

The CD Discussion Series

Between December 2010 and July 2011, the UNIDIR project “The Conference on Disarmament: Breaking the Ice” and the Geneva Forum are organizing a series of thematic discussions to examine the myths and realities of the CD—as well as the critical challenges facing it—with the aim to increase understanding of the history, processes and issue areas of this unique negotiating forum.

Experts, Advocates and Partners: Civil Society and the Conference on Disarmament¹

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Civil society has played a very significant part in bringing disarmament objectives to governmental and public attention on issues ranging from banning cluster munitions and anti-personnel landmines to implementing the nuclear Non-Proliferation Treaty (NPT) prohibiting nuclear testing. Partnership between governments and civil society actors brought about the 1997 Mine Ban Treaty and the 2008 Cluster Munitions Convention.² Less formally, and utilizing a considerable tactical toolbox, non-governmental organizations (NGOs) and civil society kept alive the hope of a Comprehensive Nuclear-Test-Ban Treaty (CTBT) and worked closely with government scientists and officials to develop verification solutions and create the conditions that enabled the Conference on Disarmament (CD) to bring the CTBT to conclusion.

Women’s and human rights organizations, such as Women’s International League for Peace and Freedom (WILPF) and Amnesty International, were the driving force behind the adoption of UN Security Council resolution 1325 on women, peace and security. Civil society has also engaged very actively in efforts to promote the elimination of nuclear, chemical and biological arsenals, and in developing and implementing the Programme of Action on small arms and light weapons. For all these weapons types, civil society has worked both with governments and communities to stigmatize the use and possession of such weapons, constrain trafficking and create and strengthen norms to drive governmental and diplomatic initiatives towards further agreements, resolutions or treaties.

What do we mean by civil society?

Some use the term “civil society” as if it were interchangeable with NGO, but the reality is more complicated.³ Non-governmental organization, as understood within the UN system, is an institutional term that encompasses formally constituted advocacy organizations, “unofficial diplomats”,⁴ non-profit organizations, private businesses and industry associations.⁵ Civil society encompasses non-governmental and non-state actors, but as increasingly used it excludes those actors that seek political change through violent and militarized means, because the use of violence to achieve political objectives is the antithesis of common understandings of “civil”, epitomized by the usual antonymic juxtaposition of civil and military and the historical association of civil society with “the cultivation of a set of social and political virtues” such as “civility, trust [and] tolerance”.⁶

The concept of civil society is also qualified as domestic, global or transnational. Though some academics employ the term “global civil society” to imply certain common (generally progressive) goals, this is regarded by others as misleading, glossing over the fact that some peoples are seriously under-represented in the security and disarmament fields. In fact, depending on the context, goals and strategies, civil society actors may be progressive or retrogressive—they may seek emancipatory outcomes or harness their energies to resist change or promote outcomes that would embed a particular status quo. Civil society does not always oppose government policies or challenge the state; some civil society actors may organize to reinforce the policies of particular governments or opposition parties.⁷ In the disarmament field, UN-recognized NGOs include not only those working to control arms and prevent armed violence, such as the many civil society groups in the International Action Network on Small Arms (IANSA), but also representatives of weapons manufacturers and supporters, such as the US National Rifle Association (NRA). There are nuclear technology promoters such as the World Nuclear Association (formerly the Uranium Institute) as well as anti-nuclear NGOs. During negotiations on verification of the Chemical Weapons Convention and Biological Weapons Convention different representatives of the biotechnology and pharmaceutical industries engaged with efforts to promote better practices for biosafety and security or appeared to seek new marketing opportunities.

The point is that civil society is as diverse and multifaceted as nations and cultures are. Civil society engagement may be local, national, regional and international. At its broadest, it may be described as transnational, with many “border-crossing”⁸ links. These have been greatly enhanced with electronic and social media and communication. Civil society encompasses individuals, NGOs, informal associations and loose coalitions, “forming ... connections across national borders and inserting themselves into a wide range of decision-making processes”.⁹ They may be paid or voluntary; local, national or regional or networked internationally. Elected and parliamentary representatives (excluding those actually exercising governmental power) also form part of this understanding of transnational civil society, as they may be regarded as levers in effecting change, becoming both the objects of civil society persuasion strategies and purveyors of pressure on governments. Transnational civil society also includes the “unofficial diplomats”, “citizen diplomats” or “private diplomats”, defined by Adam Curle as “someone who engages in mediation or conciliation of conflict under personal or unofficial auspices”.¹⁰

Three core types of civil society players can be distinguished, although there are inevitably overlaps:

- **“epistemic” actors**—principally non-governmental experts and professionals.¹¹ Typically, such elites use their expert knowledge and professional status to provide information, develop solutions and influence governments through technical or specialist information and arguments. They may be committed to the abolition of nuclear weapons, to arms control or just to a specific measure. A relevant modern example would be the International Panel on Fissile Materials (IPFM), a group of scientists, lawyers and negotiations specialists who share their research and drafting options for a fissile material cut-off treaty and other potential agreements with diplomats and practitioners as a way to focus attention on the options and possibilities for making progress.
- public movement campaigns, generally comprising both grass-roots membership and skilled organizers, who may be voluntary or paid. Examples of international public movement campaigns include the International Campaign to Abolish Nuclear Weapons (ICAN) and Greenpeace, but there are also nationally based public movement campaigns, such as the Campaign for Nuclear Disarmament (CND) in Britain, United for Peace and Justice in the United States, or Gensuikin in Japan. The typical tools of public mobilization include online (now largely replacing paper) petitions, meetings, demonstrations, letter writing and use of electronic social media to raise public awareness, obtain media coverage and exert pressure on local and national political decision-making. NGOs such as Mayors for Peace and various networks of parliamentarians may have some epistemic characteristics, as elected representatives, but their strategies and tactics tend to be closer to those of public movement campaigns.
- **non-violent direct action**, which can be used as an organized tactic, as Greenpeace does, or arise from grassroots campaigns, with fluid participation, such as Plowshares (in the United States), Citizens Weapons Inspectors at NATO bases (in various European countries), or Trident Ploughshares, Faslane 365 and the Aldermaston Women’s Peace Camp (in the United Kingdom).

Of these, CD members are most likely to encounter the civil society experts or public movement representatives. But it is important also to recognize that the role of civil society is not always public. There is a long history of academics, think-tanks and specialists who assist policy transformation by diagnosing the problems, facilitating constructive contacts among government officials and diplomats and exploring workable solutions, generally behind the scenes. Where direct action and radical appeals work at key moments to catalyse public opinion and increase the pressure on politicians and governments, analysts and pragmatists are also of importance in translating the demands into policy options for government officials to consider and implement.

NGOs in disarmament fora: gradual progress, but not in the CD

Among the many UN-related disarmament fora, the CD’s current arrangements provide for extremely limited civil society engagement. Fifteen to twenty years ago NGO participation in the UN First Committee, NPT and other treaty negotiations such as the CTBT was

similarly restricted, but public and private persistence on the part of respected civil society interlocutors, combined with presidents and/or secretariats willing to push gently at the boundaries, have resulted in greater participation within existing rules as well as changes to rules of procedure to formalize better conditions for civil society engagement.

Following a tribute paid to NGOs by President of the 1995 NPT Review and Extension Conference Jayantha Dhanapala (Sri Lanka), the Chair of the 1997 NPT PrepCom Pasi Patokallio (Finland) set aside a half-day “informal” plenary session for NGOs to address NPT delegations, though he also set a more unfortunate precedent that unintentionally resulted in NGOs being excluded from the cluster debates. The right of NGOs to present their views to the NPT was formalized in subsequent rules of procedure, and after some frustrating years of being excluded from the cluster debates, support from the secretariat and NPT chairs between 2007 and 2010 opened these up again on practically the same basis as NGOs have long had for participating in main committee debates.

In the UN First Committee, it was a First Committee Chair (Luis Alfonso de Alba of Mexico) who moved the process forward by holding focused debates on specific issues from small arms to nuclear weapons and space security, and inviting NGOs to nominate experts to contribute directly by speaking and responding to questions.

In the CD, by contrast, the issue of NGO participation became tangled in a hangover from the Cold War when WILPF won the right to have a short statement presented to the plenary that took place closest to International Women’s Day (March 8). When I first began to monitor the CD, this was an excruciating occasion: the statements were weak and unrepresentative, vetted by the CD secretariat; and they were read by a male diplomat (usually a representative of the secretariat or presidency) who with the best will in the world tended to stumble over phrases like “We, the women of the world ...”. Things have improved slightly since then, and it was heartening to see the key analyst for WILPF’s “Reaching Critical Will” project, Beatrice Fihn, reading a strong and inspiring International Women’s Day statement in 2010. Nevertheless, this occasion remains in many ways a Cold War anachronism, and does not constitute adequate civil society participation in the CD.

CD Rules concerning NGO participation

As has been discussed in relation to the CD’s long-standing deadlock, the CD’s rules of procedure, and the way in which they are interpreted, are part of its problems. From the restrictive interpretation of consensus (allowing any member state to block agreement) to the assumption that all work except its plenaries should be conducted in private (so-called “informal”) sessions, the CD rules appear retrogressive, out of date and dysfunctional.

