

Nongovernmental Organizations as the Fifth Estate

by Stuart E. Eizenstat

I. INTRODUCTION

Early in the nineteenth century, Macaulay famously dubbed the press the “fourth estate.”¹ Since then, an expansive literature has explained the vital role played by the press in monitoring the actions of the executive, legislative, and judicial branches of government.² In the classic exposition of its role, an independent press collects and disseminates information about a government to its citizenry, who are then able to make informed decisions. The press, in this view, serves as a necessary counterweight, a vital check, to the official organs of the state.

The press is not, however, alone in its role as watchdog. For centuries this task has also been undertaken by voluntary private organizations. Known today as nonprofits, nongovernmental organizations, or civil society groups, these organizations represent a different kind of actor in the political process. Like the press, private associations are seen as a credible source of information on a variety of issues—groups such as Amnesty International or Human Rights Watch, for example, publish well-respected annual reports detailing human rights abuses around the world. Unlike the press, however, which is expected to be studiously independent in its reporting, these groups are frequently unabashed supporters of a particular point of view. By seeking out others who share that view, and then uniting in common cause, these organizations function simultaneously as a watchdog and advocacy group.

NGOs today are vitally important in providing additional checks on the legislative and executive branches of government. In light of the increased prominence that such groups have come to enjoy in recent decades, and through their increased role in influencing public policy, I believe that it is appropriate to label these groups “the fifth estate.”³

Over the course of my career, I have seen the civil society groups at home and abroad that comprise the fifth estate come to enjoy an impressive amount of influence over government policy-making and to play an important role in building civil society.

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But I have also seen some, at times, that work against the interests of their own constituencies and pursue narrow agendas at the expense of the greater good. The fifth estate has strengths and weaknesses. I have seen them at their best and their worst.

II. THE RISE OF THE NGO

Nongovernmental organizations (NGOs) have a rich history stretching back at least to the nineteenth century. During his travels through the United States in the 1830s, Alexis de Tocqueville observed that:

Americans of all ages, all conditions, and all dispositions constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of a thousand other kinds, religious, moral, serious, futile, general or restricted, enormous or diminutive. The American make associations to give entertainments, to found seminaries, to build inns, to construct churches, to diffuse books, to send missionaries to the antipodes; in this manner they found hospitals, prisons, and schools. If it is proposed to inculcate some truth or foster some feeling by the encouragement of a great example, they form a society.⁴

On the other side of the Atlantic, Charles Dickens poked fun at contemporary advocacy groups in his novel *Bleak House*. One of his characters, a Mrs. Jellyby, states that:

The African project at present employs my whole time. It involves me in correspondence with public bodies, and with private individuals anxious for the welfare of their species... I am happy to say it is advancing. We hope by this time next year to have from a hundred and fifty to two hundred healthy families cultivating coffee and educating the natives of Borriboola-Gha on the left bank of the Niger.⁵

As these examples suggest, private networks with political, humanitarian, moral, or religious components were well-established by the mid-nineteenth century. Notable advocacy campaigns by private groups during this era include the campaign to bring about the end of slavery in the United States, the efforts of suffragettes to obtain the right to vote for women, and the campaign launched by a coalition of Western missionaries and Chinese reformers to eradicate footbinding in China.⁶

The success of each of these endeavors encouraged other private groups to take up causes and lobby for social change. The number of private organizations with international operations increased significantly between 1850 and 1914.⁷ In 1874, for example, there were 32 registered international NGOs; by 1914, this number had increased to 1083.⁸ This era also saw the founding of two major private international organizations that still exist today: the International Red Cross (in 1863) and the International Olympic Committee (in 1896).

As time wore on, NGOs were increasingly viewed as legitimate actors in their own right in the eyes of intergovernmental organizations. After the First World War, for example, NGOs won a victory when labor unions were made full participants

and decision-makers in the new International Labor Organization (ILO).⁹ They expanded on this success after the Second World War when, in 1948, the United Nations Charter granted Consultative Status with the Economic and Social Council (ECOSOC) to certain NGOs.¹⁰

At the UN Conference on the Human Environment in Stockholm in 1972, the role of NGOs in international proceedings was further enhanced by the provision of “facilities for a concurrent environmental forum of NGOs.”¹¹ This first NGO forum parallel to a UN official conference introduced a process that would become central to the formation and strengthening of advocacy groups around the world. Parallel NGO meetings have taken place at all major UN environmental events since Stockholm. More often than not, their presence at these and other events has had a significant impact on the course of negotiations. Two examples from my own personal experience bear this out.

