

Updating Civil Society Participation for Governance Post-2015

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Key messages:

1. *Participation of non-state actors at intergovernmental United Nations (UN) meetings and summits on sustainable development has greatly increased over the years;*
2. *Modalities of participation have evolved to match the increased options for participation by non-state actors, but the rapid change of scale and scope of sustainable development challenges may demand a reorganization of non-state actor involvement in intergovernmental processes;*
3. *Reorganizing non-state actor participation according to an intuitive and simple framework that captures social and environmental dimensions of development along with their interlinkages could provide a useful context for stronger involvement of non-state actors in UN processes. The Oxfam Donut could provide pointers as to how such a framework of engagement could be designed;*
4. *Creating one overarching framework for relevant participation of multiple stakeholders could positively enhance the input-legitimacy of non state actors in intergovernmental processes. Increased input-legitimacy could over time pave the way for a decision making mandate for non state actors in intergovernmental processes.*

1. Introduction: Civil Society and Sustainable Development Governance

Civil Society has been an integral part of intergovernmental deliberations in the context of sustainable development governance ever since the Stockholm conference on the Human Environment in 1972, and since then the involvement of non-state actors in governmental deliberations on sustainable development has steadily increased. For instance, where Stockholm had 400 registered intergovernmental and non-governmental organisations, the Earth Summit had 18,000 civil society participants, and Johannesburg a decade later had over 35,000 registered non-state actors (United Nations 2003). Compared to that, the recent Rio+20 conference had more than 40,000 participants from civil society along with a large People's Summit running in parallel to the official negotiations.

The growing involvement by non-state actors matches the increasing access that they have to intergovernmental meetings in recent years. This trend responds to environment and development challenges, as they have emerged and multiplied in amount and complexity over the last decades. Importantly, the involvement of civil society lends increased credibility and legitimacy to governmental decisions and provides a space for non-state actors to influence countries' positions in negotiations. This can increase the likelihood that issues which people and society face are correctly reflected in agendas and decisions at the international levels of sustainable development (SD) deliberation and governance.

Since environment and development issues have grown in both scale and scope, many social economic and environmental issues cannot fully be addressed without the active involvement of multiple stakeholders. Additionally, communication has evolved, and with the emergence of the Internet it has become much easier for actors within and beyond government to congregate and articulate positions and engagement strategies across time and space. As a result, the potential for communication and agenda setting is now greater than ever. However, to fully take advantage of these expanding options for progressive involvement may require that civil society recognises and takes advantage of the increased space for their participation. This paper will attempt to provide some reflections and suggestions as to how this might be initiated.

2. Aims, Objectives, and Structure

A recent report by the Asia-Europe Foundation on *Global Architectures for Sustainable Development Delivery* recommended that the current methodology for non-state actor participation should be updated. The recommendations made comments to the extent of its design that it should be "...based on a simple and clear overarching framework, which can provide the space for each sector's contribution to the larger sustainable development vision" (Asia-Europe Environment Forum, 2012, p. 15). The idea behind such recommendation was to allow for more coherent and integrated contributions to intergovernmental decision making processes. Necessary elements related to governance were also emphasized including the importance of a non-state actor framework to develop and evolve to meet the requirements of an opening governance space whilst also maintaining transparency, accountability, relevance and representativeness in the future.

The paper will make its argument based on desk-top research and review of available information related to the history of civil society involvement in UN processes, ranging from 1972 in Stockholm, over the Earth Summit in Rio in 1992, the World Summit on Sustainable Development in Johannesburg in 2002, as well as the recent Rio+20 conference in June 2012 in Rio de Janeiro. Additionally, the paper will share observations from the author's involvement in regional and international processes over the last years, and while this can only be considered anecdotal evidence it was the participation in various UN related processes that spurred the idea to write a paper on the state of civil society involvement as well as propose some ideas to strengthen it. The paper will define non-state actors as including the sectors of business, NGOs and academic institutions and other groups often referred to as the Major Groups (MGs).

The paper will first discuss some theoretical considerations relating to governance, including which impact effective non-state actor participation could have on overall SD governance. Second, the paper will briefly summarize the current status of civil society and non-state actor involvement in intergovernmental processes in the context of sustainable development. It will do so to identify strengths and weaknesses as well as options for improvement for more effective involvement of civil society in a future governance scenario for the period post-2015. The relevance of such an inquiry is justified through the recent Rio+20 Summit, which in the eyes of several observers introduced a new era of intergovernmental deliberations and governance (Confino 2012). It is characterized by the fact that very important decisions and events not only took place at the official negotiations between governments, but also in various civil society meetings and side events.

