1995; Payne 1996) whereas others simply emphasized its power and influence (e.g. Willetts 1996; Nelson 1997; Meyer 1997).

Most of this writing reflected the effort, often led by constructivists, to break free from a state-based, realist depiction of international relations. Constructivists argued that "processes of interaction produce and reproduce the social structures...that shape actors' identities and interests and the significance of their material contexts" (Wendt 1995 p. 81). Constructivists and others contested the dominant materialist perspectives in international relations which depicted state power as the predominant explanation for international events and decisions. They also contested rational choice theories which depicted states and other actors as unchanged by their interactions with one another (cf. Wendt 1995). The influence of civil society and the existence of transnational networks were important proofs that states were no longer the sole legitimate focus of study. Civil society's power to create norms and influence policy indicated that there was a locus of power outside the state and a means of power other than material dominance. The creation and adoption of international norms also indicated that states' interests could shift over time (cf. Evangelista 1999; cf. Clark 2001). Similarly, the idea of globe-spanning citizens' networks provided an alternative to the vision of international anarchy and isolated states favored by realists and rational choice theory. Many early writings reflect this thinking, arguing for the power of civil society to redefine norms and shape interests, especially for international institutions.

The focus on theory-building in the mid-1990s sometimes eclipsed empirical research. International relations writings about civil society often seemed to rely on media depictions of current events rather than carefully investigated case studies. At the same time, the case for civil society's democratizing potential was more inferred than proven, sometimes from the precedent of the civil-society driven democratization of South American and Eastern European nations (Bowden 2006; cf. Fattouh 1995; cf. Lipschutz 1992; cf. Foley and Edwards 1996). The constructivist focus on norms and impacts left civil society advocates open to the charge of ignoring questions of agency by not specifying clearly the means by which civil society achieved its influence (Price 2003). Other critics challenged the relevance of national experiences to the global context (Bowden 2006). A number of authors also suggested that early writing on civil society ignored the ways in which the complexities of global advocacy might inhibit genuinely democratic representation. They noted that effective global advocacy relied on coercive power available only to a minority of NGOs and that the political bargaining in which powerful NGOs engaged was neither transparent nor accountable to many of the people it affected (Foley and Edwards 1996; Nelson 1997; cf. Tvedt 2002).

This wave of critique resulted in a number of strong, interdisciplinary works that combined constructivism with rational analysis. They focused on civil society's ability to upend the state system by introducing new norms while still relying on some state mechanisms to implement and enforce standards (Price 2003). Chief among these was Keck and Sikkink's *Activists Beyond Borders* which laid out the 'boomerang theory' of transnational advocacy, depicting how weak advocates in developing nations might enlist the aid of partners in powerful states who would use

pressure from their own powerful governments to clear the political obstacles faced by their developing country partners (1998). Fox and Brown's *The Struggle for Accountability* made an empirical assessment of civil society's impacts on the World Bank, using case studies authored primarily by practitioners (1998). Florini's *The Third Force* built on both of these approaches. It stressed civil society's increasing importance "for the larger problem of global governance" while emphasizing the tendency of civil society organizations to pursue "their [own] conceptions of what constitutes the public good" (Florini and Simmons 2000 pp. 5, 7). The volume included a number of case studies, including Risse's depiction of a "norm spiral" in which Keck and Sikkink's boomerang of influence bounced back and forth among civil society actors and states for an extended period, developing new norms via repeated, incremental impacts (2000 pp. 189-91).

These new works helped address some problems of theory and method but they did little to tackle growing concerns about the legitimacy of civil society. Continued questions remained about civil society's democratic credentials, particularly its accountability and transparency (Nelson 2000; Scholte 2004). Other authors raised questions about whether civil society could function democratically outside the boundaries of the state (Bowden 2006). Still other works challenged constructivist assumptions about civil society autonomy from the state or material interests (Tvedt 2002; Cooley and Ron 2003; Raustiala 1997).

One persistent concern was that civil society, particularly at the global level, was fundamentally dominated by elites. Research from both development studies (Nelson 2000; Murphy 2005) and political science (Anderson 2000) highlighted civil society's use of elite mechanisms. Some argued that civil society replicated and magnified the power imbalances of the old state system rather than remedying them (Woods 2000, 2005; Manji and O'Coill 2008). Similarly, Stone has argued that the complex nature of global networks belies claims for their democratizing potential: "the extent to which global and regional networks become a focal point of public affairs has meaning primarily for those who have the resources, patronage or expertise" to participate in transnational discussions (2005 p. 89). These concerns contribute to the continuing debate among academics and practitioners on the appropriate role for civil society in global governance.

Defining Lines of Argumentation

Numerous fault-lines exist within this body of literature. Fractures center on the understanding of civil society, the model of global governance, and the definition of democracy. Further complicating factors are the divisions between normative and empirical approaches and among various schools of academic research. The challenge in organizing the literature is two-fold. First, most of these faults are multilateral, with a spider web of cracks separating multiple theories rather a simple binary division. Second, most authors writing about civil society manage to cross multiple fault lines as they write simultaneously about civil society, global governance, and democracy (or the lack thereof).

The most obvious debate centers on civil society's behavior and motivation. Some authors maintain that civil society genuinely "rescue[s] the causes of marginalized or excluded groups" (Gryzbowski 2000 p. 442). Others insist that civil society pursues its own understanding of the public good (Florini and Simmons 2000; Nelson 1997). Some focus on the diversity of organizations, reminding us that not all civil society is truly 'civil' – i.e. nonviolent or interested in upholding the common good (Foley and Edwards 1996). The skeptics insist that civil society is highly

parochial, with the tendency to promote Northern or rich-world policies for Southern or poor populations (Woods 2005; Nelson 2000; cf. Stiglitz 1999). The most pessimistic of all insist that civil society is materially driven and self-interested (Cooley and Ron 2003) or even assists in an imperial agenda (Manji and O’Coill 2008).