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When I led the U.S. delegation during the negotiations leading to the signing of the Kyoto Protocol on Global Warming in 1997, for example, the negotiators were very much aware of the presence of NGO observers in attendance. While these groups did not sit at the negotiating table, there is no question that through their lobbying efforts and their constant demands for steeper emissions cuts in carbon dioxide (CO₂), they were able to exert a substantial impact on the course of the negotiations. As environmental advocates, they pressed for unrealistically large reductions in greenhouse gas emissions without consideration of the economic costs. They also helped stiffen the position of developing nations against taking any obligations to reduce even the rate of growth of their emissions, notwithstanding the fact that these same nations will be the biggest emitters of CO₂ by mid-twenty-first century. This stance ultimately undermined support in the United States for eventually ratifying the Kyoto Protocol.

NGOs also exerted a profound influence in every mediation undertaken on behalf of the Clinton Administration of class action suits concerning the disposition of dormant accounts once held by Holocaust victims. Initial negotiations focused on looted assets which had been deposited in Swiss banks during World War II, and later negotiations were devoted to reparations for slave and forced labor, insurance, looted art, and other Nazi confiscated property.¹² Although the official decision-makers in these negotiations were sovereign states—Germany, Austria, France, the United States and the private lawyers on both sides of the issues—all parties knew that no final agreement was possible without first obtaining the approval of key NGOs, such as the World Jewish Congress, The Conference on Jewish Material Claims Against Germany, and several German-Eastern European reconciliation commissions that had been established in Belarus, the Czech Republic, Poland, Russia, and Ukraine. These NGOs, in effect, were the ultimate arbiters as to

whether an agreement between governments and the lawyers would be acceptable to those affected. Their blessing was essential for what were essential political and diplomatic negotiations. Even though they were not parties to the lawsuits, they had a formal role at the negotiating table.

Whereas NGOs can have a constructive influence on policymaking, they can also bring negotiations to a crashing halt. In Seattle in 1999, I vividly remember not being able to leave my hotel as a result of the violent anti-globalization demonstrations taking place outside, led by several NGOs. Those protests—made possible by those same networks that had sprung up to do so much good worldwide—had the tragic effect of slowing a process that held far greater promise for alleviating global poverty than any plan articulated by the protesters. Here, the effect was destructive rather than constructive, with far-flung consequences for the world economy. The successive WTO negotiations, called the Doha Development Round, hit a similar stumbling block at Cancun, Mexico in 2003, with the resistance of developing countries egged on by NGOs.¹³ It is only in 2004, five years after the collapse of the Seattle talks, that global trade negotiations have gotten back on track.

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These examples illustrate the fact that NGOs, for good or for ill, are capable of exerting significant influence on the world stage. This increased influence is, by and large, a development of the past two decades, which have seen a dramatic increase in both the absolute number of NGOs and an increase in their membership numbers. Around a quarter of the 13,000 international NGOs in existence today, for example, were created after 1990.¹⁴ Overall, the number of international NGOs increased by 19.3 percent between 1990 and 2000.¹⁵ Between 1990 and 2000, worldwide membership in international NGOs grew by 72 percent.¹⁶ Total membership of ten major U.S. environmental organizations for which continuous data are available grew from 4,198,000 in 1976 to 5,816,000 in 1986 and 8,270,000 in 1990.¹⁷ Amnesty International, founded in 1961, had a membership of 97,000 in 1975; by 2000, it had a membership of over 1,000,000.¹⁸ The International Union for the Conservation of Nature (IUCN) brings together 735 NGOs, thirty-five affiliates, seventy-eight states, 112 government agencies, and some 10,000 scientists and experts from 181 countries.¹⁹ The Friends of the Earth Federation, founded in 1969, today combines about 5000 local groups and about one million members.²⁰ Both absolutely and relatively, NGO numbers are clearly on the rise.