Rule 20 decrees that the plenaries be held in public unless the Conference decides otherwise. Rule 22 states, however, that informal meetings may include “experts”. Since most experts are likely to be from civil society, does this mean involving NGOs or would delegations issue “government” passes to experts that they choose? If the latter, would that narrow down the expertise and expert options available to the CD to only those that certain governments wish to promote? Given the restricted nature of CD membership—just 66 of the 192 UN Member States—the rules of procedure are almost as grudging about the participation of non-CD members and their experts in negotiations as about civil society (see rule 23, though this is mitigated somewhat by rules 32–36).

Rule 42 is the only rule under the NGO heading, but it deals solely with communications from NGOs to the CD, which are to be listed and can be made available to delegations on request.

The question of civil society engagement was tackled in 2004, resulting in the following decision (see CD/PV946, 12 February 2004):

1. Non-governmental organizations (NGOs) shall continue to be allowed to attend formal plenary meetings of the Conference and to be seated in the public gallery.
2. NGOs shall be entitled, upon request, to receive official documents of the plenary meetings of the Conference.
3. NGOs shall be entitled, at their own expense, twice per annual session, to make written material available to the members of the Conference outside the conference hall.
4. After the CD adopts a programme of work, it will allocate one informal plenary meeting per annual session to NGOs to address the Conference.
5. Only NGOs whose activities are relevant to the work of the Conference will be able to address the Conference on Disarmament. Therefore, a formal selection process will be put in place to consider requests from NGOs to address the Conference. Requests from NGOs will be made to the President of the Conference on Disarmament through the secretariat of the Conference on Disarmament. These requests will be considered at Presidential consultations and thereafter at a formal plenary meeting of the Conference.

After this text was adopted, CD President Amina Mohamed (Kenya) stated:

It is my understanding that with respect to the selection process on requests made by NGOs, the final decision for NGOs to address the Conference on Disarmament would be given by a formal plenary meeting of this Conference in the same way as it gives approval to decisions that are put before it by consensus.

This decision formalized the situation, but still left the CD way behind other fora in how it treats civil society participation. NGOs continued to press for greater access and respect, with support from many delegations. In March 2010, the issue was debated in plenary, and while there was agreement on a Russian proposal for a further plenary to deal with the question of NGOs and the CD, nothing further has been done.¹²

Why should government representatives care about whether or not civil society participation is facilitated or obstructed?

Facilitating civil society participation would bring the CD into the twenty-first century and help member states to move beyond the structural obstacles so that they can address the serious security and disarmament questions that are piling up. Some NGOs have a vast wealth of knowledge and experience on the issues, and others have practical experience in multilateral negotiations and effective decision-making, including

mechanisms for working more productively with consensus. Whether as advocates for particular treaties, or experts that can demonstrate technical, legal and political options for more effective verification or implementation, NGOs at the CD also act as the eyes and ears for other civil society actors and organizations (and, indeed, governments). They not only keep up the pressure for the best achievable outcomes in terms of human security and disarmament, but they often come up with strategies, ideas and solutions that move disarmament objectives from “impossible” to “achievable”.

Recognizing the profound geostrategic changes that have taken place since the end of the Cold War, there is now a growing body of research that looks at how to make multilateral negotiations and decision-making more effective. In almost all of these analyses, civil society expertise, strategies and input are recognized to be critical in achieving win-win, positive-sum outcomes. This applies across a range of issues, from economic and environmental challenges to security and disarmament.

For those interested in theory, the crux of the debate concerns the differences between traditional, distributive negotiations and new approaches, known as integrative negotiations. With the aim of reducing the adversarial win-lose dynamic of traditional negotiations, integrative strategies place high priority on achieving mutually advantageous outcomes. Integrative problem-solving approaches consider the range of interests, demands and expectations of different nations and communities in the broader context of what will bring mutual benefits in an interdependent global context, where the most serious security challenges are transboundary or shared, from human-induced climate chaos to trafficking and terrorism.

Unlike zero-sum assumptions, those seeking outcomes that integrate the needs of all do not regard expectations and interests as fixed, but as factors that can be challenged, reworked and altered. Rather than assuming that the negotiating framework and “bottom line” positions as they appear at the start of negotiations are set in stone, integrative approaches consider how different options might be developed. In some of the most successful negotiations, civil society’s role has been vital. By introducing different ideas, information and alternative ways of addressing the challenges under consideration, civil society actors have helped government negotiators to see how their countries could gain from outcomes that also benefit many others, including those traditionally perceived as rivals. In short, integrative approaches to negotiations tend to yield better and more sustainable outcomes than traditional distributive negotiations.