A second disagreement is over the shape of global governance. Authors of the cosmopolitan school argue for the eventual dissolution of national governments or predict the rise of a global superstate (Korten 1998; Held 2004, 2006; cf. Nanz and Steffek 2004). Others argue for the enduring power and importance of states and institutions, including a role for states or international organizations in implementing the civil society agenda (Keck and Sikkink 1998; Risse 2000). Again, a critical minority questions whether democratic global governance is even possible (Dahl 1999) and whether civil society is just a tool of the state (Raustiala 1997).

The definition of democracy forms another set of faults. Bexell, Tallberg, and Uhlin have observed that while normative democratic theory manifests a “trichotomy” of separate representative, participatory, and deliberative models, writers on global governance feel free to sample from and combine these strands (2008). Held’s vision of cosmopolitan democracy, for instance, mixes elements of all three models (Held 2006). Nanz and Steffek take a more purely deliberative approach (2004). An emphasis on participation is common among advocates for civil society participation in global governance (Payne 1996; Gryzbowski 2000), while others use accountability as a proxy for equal representation (Scholte 2004; cf. Nelson 1997).

Over this fractured ground is laid another set of complicating factors. Normative political theorists, many working on visions of cosmopolitan democracy, have created elaborate arguments for how civil society could or should be. Researchers with a more empirical bent have taken issue with the gap between civil society’s idealized behavior and current reality. At the same time, variations in approach among international relations, international political economy, development studies, and non-academic practitioners further complicate the problem.

A Standard for Evaluation

This article aims to both organize the literature and to evaluate its constituent parts by developing a systemic means of assessing civil society’s legitimacy. As noted, much of the debate over civil society’s legitimacy focuses on its capacity to democratize national or international systems. Thus a means of assessment based on democracy is both appropriate and widely applicable. Evaluating the literature on civil society, however, requires that one first define civil society in precise terms. Creating standards for evaluation, in turn, requires defining democracy and showing how democratic standards may be applied to civil society.

Delimiting Civil Society

The definition of civil society is complex and contested, particularly as one examines civil society in the international context (Florini 2006). Most authors agree that civil society is limited to those associations without an explicit role in government or explicit profit-making purpose. However, there are disagreements as to whether the term encompasses ‘uncivil groups’ such as those that use violence (e.g. the Basque separatist group ETA) or support illiberal causes (e.g. the white supremacist Ku Klux Klan). There are also concerns that the term is too often used to describe only professional NGOs, an approach which fails to appreciate the role of interpersonal associations in the functioning of the state (cf. Putnam 2001). Keck and Sikkink use

the term “transnational advocacy networks” to delimit organizations they study. Others, similarly embrace the network language, emphasizing the characteristics of international association more than those of individual groups (e.g. Stone 2005).

Nonetheless, what most of the organizations and movements being researched have in common is an impact on the creation or use of policy. Focusing on policy may exclude consideration of the associational value of bowling leagues and bridge clubs, but it does provide a lens for exploring the importance of civil society in international relations and it succeeds in encompassing the vast majority of the literature. Moreover, it is able to incorporate both formal and informal organizations.

For the purposes of this piece then, I will define civil society *as any formal or informal association of individuals which is involved in the creation, reform, or implementation of policies and norms, provided that the association is not primarily a part of a government or a governance institution, nor of a profit-making enterprise.* This definition thus includes professional NGOs, social movements, trade unions, and foundations. It makes no distinction between ‘civil’ and ‘uncivil’ groups. (Since this article examines the democratic legitimacy of all groups, prejudicing such an examination seems unwise.) It excludes government departments and corporations, but recognizes that some third-sector organizations will engage and even act on behalf of the political and commercial sectors. The definition includes all nongovernment, noncommercial groups acting to impact or implement policy and norms. It thus includes both advocates and service providers. The only traditional civil society groups it neglects are those highlighted, most notably by Putnam, for their purely associational contributions to democracy. These include community associations, recreational groups, and the like. Avoiding these groups, however, seems reasonable for two reasons. First, the associational contributions of these sorts of nonpolitical groups to democracy are already established. If the legitimacy of such a group is questioned, it is generally because the group has engaged in a debate on policies or norms, which would in turn make it subject to the framework this article proposes. Second, the literature on transnational civil society and democratic legitimacy itself tends to ignore those elements of civil society with purely associational value. Some discussions have arisen as to ways in which civil society may help create a global *demos* through developing a cosmopolitan identity (see, for example, Held 2004). However, the practical limits of such global associations are well proven (Dahl 1999) and more recent empirical research has indicated that the resource requirements (in terms of wealth or access) of global networking are such that international civil society associations tend to foster an international elite rather than a global proletariat (cf. Stone 2005, pp. 88-89). Insofar as the goal of this piece is to analyze and advance the literature, it makes sense to choose a definition that reflects the literature’s emphasis and evolutions.

Transnational civil society (sometimes referred to as international or global civil society) refers to those civil society actors who engage in activity beyond the borders of their own state, or whose domestic activities are linked to nongovernmental, noncommercial actors beyond their own state. Thus it includes international nongovernmental organizations headquartered in one country yet working in another; foundations funding overseas work; local civil society actors receiving international funding; global justice movements; and any civil society organization that is connected to a regional or international network.