The nonprofit sector, moreover, is increasingly significant economically. A recent survey of twenty-two countries²¹ found the nonprofit sector constituted a \$1.1 trillion industry that employed close to 19 million full-time employees.²² Americans alone give \$240 million each year to private charities and an equivalent amount again in volunteer services.²³ NGOs such as the Nature Conservancy control

more than \$3 billion in assets, giving them considerable influence and independence.²⁴ Across the board, therefore, one can see an increase in the absolute number of NGOs, the membership numbers of NGOs, and the funds that they have at their disposal.²⁵ These statistics provide empirical support for the intuition that NGOs exerting more influence today than they have been in the past.

What are the causes of this increased influence? The two most frequently cited explanations are technological advances and improved access to money. The use of internet, e-mail, and mobile phones has allowed groups to build advocacy networks and to coordinate global campaigns to an extent that would have been impossible even as late as the 1970s. Moreover, as privatization reforms have taken hold in many countries, governments at all levels have increasingly been willing to outsource the provision of services to nonprofits. Consequently, governments and international institutions have increasingly channeled development aid through NGOs²⁶ even as private foundations have distributed more funds to international NGOs than in the past.²⁷ Private donations, including individual, foundation, and corporate contributions, to international NGOs went from \$4.7 billion to \$10.7 billion between 1990 and 1999.²⁸ These facts and figures do much to explain the increased prominence of the fifth estate in recent years—it is better connected and better funded than ever before.

III. CONTEMPORARY NGOs: STRENGTHS AND WEAKNESSES

NGO Strengths

Having achieved this unprecedented influence, what then has the fifth estate chosen to do with it?

Some NGOs have devoted themselves to advocacy, to representing the perceived needs of individuals and groups that they believe are ill-equipped to speak out on their own behalf. Examples of such groups include Amnesty International, Greenpeace, the World Wildlife Fund, and Human Rights Watch. These groups specialize in raising concerns or ideas in the forum most likely to be receptive to them. As one scholar has noted,

[T]ransnational value-based advocacy networks are particularly useful where one state is relatively immune to direct local pressure and linked activists elsewhere have better access to their own governments or to international organizations. Linking local activists with media and activists abroad can then create a characteristic 'boomerang' effect, which curves around local state indifference and repression to put foreign pressure on local policy elites.²⁹

More often than not, advocacy NGOs bring to the table a voice that would not otherwise be heard in social, economic, or political processes.

Other NGOs have gone down the well-traveled road of service provision by setting up clinics and schools in parts of the world with poor access to health care and education.³⁰ Well-known examples of this type include Red Cross and Red Crescent societies and Médecins Sans Frontières. The rise to prominence of these

NGOs has been prompted, in the words of one scholar, by “growing doubts about the capacity of the state to cope on its own with the social welfare, developmental, and environmental problems that face nations today.”³¹ It is widely believed today that “citizen groups, unburdened by governmental bureaucracy and political considerations, move faster and more effectively [than government agencies].”³² Consequently, governments and foundations “increasingly are channeling funds for service provision, development projects, and humanitarian relief through NGOs.”³³

I have personally witnessed the effectiveness of channeling funds through NGOs. As Under Secretary of State in the Clinton Administration, I was one of the leaders of the economic discussions of the Middle East peace process. Because of rampant corruption and poor management, the U.S. government provided economic aid to the Palestinians in the West Bank and Gaza not through the official government organization, the Palestinian Authority, but rather through NGOs on the ground. These organizations were more capable, trustworthy and transparent than was the “official” government. This pattern holds true throughout the developing world and in post-Soviet transition countries. There is no question but that NGOs are indispensable for providing assistance.

Moreover, my government experience made it clear that in-country, indigenous NGOs were essential to building democracies in former autonomic or devastated regions. Democracy cannot be constructed from the top down. A vibrant civic society is an indispensable requirement for democratic governance. Realizing the goals of promoting rule of law, encouraging transparency in government decision-making, and fighting corruption is far more difficult to achieve without the support of NGOs such as Human Rights Watch, Amnesty International, Freedom House, and Transparency International. In their own ways, each of these groups is essential to promoting many key goals of U.S. foreign policy. Transparency International, for example, has played a vital role in helping to implement the Anti-Bribery Convention of the Organization for Economic Coordination and Development (OECD).