Third, the paper will provide information on how it could be possible to organise CSOs input according to the overarching themes and dimensions as represented in the two concepts of the Oxfam Donut and the Planetary Boundaries, respectively. Together, these frameworks could provide reference points for engagement, clearly stating how an issue would relate to the dimensions of development. Fourth the paper will draw a limited number of randomized examples of CSOs input and statements from the recent Rio+20 processes, making a case in point as to their conceptual organization, and suggest how they could be conceptually mainstreamed to fit with an overarching vision of sustainable development as provided by the exemplified frameworks. Finally, the paper will conclude by providing some additional suggestions as to how CSO participation can be organised to prepare for full participation in future sustainable development governance.

There are many different issues pertaining to civil society participation and involvement, and depending on where one places one's gaze different challenges may be identified. In some countries fundamental channels for participation are not even existent, as freedom of congregation and freedom of expression may be lacking. Clearly these are serious issues that demand research into how the emergence of new media and communication methods can potentially open up for broader exchange and organisation of ideas among civil society. However, the paper's gaze will limit itself to focusing on civil society involvement in scenarios of environmental and SD-governance, primarily on international and intergovernmental levels in the context of the United Nations and other regional and global processes that already have established modalities of civil society involvement.

3. Participation in the Context of Input and Output Legitimacy

As referenced above, governance is evolving to match the emerging challenges to sustainable development. Some researchers share that creative civil society and non-state actor groups will forge the future of governance for sustainable development more so than constrained governments (Fahn 2012). However, one thing is that civil society's voice is getting stronger and its channels of communication are expanding, it is entirely another to find ways to systematize this involvement enough to lend it the necessary legitimacy, organisation, and effectiveness to make a positive impact in decision making. Designing a new framework of civil society involvement will help the various groups give the best possible advice to governments. Depending on the success of this first step, in the longer term it may perhaps be possible to entirely redefine the modalities of non-state actor involvement to also include decision making.

This assumption relates to the relationships between input and output legitimacy, as defined by Fritz Scharpf (1999, p. 2), who: "...distinguishes among two dimensions of democratic self-determination, input-oriented authenticity (government by the people) and output oriented effectiveness (government for the people)". This distinction between two forms of legitimacy is further detailed as follows: "Input

oriented democratic thought emphasizes 'government by the people'. Political choices are legitimate if and because they reflect the 'will of the people'—that is, if they can be derived from the authentic preferences of the members of a community. By contrast, the output perspective emphasizes 'government for the people'. Here, political choices are legitimate if and because they effectively promote the common welfare of the constituency in question" (*Ibid*).

The principles are also well summarized by Hogel, Kvarda et.al (2012, p. 12), who find that, "...input legitimation strategies are geared to democratic principles, building on practices of participation and inclusion, transparency, accountability and the power of the good argument, output oriented strategies are based on the problem-solving capacity of a political system". While several scholars disagree on which kind of legitimacy is the best for governance, it is quite possible that for international levels of governance, where no state-legitimacy exists, legitimacy would finally derive from results, i.e. increased effectiveness. The paper therefore assumes that improving primarily input legitimacy (transparency, accountability, representation, communication, credibility) will lead to better output-legitimacy of governance (mutual respect and shared understanding, awareness and expertise, coherence, rationalization and robustness).

In the context of international multistakeholder processes for SD-governance, this hypothesis can be formulated as follows: if civil society organisations (CSOs) improves the systematic, transparent, representative and strategic inputs to intergovernmental processes, then it is likely that they will be allowed more space and leverage in future SD governance. Or, to adopt the terminology of Scharpf (1999) the hypothesis could be formulated as: improving input legitimacy will subsequently lead to better output legitimacy. Adopting the premises of this hypothesis, the paper will provide a framework that has the potential to improve factors that constitute input legitimacy of non-state actor involvement in SD governance.

It has to be said that adopting such a framework will not automatically lead to improved transparency, accountability, effectiveness, but would depend on many factors related to how civil society perceives itself. Moreover, the paper will focus on the input-side of legitimacy of governance. The lack of focus on the effectiveness of environmental governance does not mean that the effectiveness of environmental governance is not the final end to which stronger civil society participation should contribute. It merely means that the paper will focus on a very limited part of participation, assuming that well-conducted, systematic and transparent participatory processes will lead to better environmental governance outcomes. Existing research (Newig 2012) also emphasizes that the only sure outcomes that have been documented by empirical and conceptual inquiry into the field of public participation in environmental governance are those related to social outcomes, particularly trust and social capital.

The ideas for renewing non state actor involvement begs the question on what kind of framework could be broad enough to encompass all relevant interest groups as well as unite them around the common idea and overarching goal of sustainable development. To this end, the paper will borrow Oxfam's Donut concept (which includes that of the Planetary Boundaries), as it is a broad but also simple framework, which can encompass developmental as well as environmental vantage points for sustainable development. For the long term goal of enhancing the space of intergovernmental decision making to provide legitimate space for civil society in decision making, the paper will draw from existing practices in other intergovernmental spaces and decision making processes.

4. Can CSOs influence decisions and implementation of SD Governance?

Part of the reason to write about the civil society involvement derives from repeated observations on a number of points that argue the importance of broader involvement of civil society being: (i) the current constraints of governments to make strong decisions in the international arena, related to the limitations of top-down decision making by politicians and civil servants, and (ii) the importance of participation to generate broad ownership and implementation of a certain SD related decision at national and local levels.

The first point is affected by the changing global power balance. As observed in recent intergovernmental negotiations, it has become very difficult for countries to make progress on global sustainability issues. Examples like the 2009 Conference of the Parties (COP15) of the United Nations Framework Convention on Climate Change (UNFCCC), or - even the recent Rio+20 conference come to mind as cases that show the limitations of intergovernmental meetings and conferences in terms of providing tangible output. CSOs and other non-state actors have always been relevant in terms of lobbying and raising awareness on issues at their hearts, both at national levels and internationally, as these efforts to influence agenda setting and decision making may help bring about stronger decisions than if governments were to make them without civil society engagement. In the current times of impasse, this ability to influence governments can become increasingly instrumental for outcomes concerning the global commons. However, for this influence to be more effective, perhaps a new and more intuitive framework of engagement is helpful.

The second point is related to implementation of sustainable development on the ground and is relevant for commitments, including those made under framework conventions, as well as MDGs and other development goals. This concerns participation and increased ownership, which increased participation can generate. If intergovernmental decisions are taken without paying heed to the relevance for other stakeholders at national levels, then they may never be implemented, but increasing the participation of stakeholders may enhance ownership and commitment to implementation. This can be enhanced through various ways, including by institutionalizing it at national and international levels, through enhancing it beyond the sporadic (and ad-hoc) one way communications such as consultations or impact assessments that involve public interviews or surveys.

One recent attempt of such initiative for engaging civil society can be seen in the 2010 creation of the so-called Major Group and Stakeholder Advisory Group on International Environmental Governance (AG). The creation of such advisory group came out of a request by civil society Organising Partners (OPs) during the UNEP meeting in Bali in February 2010. The aim was to create a mechanism that could allow MGs to provide consolidated input to the IEG Consultative Group of Ministers of High Level representatives (CG), which was an intergovernmental group created in the preparatory phases ahead of Rio+20 to provide information on options pertaining to UNEP's reform. The Terms of Reference (TOR) for the AG, which is available online, describes the role of the group as well as criteria for its members (UNEP Major Groups Facilitating Committee, 2010).

The role of the AG was as follows: (i) to provide comments on the modalities of civil society participation; (ii) to compile and submit relevant contributions related to IEG reform to the (UNEP) secretariat; (iii) to inform the CG on positions of MGs regarding IEG; (iv) to provide MG input at other meetings on IEG reform; (v) to inform MGs about its own work and that of the CG through written reports and website updates; and (vi) to promote and inform about mechanisms through which the importance and options for IEG reform should be communicated to a wider audience (UNEP Major Groups Facilitating

Committee, 2010). Criteria for UNEP's nomination of the 9-14 people as members of the AG should pertain to their (i) level of expertise; (ii) geographical balance; (iii) and gender balance.

According to the initial TOR, the AG was supposed to function for three years, but the lack of activity on the website of the group indicates that its activities ended with an input to the Rio+20 Zero Draft provided late 2011. It is impossible to conclude whether the AG was disbanded before it could provide actual input to governments on IEG reform at the actual occasion of Rio, but the lack of activity indicates that it was the case, even though providing expert input at the occasion of Rio+20 should have been one of its primary purposes. The reasons to the lack of activity of the AG are unclear, but former group members shared that it did not function as expected, and that it proved difficult to reach consensus on issues that could be brought forth to the governments as well as to the UNEP's Governing Council. Moreover, the AG lacked consistent funding during its time of existence, which prevented regular convening, a precursor to produce input to the processes it was established to contribute to.

While the above example stands as a failed attempt to engage civil society and Major Groups more systematically with the intergovernmental processes, some simple lessons include the necessity to establish a budget that matches its proposed activities. Apart from financial stability, decision making modalities could also have to be established in advance to prevent a stalemate caused by inability to reach consensus. This however, would require a certain level of discipline among the groups, and it would also necessitate the design of a prioritization, ranking, or even an agenda voting system so that the most salient issues can be chosen for input into government deliberations. If pointed and succinct interventions could be made input specific to the context they are aimed at, it would make non state actor participation stronger and more effective. Or, referring to the hypothesis, it could increase input-legitimacy of non-state actor participation in intergovernmental meetings.

An example of such a tool could be a 10/4-system in which group representatives have 10 votes, which they are allowed to distribute to those issues they find most important and which are on the agenda for a certain deliberation. Such process could take place ahead of the input and the non state actors could rank the most salient issues, where for instance the three issues with the highest cumulative score would be taken into the statements, and the 7 least ranked could remain as an annex to the statement. This would result in shorter and more prioritized statements, and lessen the risk of flooding the already limited space provided to CSOs for input in governmental processes.

The reasons why this kind of modality is not yet practiced is unclear, but perhaps the feeling among civil society is one of coming from the outside and trying to get into the core of the process, i.e. a "them and us" mentality denoting the relationship between governments and *the others*. As we can see from the history of civil society involvement in intergovernmental SD processes, this is a result of a naturally evolving relationship over the decades between Stockholm in 1972 and now. It is equally likely that governments may have provided not nearly enough space for constructive civil society involvement in official processes. In turn, non state actors may have had to adopt a strategy of pushing the highest amount of points possible in the hope that perhaps some of them would be reflected in intergovernmental decisions and outcomes. However, non state actors could try to actively influence this reality and adopt a "less is more" strategy with succinct and context/issue relevant inputs. In the long-term this might convince governments to provide more space and a systematized modality of CSO participation and even decision making mandate in the future.

5. Renewing CSO involvement: Planetary Boundaries and the Oxfam Donut

While the UN has involved civil society in various mechanisms ever since its founding days, the current framework for civil society involvement on national and international levels has been mainly influenced by the construction of the nine Major Groups, which happened at the Earth Summit in Rio in 1992. And certainly the organisation of non-state actors into these nine groups were a lunge forward compared to the ad-hoc and limited representation of non-state actors in earlier intergovernmental history (mainly between 1972 and 1992). But if a certain maturation of civil society could be observed in the first 20 years of intergovernmental negotiations, then it is not strange to see another level of progress/maturation of civil society between 1992 and now. Challenges to environment and development have changed overall in scale and in scope, as have the compositions of the largest groups that are affected in one way or another by sustainability issues.

For example, while the creation of the UN Major Group System at the Rio Earth Summit in 1992 provided space for many different societal groups, it is not all inclusive. For instance, urban poor, ageing, as well as fishers are among those societal groups without formal representation in the Major Groups framework. Additionally, the organization of civil society into nine different Major Groups can often seem disconnected and somewhat ad-hoc, when various groups make inputs to intergovernmental negotiations. It does not mean that the issues presented by civil society are not important. But given the fact that the audience consists of often overworked and jetlagged civil servants and government officials, the messages coming from this diverse group could take vantage point in an inclusive but simple framework in which each group's contribution clearly identifies the relation of its statement to overall sustainability issues. Doing so could make it easier for governmental audiences to relate to where the message is coming from, and to which particular element/dimension of sustainable development the intervention is directed.

The importance of utilizing a more holistic framework to improve input-legitimacy of civil society's participation can be further supported by recent comments (Ivanova 2012) on the shift to the approach to sustainable development, which has gradually happened in the course of the recent Rio+20 conference. The main point here is the widely accepted substitution of the terminology "pillars" with that of "dimensions" to denote the fluidity and interconnectedness of environmental, economic and social aspects of development. The change of terminology recognises the need to address social, economic or environmental development aspects holistically, implicit is also the need to move away from compartmentalized, sectoral policy making that addresses development aspects separately causing negative trade-offs or spill-over effects in other areas of development. A framework for inputs that incorporates the three dimensions would therefore be helpful to shape clearer and more coherent participation by civil society in relevant intergovernmental processes.

A recent contribution that represents the environmental dimension of development is found in the concept of the Planetary Boundaries (Rockström et. al. 2009), which denotes the human relationship to the environment. It is illustrated by way of nine planetary boundaries, which humans have to stay within in order to ensure a safe operating space for humanity. The publication also mentions that in fact, humanity has already transgressed three of the nine boundaries (nitrogen cycle, climate change and biodiversity loss), and is on the way to move beyond another three boundaries (phosphorous input, oceanic acidification and land-use). This speaks volumes for stronger environmental governance and more integrated environmental policies. However, the conservationist approach to environmental protection would not work, as there are many essential social issues that need to be addressed, not the least poverty and access issues. Thus, development is necessary to make inroads on poverty, but it needs to take into account the limits of the environmental carrying capacity; the planetary boundaries.

Complementary to Rockstrom *et al.*'s approach, a helpful framework here could be adapted from the one presented by Oxfam's Donut (Raworth 2012). As illustrated below, the graphical depiction takes the concept of the Planetary Boundaries (periphery) on the one hand and combines it with the social foundation (centre) on the other. This can be useful to create more integrated approaches to policy making, which can clearer take into account policy interventions for a particular environmental or social issue, as well as its inherent relations and effects on other socio-economic and environmental issues. Examples abound and will differ depending on forum and issue to be deliberated.

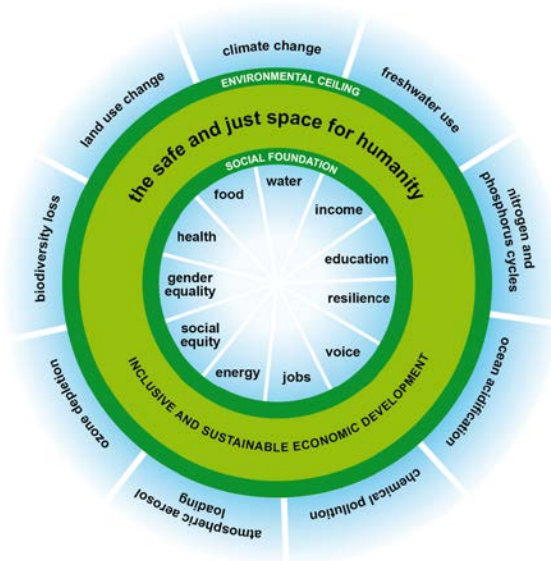


Figure 1: The Oxfam Donut

6. Examples of applying a consistent narrative

Depending on the context at hand and the issues discussed in the context, the statement of a non-state actor or group could use one or several of the environmental and social anchor-points which are embedded in the Oxfam Donut. For example, some of the statements contributed to the Rio+20 preparatory process could use the donut as framework to clearly show how a certain issue is linked to sustainable development. The examples below are chosen on a random basis and not to highlight characteristics of any of them. It is not the purpose to directly criticise any group's contribution, but to – on hand of examples – show how a comprehensive framework like the Oxfam Donut, might make CSO interventions more clear and coherent across the board.

- One submission to the Rio+20 Zero Draft argues that it is important to undertake law and institutional reforms at national and regional levels. Moreover, they state that it is necessary to allocate more funding for governments and civil society to work on improving laws, administrative capabilities of civil society for them to be able to take full advantage of access rights.

This very brief excerpt could include referenced to how for instance these requested interventions can benefit sectors in either environmental and/or social dimensions (planetary boundaries and social floor, respectively) of development. For example, governments might be swayed to support access rights, if

provision of such rights could help hinder illegal pollution by multinationals in developing countries, or if providing funds for CSO's capacity building was undertaken with a view to better harness the untapped potential of civil society groups in monitoring and evaluating the implementation of environmental policies at local levels.

- Another example is taken from a Youth Major Group. Among others, this intervention highlights the importance of jobs, emphasizing the potential contribution of green industries to job creation and economic growth for both developed and developing countries.

This particular contribution focuses the social dimension of development, embedded in it the environmental aspect through green jobs and industries. However, the interlinkages from this focus on jobs, to other parts of the social floor, *i.e.* the necessity to provide education that matches emerging green sectors or the importance of income through jobs to enhance household resilience could be emphasized. Using the inherent connections between one particular subject area to other important facets of social development or environmental sustainability would serve as useful reminder to policy makers that policy decisions in the context of sustainable development need to be holistic and take the environment/development nexus into account by rule rather than by exception.

- A third example highlights the interlinkages between environmental and social dimensions of development taking vantage in agro-ecological methods of production, arguing that they can improve livelihoods of rural populations and at the same time help the reduction of carbon emissions, restore biodiversity and improve soil quality.

This is a good example of an intervention that concretely makes a point, while also mentioning the interlinkages that one intervention (for instance on jobs) can have to other social or environmental sectors (biodiversity, climate or other).

The main point emphasized here is that it could be advantageous for non-state actor groups to identify a new framework, which covers all aspects of sustainable development in a more detailed fashion than the term sustainable development. At the same time, such framework should be simple and intuitive enough to allow negotiators and contributors to quickly recognize both position and relation to other aspects of social and environmental dimensions of development. It is not said that the Oxfam Donut (combined with the Planetary Boundaries) should be such framework, but it seems to fulfil demands for simplicity, succinctness and covers all aspects in an intuitive manner and could be a good starting point for further discussion on an SD narrative for future civil society involvement.

Also at national levels, a similar framework could be utilized to better organize civil society participation. Doing so could potentially enhance ownership and bolster participation. However, enabling effective participation is a two-way street, and this paper argues that simplifying and updating the framework of civil society participation to a more contemporary guise than what was offered by the invention of the nine Major Groups at the Earth Summit in Rio 1992 would go a long way to bring about more effective participation. But, again - such kind of proposal cannot come as a top-down arrangement, but would be much more effective if civil society itself took the baton and designed a new framework for effective participation in the 21st century.

7. Conclusion: Civil Society Participation in SD Governance Post-2015

As has been observed in recent civil society consultations and meetings in the context of Rio+20 and the post-2015 development agenda, the willingness and enthusiasm of the Major Groups to participate in these government-organized consultations is encouragingly high. Their statements are comprehensive

and address a wealth of issues related to sustainable development. However, statements often try to address each and every issue bundled together in a non-systemic fashion. It could therefore be an advantage to identify a better framework for making such contributions, and the above illustration of the Oxfam Donut could, if nothing else, clarify the context (whether it is about jobs, livelihoods, social foundation or environmental boundaries) that the civil society statement aims to contribute to and what the implications for other social and environmental dimensions of development would be. Gradually, a more holistic understanding of development and its nexus areas could be achieved, as an important criterion for pursuing sustainable development in earnest.

In this regards it could be useful both for civil society itself, and the UN offices, as well as national offices where established, that are mandated to be responsible for organizing the space for civil society input to create a template to better order statements and input. This could over time achieve more succinct and effective participation from non-state actors. Not only a better framework for response should be designed, but also perhaps the participation itself should depend on the relevance and knowledge among some appointed groups that then represent the whole of civil society on a certain issue.

A final point of concern relates to agenda setting. It seems important for the UN agencies and offices in charge of civil society relations to fully involve representatives ahead of meetings allowing them to influence the forming of the agenda. This way, the agenda of the meetings may better fit the issues that concern civil society, and not risk a mismatch between the agenda as it has been designed to-down ahead of meetings and the priority-issues of the CSOs.

Revisiting the hypothesis on input- and output-legitimacy, this paper has attempted to argue that adopting simple frameworks for inputs could make non state actor participation more effective. It could show the inherent connections between pursued areas of interest and thereby gradually introduce a more holistic deliberation of each of the issues relating to environment and development. A better and more context-specific mode of representation at meetings could further enhance the relevance of non state actors' input into intergovernmental processes. These interventions could allow for more input-legitimacy to arise through more transparent, systematic and strategic civil society interventions. In turn this could lead governments to provide increased space for non state actors both at international and at national and local levels of governance and pave the way for actual decision making mandate in the future.

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