It is important to note that this article uses the term ‘civil society’ to refer both to civil society as a collective, theoretical entity and to individual civil society actors or coalitions. The reason is that this work aims for an empirical approach whereby

the theoretical 'civil society' is understood through the actions of real-world organizations. Real-world civil society is composed of organizations which may or may not act collectively; however, when a consistent trend or trait is manifested among a majority of individual actors, it impacts the behavior of the aggregate. Likewise, the same tests and standards which apply to the whole of civil society should also apply to the organizations of which it is composed.

Defining Democracy

In choosing a definition of democracy, my major concerns are applicability and fairness. The definition must apply equally well to states, institutions, and transnational civil society. Much of the literature on civil society and democratization is implicitly (or explicitly) a comparison of the relative democratic credentials of these three categories of actors. To fairly judge between them, the definition must apply to all three. Likewise, the definition must engage with the existing literature on civil society, insofar as it must reflect civil society's stated objectives, its capacities, and limitations.

To satisfy these criteria, this piece defines democracy as majoritarian, representative rule, accompanied by established protections for basic citizen rights. The majoritarian, representative elements will be interpreted in the broadest possible terms, as equal citizen authority and citizen control over government. It is not restricted specifically to voting or formal governance structures. Likewise, rights may include both formal constitutional or legal protections or the establishment of a widely respected and accepted norm, such as may be protected and upheld by citizen watchdogs.

State-based democracy utilizes majority rule, in which some equally distributed measure of voice or authority is used by citizens to exercise control over the government (Dahl 1999). Historically, state democracy is almost always representative, and, at least in recent history, it commonly encompasses some measure of liberal protection of the rights of all citizens (*ibid.*). This understanding of democracy is not only embraced by state actors, but also a large number of practitioners, particularly those from the developing world (e.g. Mobogori and Chigudu 1999; Naidoo and Tandon 1999; Wiesen, Prewitt, and Sobhan 1999; Marschall 1999). At the same time, eliminating the strict emphasis on voting allows this definition to accommodate the pluralistic or participatory standards of democracy typically used to test democracy in non-state settings and creates space for the evolving representative mechanisms of international institutions. Likewise, using both laws and norms as means of establishing rights creates common ground on which to evaluate the contributions of states, institutions, and civil society to rights protection. Using the language of both laws and norms also allows this definition to engage with constructivist, and functionalist and realist literature.

To elaborate, some measure of majority rule is inherent in almost every conception of rule by the people. Granted, Habermasian depictions of deliberative democracy take issue with this, but deliberative democracy requires open access in order to function. Only when all ideas can be brought to the debate is it guaranteed that discussion will reveal the ultimate good. Empirically speaking, there is abundant evidence that international policy discussions are not universally accessible, and that civil society itself may be dominated by elites (Nelson 1997; Simmons 1998; Anderson 2000; Stone 2005; cf. Murphy 2005; cf. Edwards 2001 p. 9). Were it currently applied to civil society, it seems unlikely that any international network or campaign would pass muster. Moreover, it is inapplicable to contemporary states.

In addition to being majoritarian, democracy, as defined in this article, is representative. There are two reasons for this. First, representative practices are nearly universal in modern democratic states. As Dahl notes, “in practice, all democratic systems, with the exception of a few very tiny communities, allow for, indeed depend on, delegation of power and authority; the citizen body delegates some decisions to others.” (1999 p. 21). These designated persons are commissioned to represent or act on behalf of a particular population (ibid). Second, as noted earlier, data suggests that much of transnational nongovernmental civil society is elite-driven. Nonetheless, many of its advocates argue that dominant elites can be representative. The resulting test is essentially two-fold. On the one hand, it asks whether elites are representing the people they claim to represent or, in the case of this definition, whether they are representing the majority of the people impacted by the activity in which they have involved themselves. On the other, it asks whether the influence of different elite actors is balanced between them, such that their aggregate impact still reflects the will of the majority of stakeholders rather than simply those represented by the most powerful actors.

Finally, democracy includes the protection of citizen rights, as stipulated in Dahl’s liberal definition and Moravcsik’s libertarian definition (Dahl 199; Moravcsik 2005). Many of civil society’s claims are to advocate for specific rights – for global justice, human rights, environmental rights, and the like. At the same time, some measure of rights protection, applicable to both majorities and minorities, is a commonly recognized feature of democratic states. Lastly, many of the attacks on the ‘democratic deficit’ of global governance actors, i.e. states and international institutions, have focused explicitly on these actors’ perceived violations of citizen rights. Of course, some of the ‘rights’ protected by civil society groups are quite controversial, so a specific list of recognized rights is useful. Following Dahl, I would suggest that such a list include two categories of rights: those rights necessary for the effective functioning of democracy, including the freedoms of speech, press, and assembly; and those individual rights common to established democracies, including the rights to property, privacy, habeas corpus, religion, and equal treatment under the law (Dahl 1999 p. 20; see also Moravcsik 2005 p. 339). This list, of course, could be made more specific still. However, as Held has pointed out, the understanding of liberalism (and its constituent rights) has shifted historically (Held 2006 p. 59). The evolving nature of national and international law only underscores the fact that it continues to shift. For the purposes of this piece, it is more important to establish that democracy involves both popular sovereignty and the protection of rights than it is to enumerate those rights in great detail.

In summary, this article defines democracy as *a system of equal citizen authority or value expressed via some representative mechanism and resulting in government or institutional responsiveness to the will of the majority, but under which the government or institution is also constrained to protect the liberal rights of its citizens or stakeholders*. The definition does not require that all citizens make use of their voice or actively participate, only that the mechanism of input (e.g. voting or otherwise) be equally accessible and provide for all participating voices to be equally valued. It also requires that the governance organization respond to the expressed will of the majority, and protect commonly recognized rights.

Democratic Legitimacy

The democratic legitimacy of civil society is judged on the basis of its contributions to the democratic well-being of the persons impacts by its actions. That is, the

legitimacy of individual civil society organizations, and civil society as a whole, are judged based on whether they contribute to a system of equal citizen authority, majority rule, and government responsiveness or the protection of basic rights. Applying such a standard, however, requires dividing democratic legitimacy into several parts. In his forthcoming work on the democratic legitimacy of transnational actors, Uhlin writes:

In order to organize the various concepts related to democratic legitimacy, I find it useful to distinguish between input legitimacy (the relationship between the actor and its constituencies or people affected by its activities), throughput legitimacy (the actual procedures for decision-making within the actor), and output legitimacy (the consequences of the actor's decisions and other activities). (Forthcoming)

The concepts of input and output derive from Scharpf, who uses them to discuss different roles played by popular will and benevolent policies in legitimating European governance (Scharpf 1999 pp. 6-11). Uhlin adapts these standards to transnational actors but, borrowing from Dingwerth, adds the useful category of throughput legitimacy to assess those intermediary processes that help state and non-state actors channel citizen voices into actions and outcomes (cf. Dingwerth 2007).

Each element of democratic legitimacy prompts distinct questions. Input legitimacy focuses on issues of representation and inclusion. It examines whether a state or nongovernmental actor is representative of its constituents or stakeholders, whether stakeholders have equal voice in formulating policy positions, and, particularly in the case of advocacy organizations, to what extent they advance the interests of those populations they claim to represent. Throughput legitimacy examines transparency, accountability, participation, and deliberation. It asks how actors promote participation and discussion, whether they are transparent, and how and to whom they are accountable. It may also investigate the associational power of civil society organizations and the ways in which, as per Putnam and others, relational connections strengthen democracy. Output legitimacy focuses on the consequences of actors' activities. It includes both the impacts of a successfully implemented policy and the ways in which activism can change the political system (Uhlin forthcoming).

Naturally, some of these elements of input, throughput, and output, and the specific questions they prompt, resonate more strongly with some definitions of democracy than with others. They also vary by context. Uhlin suggests that "forms of democratic legitimacy differ... between social, cultural, and political settings". However, the focus of his work is on varieties of actors rather than varieties of contexts so he does not elaborate on this point. Furthermore, he elects not to operationalize his framework to make a critical evaluation of the literature. This article builds on his work by taking both of these steps.

Legitimacy and Context

The implication of Uhlin's argument is that many of the apparent disagreements over the meaning of democracy in the civil society literature are, in fact, implicit debates over the type of legitimacy most relevant to civil society. His argument is significant insofar as it highlights the extent to which many authors fail to explicitly define democracy in their work and also fail to clearly associate desired behaviors or outcomes, including much-vaunted standards like accountability or participation, with

a specific democratic theory. This article addresses these issues by developing a framework for contextual legitimacy that reveals how some seeming tensions in the literature actually result from an effort to apply the same standard of democratic legitimacy in disparate contexts.

The literature on civil society and democracy tends to describe civil society as though it operates in a single, global context. Some authors distinguish between national and international civil society, but these are frequently treated as equal parts of transnational networks. Although potential disparities between national and international actors are acknowledged (Keck and Sikkink 1998), their combined efforts are frequently treated as monolithic campaigns (see, for example, the cases in Fox and Brown 1998, or Clark, Fox, and Treakle 2003). Moreover, transnational campaigns to change the national policies or practices of a single country (e.g. by stopping a dam or freeing imprisoned journalists) are treated as equivalent to transnational efforts to create new global policies (e.g. banning landmines or improving financial regulation). Finally, cases from specific national contexts, particularly the civil society-driven democratization of countries in Eastern Europe or Latin America or of South Africa, are used as models for the democratization of global governance (Bowden 2006; cf. Lipschutz 1992; cf. Walzer 1995).

I would argue that, with regards to its democratic legitimacy, civil society actually operates in three different contexts. First, it operates in undemocratic states. In recent history this would include places like communist Eastern Europe or apartheid South Africa. Second, it operates in democratic states, i.e. states which have some measure of liberal democracy according to the standard used in this piece, and which are acknowledged as democratic by their peers. Historically this includes the United States and Western Europe and, more recently, much of Central and South America, Southeast Asia, and parts of Africa. Finally, civil society can operate in the international realm, where it is often beyond the control of any one state or institution. This is the newest of civil society contexts, but arguably the most powerful. It includes civil society lobbying of the UN, World Bank, or WTO, the development or implementation of aid programs, and campaigns working to construct new international norms or regimes.

These contexts should inform and shape our understanding of legitimacy, with the multiplicity of contexts leading to a diversity of standards for democratic legitimacy. If the democratic legitimacy of civil society is judged by its success in developing or facilitating democracy, the goal of any organization wishing to be democratically legitimate must be to enhance the democratic rights of the entire population it impacts. This requires gauging the interaction between the civil society organization and other structures (namely governments or institutions) which could or should grant enduring democratic rights and protections. These governments and institutions exist, they have impact, and, in many cases, they have better established democratic credentials than civil society. If civil society claims to enhance the democratic well-being of its stakeholders, then the roles and impacts of governments and institutions must be taken into account. Insofar as the legitimacy and authority of these actors vary by context, so too will civil society's interactions with them.

This piece uses the language of 'roles' to help categorize the requirements of a given context. Civil society can play four roles: it can act as a revolutionary, opposing a state or institutions; as an advocate for groups or interests with a given state; as an agent, working on behalf of a state or institutional actor; or as an authority, exercising autonomous power to create and enforce norms. Each of these roles defines the means by which civil society addresses the democratic needs of a

particular setting, as determined by the presence or absence of other democratic structures. Therefore role, as used here, cannot be divorced from context.