I have also seen NGOs at work in my service on the Caspian Development Advisory Panel (CDAP). This Panel was established by British Petroleum (BP) to provide independent advice on its pipeline projects in Asia, focusing on the social, environmental and economic impacts of pipeline construction and operation. The Panel has taken strong positions on the need to assure high environmental standards in the erecting and construction of the pipeline, to preserve pristine sites and provide economic protection, to prevent oil spills, to assure that villagers in the right of way of the pipeline were fairly compensated, and to protect human rights. It has also pressed BP to guarantee that revenues generated by the pipeline flow to the governments of Turkey, Azerbaijan and Georgia. BP has taken these recommendations to heart, demonstrating the effectiveness that NGOs can have in changing the behavior of corporations.³⁴

What unites all of these various groups is a shared commitment to engaging with civil society and developing important institutions from the ground up. The Palestinian Authority may be too corrupt to effectively handle aid flows today, but it

is not impossible to imagine a future in which reforms pioneered by civil society organizations become accepted practice within future governmental institutions. Moreover, the scope of activities pursued by these various groups has expanded in recent years; the three fastest growing types of international NGOs in the past decade were those organizations devoted to providing social services (78.5 percent increase), those providing health care (50 percent increase), and those committed to law, policy, and advocacy (42.5 percent increase).³⁵ There is no question that these groups have contributed much that is useful and good in the world, due in large part to their ability to form close linkages with local communities, to respond quickly to new circumstances, and to serve as intermediaries between individuals, national governments, and international organizations. The benefits provided by NGOs are manifest.

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NGO Weaknesses

And yet these groups are not without their weaknesses. In recent years, civil society groups have been criticized for urging other institutions (corporations, governments, and international organizations among them) to make themselves more accountable. Yet some of these same civil society groups have demonstrated a notable reluctance to evaluate how accountable they themselves are to the constituencies they purport to represent. While it is true that NGOs' complex relationships to multiple stakeholders and the intangible nature of the goals they seek to achieve (e.g., fairness, justice, development) present clear challenges to any effort to hold them accountable *to* specific actors *for* specific results, this problem does not excuse NGOs from having to demonstrate that they are ultimately accountable for the funds they raise and the actions they take.³⁶

Consider, for example, the responsibility of accounting for finances. In 2002, it was revealed that the American Red Cross had routinely exercised poor control over the finances of its various chapters. An exposé by the CBS Evening News reported that local Red Cross fundraisers had used official funds to pad their own bank accounts, to embezzle money to buy drugs, and to pay themselves exorbitant bonuses, among other abuses. CBS also obtained a copy of a report by the Red Cross's own auditor stating that some chapters' financial reports were simply inaccurate.³⁷ In that same year, a scandal broke out involving the former chief executive for the Washington, D.C. chapter of the United Way. He was ultimately sentenced to over two years in federal prison for charging the organization for personal expenses such as trips to Las Vegas, paying himself for annual leave he had already used, and siphoning more than his share from the charity's pension plan.³⁸

These two examples illustrate the fact that some NGO funding tends to be shrouded in mystery. This is so partly because NGOs rarely make it easy to investigate their funding and the uses to which it is put.³⁹ Transparency International

lists its funders on its web site, but few other organizations do.⁴⁰ NGOs around the world, moreover, are generally not required by governments to account for expenditures or to publish lists of their funders. This frequently makes it difficult for outsiders (or even insiders) to hold NGOs accountable for their finances and accounting practices. More seriously, a lack of oversight can permit NGOs to channel funds to those engaged in illegal activities. Since 2001, the United States has frozen more than \$136 million in assets allegedly linked to al Qaeda or other terrorist groups and has effectively shut down the operations of the largest U.S.-based Islamic charities.⁴¹ Government oversight is needed, at the very least, to ensure that charities are not used as vehicles for financing illegal or terrorist activity.

When I was Deputy Secretary of the Treasury during the Clinton Administration, we sent two government missions to Saudi Arabia and the Gulf states asking them to shut down certain charities we believed were being used as conduits for al Qaeda and to more closely supervise donations being channeled to a variety of “charitable groups.” They refused. Since September 11th, however, there has been some progress on this front. Charitable groups in the United States with formal charity status, like the Holy Land Foundation, have been closed down by the U.S. government. The European Union has joined the United States in putting the civilian counterparts of Hamas and other Palestinian terrorist groups on its terrorist list. And the Soviet government plans to create a commission to regulate its charities.

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Another question that is often brought up in the context of NGO accountability is that of precisely to *whom* these groups are accountable. NGOs are often said to be accountable to at least five different stakeholders: donors, clients, staff, partners, and the mission of the NGO itself.⁴²

- *Donors.* All NGOs—be they engaged primarily in advocacy or service provision—must ultimately report back to their donors on their results. Those donors could be individuals, private foundations, corporations, government agencies, or international organizations. Donors expect that an NGO will properly handle donated resources and that the programs funded will be run with integrity and efficiency. They also expect that the programs will have an impact on the targeted community. If a donor decides that an NGO has failed to live up to its promises, then it can refuse to provide money for future projects.
- *Clients.* Civil society groups must also be aware of the impact of their actions upon the intended beneficiaries of those actions, often referred to

as the NGO's clients. These beneficiaries could be people who rely upon a local health clinic for vaccinations or people on whose behalf an advocacy group files a lawsuit in a local court. Clients expect that NGOs will be responsive, professional, and will do their best to provide quality service. If a client decides that an NGO is no longer providing useful services, it can decide not to patronize the NGO.

- *Staff.* No NGO can function without a staff that believes in its work and seeks to realize the organization's mission. Staff members expect the organization to continue to support the mission that drew them to the organization. If staff members feel disconnected from the organization, they can leave to find work elsewhere.
- *Partners.* Networks of advocacy groups can be far more effective than any one group operating in isolation. Consequently, NGOs often enter into partnership arrangements with one another to improve the chances of realizing their goals. Partners expect the NGO to live up to its commitments for action made in the course of developing and executing a joint project. If partners feel as though an NGO is not being responsive to their needs, they can terminate the partnership.
- *The Mission.* NGOs engaged in advocacy often root their legitimacy in their mission, rather than in their stakeholders. This means that they see themselves as more accountable to their mission than to other actors. When they deviate from this mission, they are frequently attacked as having strayed or "sold out." In 2003, the Nature Conservancy (TNC) came under scrutiny for straying too far from its core mission. Having amassed \$3 billion in assets to support its mission of preserving natural habitats, the Conservancy had logged forests, engineered a \$64 million real estate deal on fragile grasslands and drilled for natural gas under the last breeding ground of an endangered bird species. These deals, among others, prompted critics to argue that TNC had gotten too close to big business and lost its way.⁴³

One could argue that NGOs should be held accountable to each of these stakeholders. Therein, however, lies a classic accountability dilemma. By trying to be *too* accountable—to too many stakeholders about too many issues in ways the stakeholders have yet to define or agree upon—the network creates an accountability tug-of-war that reduces the NGO's ability to be accountable to anyone.⁴⁴ Unless these conflicts are acknowledged and resolved at the outset, any organization runs the risk of becoming paralyzed by its accountability relationships.

One possible solution to this problem would be to follow the path blazed by corporate law and single out one single group—the shareholders, in the case of the corporation—to whom the NGO is solely accountable. The problem with this option, of course, is choosing which stakeholder group should be singled out. Alternately, NGOs could first *prioritize* the various stakeholders and then clarify what kind of accountability relationship it will have with each stakeholder. This is

not as clear-cut as singling out one group, but it may be the best option given the multiple conflicting obligations faced by NGOs.

Different types of NGOs often face accountability dilemmas unique to their particular type. Advocacy groups, for example, often root their claim to legitimacy in their commitment to their mission above all else. There exists, therefore, the potential that the interests of other stakeholders will be sacrificed if they come into conflict with the broader cause. Service providers often find themselves privileging their donors (in order to continue their mission) and their beneficiaries (because fulfilling client needs are the mission of the NGO) over other stakeholders.