In this regard, the CD is lagging far behind. Instead of welcoming civil society expertise and ideas, the CD’s rules and practices are geared towards shutting it out. The CD’s structural rigidity is not its only problem, of course; the long impasse is also a consequence of the adversarial political dynamic, which feeds fears that if certain member states are happy with a decision, others must lose out. The CD’s adversarial and counterproductive dynamic stems in part from states approaching negotiations with zero-sum (win-lose) assumptions, though it is undoubtedly exacerbated by other factors, including rigid interpretations of the consensus rule and the dysfunctional group system.¹³ In the present day CD, certain governments seem to put self-interest above security. Positions are set and outcomes pursued on the basis of delivering as much of a government’s demands and expectations as possible regardless of the impact on others, including the long-term security interests of their own populations. They expect (and behave as if) all will be trying to maximize

their positions and “win”, causing others to “lose out”. Civil society in this paradigm is viewed as either irrelevant or a nuisance. Such negotiating assumptions dominated in the Cold War and are still prevalent in the diplomatic training programmes of many states. It is time to move on.

From advocates to experts, civil society actors and NGOs provide an essential range of cognitive and communications strategies, helping negotiators to view problems more constructively, reframe the zone of positive (and possible) solutions and find mutually beneficial ways to negotiate and achieve security agreements. This does not mean that integrative solutions will balance states’ military capabilities, power or roles: the realizable objective is a security outcome that benefits all as far as possible, but this may require some to compromise or concede more than others, depending on the circumstances. The CD needs to be transformed if it is to play a useful role in negotiating relevant disarmament agreements for the twenty-first century. In addition to restructuring the existing fora and rules, multilateral practitioners need to learn the approaches, techniques and benefits of integrative bargaining. Involving civil society more directly in the CD’s work would be a useful step in the right direction.

Some practical proposals for improving civil society participation in the CD¹⁴

Increasing civil society participation would enhance the role and work of the CD. Some NGOs have a vast wealth of knowledge and experience on the issues, and others have practical experience in multilateral negotiations and effective decision-making. Some NGOs are advocates for particular treaties or agreements, and in that role act as the eyes and ears for other civil society actors and organizations (and, indeed, governments), to keep up the pressure for the best achievable outcome in terms of human security and disarmament. There are, of course, civil society actors that contribute little, or may even act in counterproductive ways... as can be found in all walks of life. Appropriate procedures can minimize the risk of disruption while maximizing the opportunities for constructive engagement.

Consider special consultative status and access for key NGOs on specific issues

The range of different NGOs and civil society actors needs to be acknowledged—experts as well as advocates and activists. For each issue or forum, certain NGOs are clearly more engaged and have more expertise than others. In a growing number of fora, such as the Committee on the Peaceful Uses of Outer Space (COPUOS), special consultancy status is given to a small number NGOs or civil society actors with recognized expertise and involvement. These are permitted special rights of access and participation, for example, being enabled to sit in the main chamber and participate in debates. The CD gallery is fine for visiting school groups and occasional NGO observers, but it is frustratingly inadequate for NGOs with a more direct and continuous role to play, such as the Acronym Institute, Reaching Critical Will and the Quaker UN Office. The sound system is sometimes faulty, the physical distances makes it harder to talk with diplomats and get hold of the statements in a timely manner, and the security guards are quick to evict, but often fail to open the doors when a session changes from informal to public. Similarly, if technical discussions were to commence on verifying disarmament, controlling fissile materials or

space security, it would be self-defeating to confine these to government scientists when some of the most useful work is being done by epistemic groupings such as the IPFM, rooted in civil society and academic institutions.

Admit NGOs to informal CD meetings as observers

If it is felt that a general right of civil society access would be too great a step at this time, then at the very least NGOs with relevant expertise should be able to apply, provide credentials and be considered for participation in informal meetings of the CD as observers. This could be at the discretion of the Conference President or of the Chairs of subcommittees or subsidiary bodies, as appropriate.

Broaden the rights of civil society to provide information and make statements in CD meetings

WILPF retains a particular attachment to its International Women's Day statement, but argues that their chosen spokeswoman should be able to read it in the Chamber, as an NGO-picked speaker reads the collective statement on behalf of NGOs at the CTBT Article XIV Conferences. There are arguments for and against continuing with this tradition, but it should not be the only occasion when civil society is invited to make a presentation in a CD plenary. NGOs have lobbied for many years now to be able to address the CD in at least one formal plenary per session, along the lines of what has now been instituted in the NPT conferences and First Committee.