The needs of each context lead to specific legitimacy requirements for civil society organizations operating therein. Meeting these requirements leads to particular types of behavior. Roles encompass both the standards of democratic legitimacy and the resulting behavior. However, it is important to emphasize that these roles are used in an analytical sense, to assess democratic legitimacy, not as abstract descriptions of civil society activities. The roles are simply short-hand for the requirements of context. Thus, this piece does not label a civil society organization as a 'revolutionary' simply because it is working to change the system or as an 'advocate' because it claims to be representing a certain group or interest. Civil society actors which do not meet the democratic needs of a given context are not said, on the basis of their behavior, to be fulfilling an alternative role. Instead, I would describe them as failing to meet the democratic legitimacy standards of the current context.

The Four Roles

To reiterate, for civil society to be democratically legitimate in any given situation, it must interact with other structures in a way that develops the democratic rights of its stakeholders. Each context presents one or two possible behaviors and a set of standards by which such behaviors may be judged. The behaviors and standards are summarized in the four roles.

In an undemocratic state, civil society must be legitimated by its efforts to reform or replace the existing regime. In this context, it must play the role of *revolutionary*. It is important to note that efforts to create or enforce rights are commonly described as advocacy activities. In this context, however, such 'advocacy' is actually a form of revolution, insofar as it changes the system of government to make it (by the standards of this work) more democratic via its recognition of rights. Non-revolutionary activities, such as educating children or providing healthcare may certainly be judged legitimate by any number of moral or technical standards, but they do not provide democratic legitimacy. Providing services or advocating on behalf of specific interests can have little enduring effect on citizens' control over government without a wholesale change in the means of governing. Service provision may prop up an undemocratic state, even as it mitigates its impact on its citizens. Advocacy which does not push for reform may likewise legitimate the state. Even where it wins concessions, it is reliant on an undemocratic regime to maintain them. Instead, civil society must promote change in government, including the development of representative mechanisms and the recognition of basic rights.

In this context, civil society's legitimacy should be judged purely on outputs. On the one hand, representation, participation, or transparency are meaningless if national democracy is not established. Civil society organizations themselves might be internally democratic, but internal democracy will not succeed in obtaining democratic rights or protections for the country's citizens. On the other hand, if liberal democracy is established, new legal or constitutional standards will be developed to govern representation and protect rights. Thus civil society in this context does not necessarily need to manifest those standards itself. Civil society is not the government; it is the means to establishing (or reforming) the government. Revolutionary civil society organizations, like Solidarity in Poland, are judged to be democratically legitimate when their efforts succeed in establishing a democratic

state. Conversely, revolutionary organizations that act on hierarchical or otherwise undemocratic lines may be looked upon skeptically if they attempt to govern national affairs in such a fashion after national democracy has been established (e.g. ZANU in Zimbabwe).

When acting within a democratic state, civil society may play the role of *advocate*. Democratic rights are guaranteed by the state, and civil society can enhance the democratic rights of its citizens by monitoring or facilitating state processes. It does this either by seeking to represent marginalized populations, ensuring that they are fully empowered within the political process, or by acting as a watchdog, ensuring that the government continues to function democratically and protect citizen's rights. In this role and context, civil society is judged on either input or throughput. When acting as a representative, civil society must be judged on both input and throughput. If civil society is claiming to speak on behalf of a given population, then its claims must be verifiable. This requires both representation and a measure of transparency and accountability. Without these things, civil society risks tipping the scales in favor of special or even imaginary interests or co-opting the causes of marginalized populations to achieve ends other than those desired by those populations. When acting as a watchdog, civil society must be judged based on its throughput. Civil society can and should support the practices of transparency, accountability, and deliberation which enhance democracy, but in order to legitimately enhance them, it must also model them, creating a standard for the behavior citizens should expect from their government. Civil society operating within the democratic state context is not judged on outputs. Democratic representation is already provided by the state and, in a majoritarian regime, sometimes civil society *should* lose, i.e. if it is representing an interest at odds with the will of the majority. The exception, of course, is when civil society is attempting to enforce and protect the recognized rights of a particular minority. However, even in this case civil society's legitimacy is not judged by its outputs, because civil society ultimately has no control over the state. When a good-faith effort (input and throughput legitimate) to protect minority rights fails, it reflects negatively on the democratic credentials of the state, but not on those of civil society.

In either the democratic national context or in the international arena, civil society may act on behalf of a state or institution. When acting on behalf of an established authority, civil society operates in the role of *agent*. Historically speaking, the agent role is a result of the neoliberal shift and 'hollowing out' of government observed in some Western (i.e. North American and European) states, whereby private actors were delegated responsibilities previously held by the state in the belief that such delegation would increase efficiency or diminish financial risk to the state. The role of civil society as an implementer of state policy, however, features heavily in some of the more critical literature on civil society (e.g. Ron and Cooley 2002; Manji and O'Coill 2008) and in realist and functionalist perspectives. Separating out this role helps isolate these critiques and understand the relationship between policy implementation and policy or norm formation.

Many civil society organizations combine the agent role with other activities. For instance, religious organizations in the US may receive government funds to run homeless shelters and yet also act as advocates on behalf of the homeless. Organizations like Oxfam and World Vision receive bilateral and multilateral funding for international development, yet are also powerful voices in debates on development policy. It is likely that taking on the role of agent either diminishes or magnifies an

organization's capacity for advocacy or revolution, but in the interest of parsimony, the various roles will be treated discretely.

When operating as an agent, civil society must be judged by the democratic credentials of the state or institution on whose behalf it acts. If civil society acts on behalf of a democratic state, it may be considered democratic; if it acts on behalf of an undemocratic one, it may be considered undemocratic because of the type of regime it is supporting. It is important to note that this must be examined differently in the national and international realms. In a wholly domestic context, in which civil society is funded by the government on whose behalf it works, the principal-agent relationship is clear. Internationally, the situation is more complex. Civil society may be funded by one government, or a multilateral organization, for work in another polity. In this case, the will of the people in the polity in which the work is done must be considered, insofar as they will reap the benefits or suffer the consequences of civil society's actions. Even in those instances in which civil society's intervention is approved by a local democratic government, one must also consider whether the local government truly desires the civil society services or whether those services have been forced upon it by more powerful states or organizations. (See Tvedt 2002 for a more detailed discussion of these issues.) Thus civil society acting as an agent may be considered democratically legitimate if it works under contract to a legitimate representative of the people impacted by its work, or if a majority of these people themselves approve that work. The choice of principal (including the alignment of interests between an external principal and the local will) may be considered a form of input. Therefore civil society acting as an agent is judged based on input legitimacy.

The first three roles occupied by civil society – revolutionary, advocacy, and agent – have been thoroughly examined in the literature. All three have been well researched within the national context, although the agent role has received more nuanced attention in public policy and development studies than in political science. In the international context, development studies has also extensively researched the role of civil society as agent (see, for example, Lewis and Wallace 2000; cf. Tvedt 2002). It is tempting to assume that the observations made about civil society acting in these well-recognized roles and contexts transfers to civil society involvement in international policymaking. In reality, however, civil society involvement in international policymaking requires recognition of a new role.

When civil society engages in global policymaking (either in a *de jure* way through formal participation in international decision-making or in a *de facto* way through the propagation of international norms), it is acting as an *authority*. Civil society's reach spans national boundaries, and transnational activism frequently results in the creation of international networks. Activists make broad claims of popular support. At the same time, the rise of global problems (like migration, terrorism, or climate change) has necessitated international collaboration to a degree unprecedented in political history. Technology has further facilitated multilateral collaboration, and international institutions like the UN, World Bank, and WTO have laid the framework for global governance. Populist claims of non-state actors, international communication, transnational problems, and global governance have all combined to challenge states' claims to act as the sole voice of their citizens in international fora.

At the same time, the research of the past decade has demonstrated that civil society has the power to change the international behavior of nation-states and institutions and to create new norms and regimes. Civil society has been credited with playing a significant role in expanding human rights standards and

environmental norms, and even in nuclear disarmament (cf. Clark 2001; cf. Burgerman 2001; cf. Evangelista 1999). Civil society was the driving force behind debt forgiveness and the Ottawa Convention banning landmines (Anderson 2000). The transnational influence of civil society has given it greater agency or reach in the international realm than many states or institutions possess. It is not merely acting against them (in a revolutionary role) nor is it acting within them (as an advocate). Civil society may claim to occupy these roles and indeed often conducts itself as though it is a revolutionary or advocate. In truth, however, civil society has established itself as a new mechanism of citizen influence. It is a part of global governance. Thus civil society may be said to act as an authority.

Civil society's legitimacy when acting in this new role is determined by the international context. The global arena lacks clearly defined democratic protections for its citizens. The possibility of structured representation has been proposed (Held 2006), and some authors contend that the European Union is a successful test case for the possibility of a cosmopolitan global government (Habermas 2003; Moravcsik 2005). Currently, however, no enforceable democratic rights exist for global politics. Thus, as a participant in global governance, civil society must be judged on the same criteria by which other international actors, i.e. states and institutions, have been judged: whether they provide for equal representation, respond to citizen control, and protect fundamental rights. These are essentially questions of input and output. Thus, in this context civil society's legitimacy is judged on both input and output.

Reassessing the Literature

Using the combination of disaggregated democracy and contextual legitimacy, we can start to organize and critique the literature. The literature on civil society and national democratizations (e.g. Kopecky and Mudde 2004; Fioramonti 2005) clearly reflects the standards of the revolutionary role. Such literature describes undemocratic regimes and judges civil society, usually positively, for its role in contesting them. According to the standards presented here, organizations involved in national democratizations should be judged based on their output legitimacy. Studies of such organizations can be judged on the extent to which they recognize and theorize the importance of output legitimacy in determining civil society organizations' democratic credentials.

Writing on advocacy and interest groups and their roles in the democratic process (see, for example, Sabatier and Jenkins-Smith 1993) should reflect the standards of the advocacy role. Again, much of it does. The context and rationale of the advocacy role explains why this literature focuses on the behavior of organizations or coalitions, and their mechanisms of influence.

Studies of NGOs as implementers of state policy come under the agent role. Here we find much of the development studies literature (e.g. Clark 1991; Lewis 2000; Murphy 2005; Atkinson 2007). The input legitimacy criteria of this category are reflected in the emphasis of much of this literature on principal-agent relationships and the impacts of foreign intervention on local representation and autonomy.

When we compare works which examine civil society within equivalent contexts, we see the contextual typology vindicated by the similarities among context-equivalent theories. Despite the seeming jumble of civil society literature and the numerous fault-lines identified, most of the literature is not self-contradictory. Theories of civil society are more complementary (or deviations between them take place on rational theoretical grounds) when they are viewed through the lens of role and context. On the one hand, this pattern vindicates the use of context and the

disaggregated components of legitimacy in judging civil society's democratic credentials. On the other, it highlights the dangers of transferring a model from one context to another without sufficient study or adaptation.

In particular, the four-role parsing allows us to identify two common flaws in the literature on transnational civil society actors. One is the failure to recognize the significance of the international context and thus treating global policymaking (i.e. the authority role) as though it is taking place within an established state. The other is treating local policymaking (i.e. international civil society intervention in local political affairs) as though it is taking place within the global context.

Implications for Transnational Policymaking

Two errors are particularly common when examining transnational civil society involvement in international policy or norm formation, both of which revolve around misidentifying civil society's legitimate role. The first is to treat civil society actors as though they are revolutionaries. This attitude is particularly common among practitioners, who are prone to interpreting the unwillingness of some global institutions to accede to civil society demands as 'evidence' for a democratic deficit at those institutions (see, for example, Rich 1994; Udall 1998). Adherents to this view frequently push for the elimination of international governance mechanisms (as in the 50 Years is Enough Campaign;¹ see also Korten 1998), or for them to be reformed in a way that gives greater voice and authority to civil society. Civil society is legitimated by its opposition to the perceived injustices of the current international system. The emphasis is thus primarily on outputs, i.e. on how much change civil society can force on the current order. Representative inputs are largely assumed.

The alternative error is to judge civil society as though it is acting as an advocate, occupying that role as it does within established democratic states. This perspective is more common among academics (Keck and Sikkink 1998; Risse 2000; Keck 2004). This attitude presupposes that civil society activism is legitimate as long as it is supporting someone or something. The emphasis thus is primarily on inputs, on civil society's ties to its constituents, clients, or ideas. Throughput is sometimes suggested as an additional measure of legitimacy, usually in the form of transparency or accountability. However, it is not clear that such throughput mechanisms always make civil society organizations more responsive to the people whom they impact.

Both of these approaches ignore the consequences of the absence of a democratic, global superstate. In the absence of a global state (and without any realistic, near-term hope of creating such a state), revolutionary or advocacy behaviors do little to enhance the democratic rights of citizens. As Bowden writes, quoting Hegel, when civil society exists without the state "the interest of individuals as such becomes the ultimate end of their association" (2006 p. 163). Civil society can act as an effective interest advocate, but there is no state association which can subject individuals to the concerns of others who do not share their interests or needs. Similarly, there is no mechanism capable of enforcing democratic representation, nor any superior authority capable of protecting the rights of those stakeholders without a powerful interest group of their own. Walzer writes regarding the synergies between the state and civil society:

¹ 50 Years is Enough is a loose coalition of civil society organizations calling for the abolition or reform of the World Bank and IMF. See www.50years.org.

[A]cross the entire range of association, individual men and women need to be protected against the power of officials, employers, experts, party bosses, factory foremen, priests, parents, and patrons; and small and weak groups need to be protected against large and powerful ones. For civil society, left to itself, generates radically unequal power relationships. (1995 p. 23)

This is indeed the problem with civil society in the global context: it is civil society largely left to itself. Whereas civil society may be regulated and counterbalanced within the confines of any given polity, transnational civil society transcends the authority of any state or supranational institution. Because of its power in this context, civil society is a de facto authority and must be judged based on its fulfillment of this role. (Alternatively, it can subject itself to a democratically legitimate authority and act as an agent.) Removing or reforming existing institutions (often in a way that gives civil society more power within them), only exacerbates the problems of the stateless context.

Acting as an advocate makes use of the situation without mitigating it, exploiting the absence of a superstate to advance civil society's own agenda. Civil society as an advocate may be accountable to those whom it claims to represent, but unless it is accountable to everyone whom it impacts the situation can easily facilitate tyranny and the abuse of power. The result is a situation in which those who "shout the loudest" win (Held 2006 p. 307). Neither revolutionary nor advocacy behavior can be democratically legitimate in this context. Judging transnational civil society as though it is occupying a revolutionary or advocacy role only serves to rationalize democratically illegitimate behavior.

For civil society to be democratically legitimate in the transnational context, it must rise to the standards to which states and institutions are held. Cosmopolitan theorists seem to have gone furthest in recognizing this problem. Held's acknowledgement that a true cosmopolitan democracy will require representative political structures is informative (2006 pp. 303-11). Insofar as civil society itself is part of global governance, civil society in the aggregate must seek to represent all stakeholders in any given policy, not just those to which the organizations within it are most closely tied, and to achieve outcomes that reflect the will of the majority while protecting liberal rights. Only in those cases in which civil society organizations, campaigns, or global movements seek to determine and enforce majority rule and the protection of acknowledged rights can civil society's involvement in transnational policymaking be said to be democratically legitimate. Any analysis of the democratic legitimacy of civil society in the transnational context that does not recognize and grapple with the fundamental problem of statelessness is critically flawed.

Intervention in Local Settings

One must be cautious when writing about the interventions of transnational civil society in the domestic policies of a democratic nation. Examples of such intervention abound. International NGOs or movements may apply direct pressure to a national government (via publicity campaigns, boycotts, lobbying, etc.). International actors may also apply pressure indirectly, for example by pushing donors to make aid funding conditional on specific policy change. Foundations or NGOs may initiate 'grassroots' campaigns, establish and staff local offices, or fund

existing indigenous movements. Such domestic interventions are a key means by which transnational civil society actors or networks have impact.

Unfortunately, much of the writing on transnational advocacy has failed to delineate between such domestic intervention and transnational civil society involvement in international policymaking. There are several reasons the two have been conflated. First, the majority of transnational civil society campaigns over the last 30 years have focused on problems and policies in the developing world. In developing nations, national decisions frequently involve some international component because many domestic policies or programs rely on international funding. Thus a decision by Brazil to build a rail line or an undertaking in Niger to prioritize primary-school education can easily be depicted as an externally driven World Bank project (or an EU program or an IMF policy), rather than as a national decision. Second, the process of global norm formation can take place on both the national and international level. Transnational activists may promote an international norm of condemning torture or protecting children's rights, and then seek to have that norm applied to individual states. Its adoption by successive states, in turn, helps establish it as a global norm. Third, during the initial development of modern transnational civil society in the 1980s and early 1990s, the majority of the world's population did not live in democratic states. Ignoring the role of the local state was easy because many states were perceived as illegitimate. Undemocratic states and undemocratic international institutions were easily tarred with the same brush, dismissed as mere obstacles in the pursuit of 'good' or 'democratic' policy.

The most significant change of the last ten years with regards to this trend is that the majority of the world's citizens now live in recognized democracies. This evolution has permitted more governments to function as the legitimate representatives of their citizens and has created an environment in which local civil society can fulfill the advocacy role with its functions of watchdog and representative. As two civil society leaders from the global South have written:

The new political context that has emerged, marked by democracy and citizen participation, has increasingly led to more collaborative modes of relating [to government]. It is civil society's participation in political life, in that realm of public life in which societal decisions are made and carried out, that provides the conditions for sustainable development. (Naidoo and Tandon 1999 p. 9)

In such a context, it is imperative that academics and practitioners draw careful lines between national and international policies. For instance, it is helpful to distinguish between 'World Bank' projects like the Narmada dam that are actually planned by national governments before the intervention of the World Bank, and policies like structural adjustment that are largely international creations. Likewise, one must distinguish between when civil society is developing an international norm that is widely accepted within national democracies, and when civil society is seeking to use international politics to impose the will of a well-resourced minority on weak states. An example of the former would be developing an international norm against torture and imposing it on Indonesia (cf. Risse 2000). An example of the latter would be when US-based environmentalists seek to direct development funds for Brazil towards decreasing energy consumption rather than building more power plants (cf. Rich 1994). The latter 'norm' is not democratic because it seeks to impose via

fiduciary fiat a policy that would ordinarily be the subject of public debate in a developed, democratic nation.

When transnational civil society is interacting with an internationally created project or policy, it occupies the authority role described earlier and is subject to the legitimacy tests described in the preceding section. However, when transnational civil society is seeking to influence a domestic policy, it must be judged by those standards which are applied to national civil society. Essentially it can act in either the revolutionary or advocate role and its legitimacy must be assessed accordingly.

It is tempting to treat transnational networks or global social movements as though they are above such considerations or as though their large international following is an automatic source of legitimacy. Yet the nonlocal members of such campaigns are neither subject to the local polity nor part of the demos it governs. Allowing such international voices to overwhelm local democratic procedures is to give the members of international organizations or movements power on par with that of local citizens despite the fact that these global citizens have no allegiance to the country they are impacting and are unlikely to bear the immediate consequences of the plan they impose. International organizations or movements should not be presumed to be legitimate simply because they are large.

Instead, as per the revolutionary and advocacy roles discussed earlier, the legitimacy of transnational civil society intervention in local affairs must be judged by the degree to which it contributes to sustainable, national democracy. Global civil society, at risk of being tautological, is not local. When the international network leaves a dam cancellation fight in India to protest a dam in Pakistan, or completes a forest protection plan in Indonesia and moves to fight resettlement in China, it leaves the local citizens behind. It is unable to offer them long-term democratic protections. If it does not contribute to the democratic functioning of the national state, then it has had no long-term impact on the democratic well-being of local citizens. It may have helped some of them win a particular battle, but it has done nothing to win the proverbial war. If the international intervention has promoted special interests (e.g. minority rights or environmental protections) at the expense of majority rule, the situation is even worse. In such a case, global activists may have actually undermined the function or legitimacy of the national regime responsible for ensuring most day-to-day democratic rights of local citizens. Granted, an exception may be made if an international campaign intervenes to protect minority rights against a tyrannical majority. In this sense it is supporting the 'liberal' portion of the definition of liberal democracy outlined earlier, provided that the rights supported rise to the level of internationally recognized liberal norms. However, if civil society merely swaps an overweening local majority for an overweening global minority, it has done little to support long-term, sustainable democracy. To be democratically legitimate, civil society must either work within (and by the rules of) any existing local democratic system, or seek to replace an undemocratic system with a democratic one.

Conclusion

As shown in this article, the fractured and conflictual literature on the democratic legitimacy of civil society can be ordered by using a disaggregated definition of democracy and recognizing the interactions between democracy, context, and role. Carefully defining these elements, using an input-throughput-output vision of democratic legitimacy can help distinguish between different schools of research on transnational civil society and highlight the interrelations in their approaches. It may have the effect of resolving certain debates, but even where it does not, this more

nuanced approach can be used to establish lines of argumentation and help develop the sort of clear-cut intellectual debates necessary to move research and theory in this area forward.

This article's use of democracy and context to evaluate the existing literature reveals two areas of special concern regarding the study of the democratic legitimacy of transnational civil society involvement in policymaking or norm formation. The first is the way in which global models borrow too heavily from the national context, ignoring the fact that civil society operating outside state boundaries can itself be tyrannical. As cosmopolitans have already begun to do, future researchers should define the components of global democracy. Once those theoretical elements are defined, however, they must be joined to an empirical assessment of the ways in which civil society currently contributes to or inhibits the development of democratic global governance. A related area of concern is the failure to delineate between transnational civil society involvement in international policy and transnational involvement in local or national policy. Too often in such instances, researchers judge transnational civil society's democratic credentials based on its international input or throughput processes, without fully considering its impacts on local democracy. This can lead to normative prescriptions that negatively impact the democratic rights of many stakeholders. Future research on the democratic legitimacy of transnational actors must remedy these shortcomings. Using the tools and approaches presented here could facilitate that process.

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