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Making this dilemma more acute is the notoriously difficult task of measuring the “success” of a project. For any NGO seeking to bring about sustained, long-term change, the impact of any particular undertaking may not become apparent for some time. However, both the NGO (which wants more money) and the donor (which wants success stories to validate the distribution of money already spent) have incentives to gloss over any short-term hiccups in the project and to focus on the likelihood of its long-term successes. To speak of “accountability” in such a context is misleading because there is often no way to tell how effectively or efficiently a donor’s money is being spent until much later. A similar problem arises in the context of NGOs engaged in service provision. While in theory the client can express his dissatisfaction with the NGO by going elsewhere, in parts of the world where there is no alternative means of obtaining a given service this is simply not an option. Thus, clients may be profoundly dissatisfied with an NGO’s performance yet unable to signal their dissatisfaction for lack of any other options. This inability to sanction the NGO for improper behavior makes it less likely that it will go to any great lengths to ensure that it is accountable to the group in question.

Despite these well-founded concerns about NGO accountability, there are ways of solving these problems. An NGO can explain to its donors, its staff, its partners, and its clients at the outset what its priorities are and identify how it will measure the success of its projects. Donors concerned about the use of funds can condition their grants on commitments made by recipient groups to be audited annually, to be more transparent in their decision-making processes, or to not take controversial positions on certain issues. Several years ago, for example, the Ford Foundation discovered (to its dismay) that it had provided funds to several groups that had taken vehemently anti-Semitic positions at the World Conference Against Racism in Durban, South Africa. Subsequently, all groups receiving money from the Ford

Foundation had to sign a letter promising to take no positions advocating bigotry, intolerance, or the destruction of any state. Through these and other means, NGOs can be made more accountable than they are today. In addition, NGOs should publish a list of their donors in an annual report. Foundation World, another NGO, has come under increased scrutiny by the U.S. Senate Finance Committee, which held hearings in 2004 on tax abuses, particularly by small foundations.

IV. CONCLUSION

The fifth estate unquestionably has its weaknesses. It is unelected, often unaccountable, and has been criticized (not always unfairly) as a self-appointed spokesperson for groups that may or may not endorse the actions taken on their behalf. Advocacy NGOs are often uninterested in compromise and intent on pursuing narrow agendas to the exclusion of all others. Civil servants, corporate officers, and members of international organizations such as the World Bank have complained that it is almost impossible to satisfy the demands of the fifth estate. Concessions to their demands are, all too often, met not with praise but with demands for further concessions.⁴⁵

With all of this in mind, however, there is no question that the rise of the fifth estate has been a positive development in world affairs. NGOs around the world help to build the institutions necessary for functioning democracies. They put pressure on corporations, governments, and intergovernmental organizations to adhere to higher standards. They collect and distribute valuable information and ensure that key decision-makers are able to reach informed conclusions. They provide necessary services when governments either cannot or do not provide those services to their citizens. They attract passionate, committed people devoted to making the world a better place. In a world of uncertainty and suspicion, their faith in the power of association to develop the potential inherent in every society is truly remarkable.

I have seen this dichotomy between NGO strengths and weaknesses firsthand as a policymaker in several Administrations. I found NGOs to be useful sources of data and informative, but I also learned several important lessons that must be kept in mind when dealing with them. These are:

- Their information and analysis is invaluable, but invariably slanted to support their position. It must be reviewed and taken into account, but never blindly accepted.
- NGOs often have a disproportionate impact on the federal agencies they lobby and whose issues they deal with—environmental NGOs, for instance, with the U.S. Environmental Protection Agency. Agency decision making is frequently responsive to their NGO constituents.
- NGOs need issues to govern their membership base and make them reliant. If they are perceived as too close to an Administration, however friendly, they risk losing the support of their members. For this reason, they are often reluctant to concede any ground on any issue.

Although the fifth estate is an increasingly powerful actor in policy debates around the world, at the end of the day the burden remains with governments to balance out various competing interests and stake out a position that is in the best interests of society as a whole. Going forward, one must endeavor to understand (and correct) the weaknesses of the fifth estate while recognizing its many benefits and seek to take advantage of its strengths.

Notes

¹ Thomas Macaulay, *On Hallam's Constitutional History* (1828) ("The gallery in which the reporters sit has become the fourth estate of the realm."). This quote is often attributed to Edmund Burke, because Carlyle wrote in 1841: "Burke said that there were three great estates in Parliament; but in the reporters' gallery yonder, there sat a fourth estate more important far than all of them." Thomas Carlyle, *Heroes and Hero Worship* (1841). This phrase has not, however, actually been found in any of Burke's writings and Carlyle may have been confused about the attribution of the quotation.

² For two contemporary evocations of this idea, see Jed Handelsman Shugerman, *A Six-Three Rule: Reviving Consensus and Deference on the Supreme Court*, 37 Ga. L. Rev. 893, 965 (2003) (arguing that the "fourth estate" is an effective watchdog over national politics because of its concern for civil rights); Christopher S. Yoo, *The Rise and Demise of the Technology-Specific Approach to the First Amendment*, 91 Geo. L.J. 245, 333-34 (2003) (arguing that the fourth estate's independence from the government is critical to its performance of a check on governmental abuse).

³ Other scholars have used the term the "fifth estate" to refer to television and other forms of electronic mass media. See, e.g., T. Barton Carter et al., *The First Amendment and the Fifth Estate* (2003). This usage notwithstanding, this essay views television as another manifestation of the press, putting it comfortably within traditional definitions of the fourth estate.

⁴ Alexis de Tocqueville, *Democracy in America*, bk. II, ch. V.

⁵ Charles Dickens, *Bleak House*, 38 (Norton ed., 1977) (1853).

⁶ See Margaret E. Keck & Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, 39 (1998).

⁷ Karsten Ronit & Volker Schneider, "Private Organizations and Their Contribution to Problem-Solving in the Global Arena," *Private Organizations in Global Politics* (Karsten Ronit & Volker Schneider eds., 2000).

⁸ Helmut Anheier, Marlies Glasius, & Mary Kaldar, "Introducing Global Civil Society," *Global Civil Society*, 4 (2001).

⁹ See *Milestones in the History of NGOs*, available at: <http://www.fimcivilsociety.org/english/MilestonesInTheHistoryOfNGOs.htm>.

¹⁰ U.N. Charter, art. 71 ("The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."). Today, there are 2418 NGOs in consultative status with ECOSOC, and some 400 NGOs accredited to the Commission on Sustainable Development (CSD). See *NGO Related Frequently Asked Questions*, available at: <http://www.un.org/esa/coordination/ngo/faq.htm>.

¹¹ Margaret E. Keck & Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, 123 (1998).

¹² See generally John Authers & Richard Wolffe, *The Victim's Fortune: Inside the Epic Battle over the Debts of the Holocaust* (2002) (describing the process surrounding efforts to reclaim Holocaust era assets).

¹³ Jeremy Smith, "WTO Mood at Cancun Worsened by NGOs," *Alertnet*, Sept. 12, 2003, available at: <http://www.globalpolicy.org/ngos/int/wto/2003/0919cancun.htm>.

¹⁴ Helmut Anheier, Marlies Glasius & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 4 (2001).

¹⁵ Helmut Anheier, Marlies Glasius & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 300 (2001).

¹⁶ Helmut Anheier, Marlies Glasius & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil*

Society, 290 (2001).

¹⁷ Margaret E. Keck & Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, 128 (1998).

¹⁸ Volker Schneider, "The Global Social Capital of Human Rights Movements," in *Private Organizations in Global Politics*, 154 (Karsten Ronit & Volker Schneider eds., 2000).

¹⁹ See Helmut Anheier, Marlies Glasius, & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 11 (2003).

²⁰ See Helmut Anheier, Marlies Glasius, & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 11 (2003).

²¹ The surveyed countries included the Netherlands, Belgium, Ireland, Israel, the United States, Australia, the United Kingdom, Germany, France, Spain, Austria, Argentina, Japan, Finland, Peru, Colombia, Brazil, the Czech Republic, Hungary, Slovakia, Romania, and Mexico.

²² Lester M. Salamon, S. Wojciech Sokolowski & Helmut K. Anheier, "Social Origins of Civil Society: An Overview," 3 (*Working Papers of the Johns Hopkins Comparative Nonprofit Sector Project*, 2000).

²³ George Melloan, "As NGOs Multiply, They Expand a New 'Private Sector,'" *Wall Street Journal*, June 22, 2004, at A19.

²⁴ David B. Ottaway & Joe Stephens, "Nonprofit Land Bank Amasses Billions," *Washington Post*, May 4, 2003, at A1.

²⁵ The major sources of nonprofit income in these twenty-two countries studied were fees (49 percent) and public support (40 percent). Private philanthropy constituted only 11 percent of total nonprofit income. Lester M. Salamon, S. Wojciech Sokolowski & Helmut K. Anheier, Social "Origins of Civil Society: An Overview," 4 (*Working Papers of the Johns Hopkins Comparative Nonprofit Sector Project*, 2000).

²⁶ See generally Organization for Economic Cooperation and Development, *Geographic Distribution of Financial Aid to Developing Countries* (1997). This trend likely explains why NGOs oriented towards the provision of services grew so rapidly in the 1990s.

²⁷ Helmut Anheier, Marlies Glasius, & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 12 (2003).

²⁸ Helmut Anheier, Marlies Glasius, & Mary Kaldar, "Introducing Global Civil Society," in *Global Civil Society*, 12 (2003).

²⁹ Margaret E. Keck & Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, 200 (1998).

³⁰ Ann M. Florini, "Lessons Learned," in *The Third Force: The Rise of Transnational Civil Society*, 213 (Ann M. Florini ed., 2000). For the most part, NGOs engaged in service provision are not the same groups as those involved in the advocacy coalitions or form only one element of a coalition.

³¹ Lester M. Salamon, S. Wojciech Sokolowski & Helmut K. Anheier, Social Origins of Civil Society: An Overview 1 (*Working Papers of the Johns Hopkins Comparative Nonprofit Sector Project*, 2000).

³² George Melloan, "As NGOs Multiply, They Expand a New 'Private Sector,'" *Wall Street Journal*, June 22, 2004, at A19.

³³ Ann M. Florini, "Lessons Learned," in *The Third Force: The Rise of Transnational Civil Society*, 213 (Ann M. Florini ed., 2000).

³⁴ At the same time, many of the same NGOs went further and pressed the World Bank to deny lending to any extractive industries existing in developing countries. The World Bank rightly rejected the demands on the grounds they would harm the very people in poor countries dependent on oil, gas and mineral revenues they profess to protect.

³⁵ Helmut Anheier, Marlies Glasius & Mary Kaldar, Introducing Global Civil Society, in *Global Civil Society*, 300 (2001).

³⁶ See Cristina Balboa, *Comparing and Contrasting the Existing Literature on NGO Accountability*, 1 (May 21, 2004) (unpublished manuscript, on file with author).

³⁷ Sheryl Attkisson, "Disaster Strikes in Red Cross Backyard," CBS Evening News, July 29, 2002, available at: <http://www.cbsnews.com/stories/2002/07/29/eveningnews/main516700.shtml>.

³⁸ Jerry Markon, "Ex-Chief of Local United Way Sentenced," *Washington Post*, May 15, 2004, at A1.

³⁹ Ann M. Florini, "Lessons Learned," in *The Third Force: The Rise of Transnational Civil Society*, 229 (Ann M. Florini ed., 2000).

⁴⁰ Ann M. Florini, "Lessons Learned," in *The Third Force: The Rise of Transnational Civil Society*, 229

(Ann M. Florini ed., 2000).

⁴¹ Dan Eggan & John Mintz, "Muslim Groups' IRS Files Sought: Hill Probing Alleged Terror Ties," *Washington Post*, Jan 14, 2004, at A1.

⁴² See generally Cristina Balboa, *Comparing and Contrasting the Existing Literature on NGO Accountability* (May 21, 2004) (unpublished manuscript, on file with author).

⁴³ David B. Ottaway & Joe Stephens, "Nonprofit Land Bank Amasses Billions," *Washington Post*, May 4, 2003, at A1.

⁴⁴ J. Koppel, *Pathologies of Accountability: ICANN and the Challenge of 'Multiple Accountabilities Disorder'* (unpublished manuscript).

⁴⁵ I myself discovered this when meeting with NGOs concerning the adoption of the Endangered Species Act during my four year stint (1977-1981) as President Jimmy Carter's Chief Domestic Policy Adviser in the White House. I remember how frustrating it was to work with NGOs interested in adding species to the Endangered Species Act for a truly environmental president, Jimmy Carter. For his efforts, he was blasted by various environmental NGOs for leaving species off the protected list and given very little credit for the many species that had been added to it.