Give regular NGO reporters access to the Council Chamber floor to receive documents and conference room papers

In 2000, Reaching Critical Will took over the role carved out by the Acronym Institute in the 1990s. The reachingcriticalwill.org website is now the first port of call for civil society and many government officials and diplomats wanting to find out what is happening in the CD (and UN First Committee). In view of this, it would make sense for NGOs with an acknowledged role and expertise of this kind to be granted special access to the CD Council Chamber, to facilitate their ability to talk with diplomats and acquire the information and documents that others then rely on.

Some delegations incorporate NGO representatives in their delegations, as scientific or technical advisors, academics or in some other capacity. While undoubtedly useful for specific individuals and institutions, this way of bypassing the access restrictions on NGOs evades rather than solves the core challenge of enabling more effective civil society participation. It privileges some by giving them delegates' access, but that also carries conditions and responsibilities that curtail their ability to share information for the duration of the negotiations.

As demonstrated on other issues and outside the CD, civil society has the capacity to be a constructive partner and enable governments to overcome structural, technical and political obstacles and negotiate more effectively.

Notes

- 1 Parts of this analysis are drawn from my book *Unfinished Business: the Negotiation of the CTBT and the End of Nuclear Testing*, UNIDIR, 2009.
- 2 See R. Price, “Reversing the Gun Sights: Transnational Civil Society Targets Landmines”, *International Organization*, vol. 53, no. 3, 1998, pp. 613–44; M.A. Cameron, R.J. Lawson and B.W. Tomlin (eds), *To Walk Without Fear: The Global Movement to Ban Landmines*, 1998; and J. Borrie, *Unacceptable Harm: A History of How the Treaty to Ban Cluster Munitions Was Won*, UNIDIR, 2009.
- 3 Although in use a long time before, the concept of civil society took on a significant new dimension as the Cold War ended. Historically, Marxists used the term to cover institutions and relations regarded as autonomous from state institutions, including trade unions, voluntary organizations, churches, and even households and businesses. By the 1990s, it became clear that civilians did not only act through institutions such as churches or trades unions, but also as individuals and groups more loosely connected through movements such as the women’s, peace and environmental movements.
- 4 M.R. Berman and J.E. Johnson (eds), *Unofficial Diplomats*, 1977, especially pp. 1–34.
- 5 For a description of the “long, laborious, highly political and bureaucratic process” and rigid criteria for NGO accreditation to the United Nations through either the Economic and Social Council (ECOSOC) or the Department of Public Information (DPI), see M. Datan, “The United Nations and Civil Society”, *Disarmament Forum*, no. 4, UNIDIR, 1999, p. 43.
- 6 M.K. Pasha and D.L. Blaney, “Elusive Paradise: The Promise and Peril of Global Civil Society”, *Alternatives*, vol. 23, no. 4, 1998, pp. 420.
- 7 See, for example, Keith Krause’s discussion of the 2001 Small Arms Conference, and the role of the US National Rifle Association and other groups from the US firearms lobby in influencing the US position and disrupting the formation of common NGO positions. K. Krause, “Multilateral Diplomacy, Norm Building, and UN Conferences: the Case of Small Arms and Light Weapons”, *Global Governance*, vol. 8, no. 2, 2002, p. 258.
- 8 A.M. Florini (ed.), *The Third Force: The Rise of Transnational Civil Society*, Carnegie Endowment for International Peace, 2000, p. 7.
- 9 *Ibid.*, p. 3.
- 10 A. Curle, *Making Peace*, 1971, p. 231.
- 11 See P.M. Haas, *Knowledge, Power, and International Policy Coordination*, 1992; and R. Johnson, *Unfinished Business: The Negotiation of the CTBT and the End of Nuclear Testing*, UNIDIR, 2009.
- 12 For more on ways forward for civil society participation in the CD, see, for example, UNIDIR, “Getting the Conference on Disarmament Back to Substantive Work: Food for Thought”, *Disarmament Forum*, no. 2, 2009, no. 2, paras 35–39.
- 13 The realist approach assumes that the negotiating framework and conditions are bounded and fixed (by factors that include the context, power relations and expectations, and the negotiating forum and mandate). States are deemed to have rival interests and expectations, and once these are determined by the relevant domestic policy processes, they become fixed as the basis for the demands and bargaining postures of the negotiators.
- 14 My thanks and appreciation to Reaching Critical Will/WILPF—especially Beatrice Fihn—for sharing the ideas that have come out of recent consultations with representatives of some of the key governments and NGOs in Geneva, most of which have fed into this paper.

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The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations.