The Emergence of Nonprofit Self-Regulation in Africa
Mary Kay Gugerty

Published by:
$SAGE

http://www.sagepublications.com

On behalf of:

ARNOVA
Association for Research
on Nonprofit Organizations
and Voluntary Action

Association for Research on Nonprofit Organizations and Voluntary Action

Additional services and information for *Nonprofit and Voluntary Sector Quarterly* can be found at:

Email Alerts: http://nvs.sagepub.com/cgi/alerts

Subscriptions: http://nvs.sagepub.com/subscriptions

Reprints: http://www.sagepub.com/journalsReprints.nav

Permissions: http://www.sagepub.com/journalsPermissions.nav

Citations: http://nvs.sagepub.com/content/39/6/1087.refs.html

The Emergence of Nonprofit Self-Regulation in Africa

Mary Kay Gugerty[1]

Abstract

This article examines the evolution of NGO self-regulation in Africa from 1990 through 2009 using cross-national data on 22 countries and more detailed case studies of 6 initiatives. The article uses collective action theory to characterize self-regulation as a collective endeavor in which organizations must find ways to develop and maintain common standards and mechanisms for monitoring and oversight. The article argues that self-regulation in Africa has unfolded in two generations. The first generation was a response to perceived threats of increased government regulation and resulted in systems of self-regulation that are national in scope and intend to produce a public good: national regulation. Second generation initiatives occurred in more liberal political environments; as a result, these second-generation initiatives often operate as a complement or supplement to government regulation. Second-generation self-regulation programs tend to have stronger standards and enforcement, but more limited organizational coverage, producing a private collective good for those nonprofits that are able to participate.

Self-regulation in sub-Saharan Africa is a response to both global trends in international assistance as well as the specific challenges faced by the nonprofit sector in Africa. Challenges to nonprofit accountability are acute in Africa, a result of rapid sectoral growth, weak regulatory systems, and nascent civil societies. The combination of political liberalization and increased donor funding available to nonstate actors in the region throughout the 1990s sparked a dramatic increase in the number of nonprofit organizations (more commonly referred to as nongovernmental organizations or NGOs)

[1]University of Washington

Corresponding Author:
Daniel J. Evans School of Public Affairs, University of Washington, Box 353055, Seattle, WA 91895
E-mail: gugerty@uw.edu

in operation on the continent. For example in Kenya the estimated size of the NGO sector grew from about 500 in 1990 (Ndegwa, 1990) to nearly 3,200 in 2004 (NGO Council, 2004). As a result of these forces, many governments in Africa found themselves increasingly dependent on NGOs for the provision of key public services, but with few regulatory or coordination mechanisms at their disposal to influence or oversee the activities of these organizations (Batley, 2006). Donors also found it increasingly difficult to assess the capabilities and potential of the many newly emerging organizations. The periodic eruption of high-profile NGO scandals also began to challenge the reputation and credibility of legitimate organizations and underscored the need for stronger standard setting and credentialing mechanisms for both NGOs and their stakeholders (Gibbelman & Gelman, 2004; Kwesiga & Namisi, 2006; Naidoo, 2004).

The result has been the flourishing of new initiatives and efforts at self-regulation in Africa, a region not always noted for its institutional strength. The article examines the evolution of NGO self-regulation in Africa from 1990 through 2009. The article argues that self-regulation in Africa has proceeded in two waves, each of which responded to immediate threats and demands for accountability made upon the sector. The first wave occurred largely in response to perceived threats of increased government regulation and resulted in attempts to create systems of self-regulation that were national in scope and intended to forestall more intrusive government regulation. The second wave of initiatives typically occurred in more liberal political environments and in the context of maturing NGO sectors. As a result these second-generation initiatives often operate as a complement or supplement to government regulation. These second-generation initiatives tend to have stronger standards but more limited organizational coverage. The article uses collective action theory to characterize self-regulation as a collective endeavor in which organizations must find ways to agree on joint standards and develop collective mechanisms for monitoring and oversight. Self-regulation emerges in response to changes in the operating environment for NGOs, but the form of self-regulation that emerges is affected by the specific nature of these changes in each country as well as the structure of preexisting collective action institutions.

To explore the evolution of self-regulation in Africa, the article proceeds as follows. The next section presents a typology of self-regulatory forms drawing on collective action theory and the framework presented in the symposium introduction. The section entitled "Motivations for Self-Regulation in Africa" briefly surveys the emergence of self-regulation across 22 countries in Africa. The following section, "Self-Regulation Across Six Countries," describes the institutional structure of the two waves of self-regulation through six case studies. First-generation initiatives are examined in Kenya, Malawi, and Tanzania. These cases demonstrate the predominance of government pressure in the design of nationwide systems. Second-generation initiatives are described in Ethiopia, Uganda, and Ghana. These initiatives, particularly in Uganda and Ghana, unfold in a different political climate and build on previous efforts at self-regulation. The threat of government regulation remains a crucial stimulus for self-regulatory activity, but the focus is now on building standard-setting and accreditation systems that can provide signals of NGO quality. The result is a new set of initiatives with stronger standards but more limited scope.

Self-Regulation as Collective Action Challenge

Self-regulation, because it does not operate with the force of law, presents critical challenges of collective action for participants, requiring the development of institutional mechanisms that give organizations the incentive to police themselves (Olson, 1965; Ostrom, 1990). At the core of the collective action problem in self-regulation lays the challenge of producing the collective good of regulation. Regulation is a public good typically provided by governments; many benefits of regulation—for example, regulations limiting polluting emissions—are public goods because no one can be prevented from enjoying the benefits and one person's enjoyment does not diminish the potential for another. Traditional regulatory enforcement depends on the government's coercive power to enforce compliance with the law.

When government authority is not used to compel compliance and monitor adherence with regulations, private institutions may emerge to fill the gap. These private institutions must find ways to resolve the dilemma of collective action among themselves, as organizations have the incentive to free ride on the efforts of others by avoiding full compliance with standards, particularly when compliance is costly. The institutional design of private self-regulation must, therefore, provide monitoring mechanisms to ensure that participants are actually adhering to the standards that are set as well as graduated sanctions that are employed when standards are violated (Ostrom, 1990).[1]

Research on collective action systems to manage common pool resources suggest that effective private institutions must (a) set clear boundaries for participation and rules for entry into the system, (b) establish clear information about the behavior to be regulated, and (c) develop a credible reporting and monitoring system with sufficient information to detect and sanction violations (Ostrom, 1990; Schlager, 2002; Weber, 1998). Such institutional mechanisms can sometimes produce collective action even in the absence of strong shared norms or trust (Raymond, 2006). Research on the institutional design of environmental self-regulation suggests that effective systems require clear jurisdictional boundaries, criteria for entry or participation (screening), clearly specified and appropriate standards for behavior, and credible enforcement systems (Prakash & Potoski, 2006).

Previous literature draws on the common pool and environmental standards literature to develop three institutional forms of NGO self-regulation. Each form creates a distinct collective good and requires distinct institutional arrangements for the maintenance of collective action (Gugerty, 2008). National systems of collective self-regulation attempt to provide a regulatory framework that applies to all NGO organizations, potentially acting as a substitute for government regulation. National systems typically consist of arrangements between governments and national NGO associations in which governments often mandate NGO participation and delegate some powers of regulatory oversight to the association. National systems thus produce a public good that substitutes for government regulation and is nonexcludable and nonrival—individual organizations cannot be prevented from enjoying the benefits of self-regulation, nor does consumption by one organization diminish consumption by another.

A second form of self-regulation is the voluntary standards "club" in which participation is voluntary, rather than mandatory (Gugerty & Prakash, 2010; Prakash & Gugerty, 2010). Voluntary clubs, such as certification systems, provide participants with a signal of quality in exchange for compliance with certain standards. Because participation is both costly and voluntary, these systems must develop incentives that attract participants. One potential incentive is the positive reputation or signal of quality that participation provides. Participants may be willing to incur the costs involved in certification or accreditation if they are rewarded for their participation with a positive reputation than can lead to increased funding or access to governmental resources. For such a signal to be credible, self-regulation systems must be able to clearly distinguish participants from nonparticipants and must also demonstrate that participants are adhering to the club standards. Voluntary clubs provide members with a collective or club good characterized by nonrivalry and nonexcludability among a self-contained group. Once admitted, all members benefit equally from the club's reputation, so a critical feature of the voluntary regulation club is the creation of screening mechanisms that clearly differential participants from nonparticipants. Because members still may have the incentive to free ride, voluntary clubs typically include monitoring and sanctioning mechanisms to ensure that participants adhere to standards.

The third form of self-regulation, the code of conduct, is also the most common. Voluntary codes of conduct are sets of standards or practices agreed to across a set of organizations in which participants signal their intention to adhere to the code by signing an agreement or making a public pledge of adherence. Whereas codes, like clubs, rely on voluntary participation, voluntary codes typically do not establish strong screening mechanisms; they are passive in nature. One reason for this is that voluntary codes are often sponsored by NGO associations and these associations have membership incentives that promote inclusion, rather than exclusion. Unlike a national self-regulation system, however, participation in voluntary codes of conduct is not usually mandated by the state. Codes of conduct may be more prevalent because they are easier to establish and do not require stronger forms of collective action; they typically do not entail mechanisms for screening or enforcement. For this reason, voluntary codes of conduct are expected to have low regulatory strength. Table 1 summarizes these three forms of self-regulation.

Motivations for Self-Regulation in Africa

Whereas many drivers of self-regulation in Africa are common to other regions, several features specific to the African context shaped the emergence of self-regulation there. First, NGO–government relationships in many African countries have until recently been characterized by a large amount of distrust, cooptation, and outright repression. NGO operations were often viewed by governments as a form of opposition (Bratton, 1989; Fisher, 1998). As many African countries experienced political liberalization throughout the 1990s, however, civil society organizations proliferated, easily outstripping the ability of governments to keep tabs on them (Batley, 2006). Governments, often

Table 1. Institutional Requirements for Self-Regulation Regimes

Institutional mechanisms	National self-regulation	Voluntary club	Voluntary code of conduct
Entry	Mandated	Voluntary	Voluntary
Screening	Typically supplied by providers of government registration	Provided through certification of adherence to standards	None
Typical content of standards	Broad goal-oriented standards	Specific management or performance standards	Varied
Enforcement	By complaint	Auditing or other reporting mechanism	By complaint
Regulatory scope	National	Members only	National or industry
Collective good produced	Public good—regulation	Collective "club" good for members	Unclear

in the midst of fundamental transformations themselves, struggled to manage their relationships with NGOs, sometimes relying on legal frameworks that dated back to the colonial period. Throughout the 1980s and 1990s structural adjustment policies further eroded government capacity for regulatory oversight in many countries.

Even as government capacity waned, donors were increasing their funding to NGOs throughout the 1990s. Many governments began to view NGOs as competitors, fearing that funding for NGOs would crowd out funding for public services. Some governments viewed donor support for civil society organizations as a form of political inference. For their part, many donors viewed NGO support as a key element of their democracy and governance programming strategies. Emerging theories of social capital and civic engagement (Putnam, 1993) supported the belief of donors that NGO support was critical to improved public governance and democratization.

Many governments in Africa responded to the need for regulatory oversight by seeking to update the legislation governing the operation of NGOs. At times these efforts sought to consolidate government control over the sector, especially where NGOs were viewed as a political threat. NGO–state relationships in many countries in Africa have historically been characterized by distrust, cooptation, and outright repression of NGO operations, which are often viewed by governments as a form of opposition (Bratton, 1989; Fisher, 1998). A key indicator of this orientation of states toward NGOs is the location of NGO registration and oversight functions, which have traditionally been housed in strategic security ministries or in the office of the president so that the state security apparatus can be employed to monitor the activities of organizations (Bratton, 1989). As political liberalization spread through African in the 1990s, however, many governments found that the authoritarian control policies they employed toward NGOs in earlier periods were no longer feasible. As a response to problems both of political and administrative control, many governments initiated changes to the regulatory

frameworks governing NGOs. These processes varied in style and substantive aim. Most often they were attempts at consolidating government control over the sector and limiting the amount of political activity that NGOs could undertake. Along with legal reform, some governments developed proposals for national policy frameworks governing the activities of the sector. Not surprisingly, government efforts at regulatory reform were highly contested by NGOs and resulted in organized attempts at opposition. Thus, the emergence of first-generation self-regulation programs in Africa in the 1990s was often tied to issues of democratization and political liberalization in which the interests of both domestic and international NGOs operating in Africa were threatened.

The tenor of government–NGO relationships in Africa began to change in the latter part of the 1990s as a result of the wave of democratization sweeping the continent. With the emergence of more democratic regimes, many NGO and civil society leaders were drawn into the public sector. Moreover, the huge growth in the NGO sector fostered the growth of illegitimate or "briefcase" NGOs alongside more legitimate organizations and public scandals involving NGOs began to threaten the reputation of legitimate organizations. Both donors and governments became increasingly concerned with finding ways to identify legitimate and effective organizations and to weed out illegitimate organizations (Edwards & Hulme, 1996). Increased competition for donor funding also meant local NGOs now needed ways to distinguish themselves from their competitors, a sign of the "end of blind faith" in NGOs (Naidoo, 2004).

The first wave of accountability initiatives in Africa emerged in the early years of political liberalization, largely in response to regulatory reform initiatives by government. Self-regulation initiatives were often national in scope and participation was often mandated by governments. But the inability to surmount the challenges of cross-sectoral collective action typically left these national programs relatively weak in term of their regulatory powers. These weaknesses, combined with the increased challenges to NGO accountability, caused second-generation attempts at self-regulation in Africa to focus more heavily on the development of voluntary self-regulation "clubs" with stronger standards and more exclusive screening mechanisms. The next section shows how self-regulation emerged in 22 countries across the continent; the section that follows provides more institutional detail on self-regulation in six of these countries.

The Emergence and Prevalence of Self-Regulation in Africa: Data and Methodology

This section examines the relationship between regulatory change and the emergence of NGO clubs in Africa using data on 22 countries for the period 1990-2009.[2] Data were collected from a combination of key informant interviews, public records, online archives of national NGO organizations, and secondary sources, including the One World Trust database of civil society self-regulation initiatives. Public data on self-regulation were available for 22 sub-Saharan countries; the full sample is presented in Table 2, which the lists the 22 countries, the key NGO associations in each country and year of establishment (Column 2). Table 2 also indicates whether some form of regulatory reform

Table 2. The Emergence of Self-Regulation Across 22 African Countries

Country	Main NGO association(s)	Year NGO association was established	Year regulatory reform introduced	Year reform initiative passed or adopted	Name of self-regulation program, if any	Type of self-regulation	Year self-regulation established
Benin	Organisation de la Société Civile Béninoise	2000	1999	—	Charte des Organisations de la Société Civile du Bénin (provisional)	National self-regulation	2008
Botswana	The Botswana Council of NGOs (BOCONGO)	1995	2000	—	NGO code of conduct	Code of conduct	2001
Burkina Faso	Civil Society Organization Network for Development (RESOCIDE)	2002	—	—	—	—	—
Ethiopia	Christian Relief and Development Association (CRDA)	1973	2001, 2008	2009	NGO code of conduct	Voluntary club	1999
Gambia	The Association of NGOs (TANGO)	1983	1996, 2003	—	NGO code of conduct	National self-regulation	Not clear
Ghana	Ghana Association of Private Voluntary Organizations in Development (GAPVOD)	1980	1995	—	Ghana Standards for Excellence	Voluntary club	In process
Kenya	The National Council of NGOs	1963	1990	1991	NGO code of conduct	National self-regulation	1993
Lesotho	Lesotho Council of NGOs (LCN or Lecongo)	1990	—	—	Code of conduct of LCN	Code of conduct	In process
Mali	Comite De Coordination Des Actions Des ONG Au Mali (CCA-ONG)	1983	—	—	—	—	—

(continued)

Table 2. (continued)

Country	Main NGO association(s)	Year NGO association was established	Year regulatory reform introduced	Year reform initiative passed or adopted	Name of self-regulation program, if any	Type of self-regulation	Year self-regulation established
Malawi	Council for Nongovernmental Organizations (CONGOMA)	1985	2000	2001	—	—	—
Mozambique	—	—	—	1998[a]	—	—	—
Namibia	Namibia Non-Governmental Organizations Forum (NANGOF)	1991	In progress	—	NANGOF code of conduct for NGOs	Code of conduct	2003
Nigeria	Nigeria Network of NGOs (NNNGO)	1992	2001	—	NNNGO code of conduct	Code of conduct	Date unclear
Rwanda	Conseil de Consertacion des Organizations d'appui des initiaties de base (CCOAIB)	1987	—	—	—	—	—
Senegal	Conseil des Organisations d'Appui au Développement (CONGAD)	1982	1993	1995	CONGAD code of ethics	Code of conduct	Date unclear
South Africa	South African National NGO Coalition (SANGOCO)	1995	1994	1997	SANGOCO code of ethics	Code of conduct	1997
Swaziland	Coordinating Assembly of NGOs (CANGO)	1983	—	—	—	—	—
Tanzania	Tanzania Association of NGOs (TANGO)	1988	1998	2003, amended in 2005	National NGO code of conduct (in progress)	National self-regulation	2008
	Tanzanian Council on Social Development (TACOSODE)	1987					
	Assoc of NGOs of Zanzibar (ANGOZA)	1992					
	National Association of NGOs (NACONGO)	2003					

1094

Table 2. (continued)

Country	Main NGO association(s)	Year NGO association was established	Year regulatory reform introduced	Year reform initiative passed or adopted	Name of self-regulation program, if any	Type of self-regulation	Year self-regulation established
Togo	National Congress of the Civil Society in Togo (CNSC)	2002	—	—	—	—	—
Uganda			2001, 2004, 2008	2006, 2009	Quality Assurance Mechanism (QuAM)	Voluntary Club	2006
	The National NGO Forum	1997			NGO Forum code of conduct	Code of conduct	2001
	DENIVA	1988	—		—	—	—
Zambia	National Council for Social Development (NCSD)	1974	—	—	—	—	—
	NGO Coordinating Committee (NGOCC)	1985	—	—	—	—	—
Zimbabwe	National Association of NGOs (NANGO)	1962	1995, 2004	2004 bill passed by parliament, not signed	Code of Ethics; NGO Corporate Governance Manual	Code of conduct	2006

a. Regulates foreign NGOs only. National NGOs do not need to register.

1095

was proposed by the government during this period (Column 2) and whether or not it was enacted (Column 3). Column 4 indicates whether or not some form of self-regulation exists and Columns 5 and 6 indicates the type and date of initiation.

NGOs in 14 of these 22 countries have established, or are in the process of establishing, some form of self-regulation (Column 4). The most common form is a basic code of conduct, which is present in 7 of the 14 countries. National systems of self-regulation have been established in one country (Kenya) and are ongoing or in development in three others (Benin, Gambia, and Tanzania). Voluntary clubs have been established or are in development in three countries (Ethiopia, Ghana, and Uganda). What accounts for the emergence and structure of self-regulation across these contexts? As argued earlier, the contentious history of NGO–government relationships in many African countries suggests that self-regulation might often be a reaction to regulatory initiatives proposed by governments. Column 2 of Table 2 indicates whether national governments proposed or initiated any new efforts at NGO regulation during the period in question; Column 3 shows whether such proposals were ultimately enacted. Furthermore, 14 of the 22 countries experienced some attempt at regulatory reform, and self-regulation emerged in 13 of those countries—of the countries that experienced regulatory reform only Malawi has not yet developed a functioning self-regulatory system, although as discussed in the following, attempts have been made. Of the eight countries without regulatory initiatives, self-regulation emerged in only one country, Lesotho.

These patterns of emergence suggest that self-regulatory efforts in Africa are indeed stimulated by the prospect of additional government regulation. But at least three distinct forms of self-regulation have emerged, suggesting that the mechanisms that lead to successful institutionalization of self-regulation and the factors underlying the variance in the forms that emerge need to be better understood. To investigate these factors, this article next presents six brief case studies of NGO self-regulation initiatives that include four successful initiatives and two less successful efforts. The cases suggest that self-regulation institutions are affected by the comprehensiveness of proposed government regulation, the nature of NGO–government negotiations over the outcome, and the identity and capacity of existing NGO associations. In addition, the timing of regulatory reform initiatives appears to matter. First-generation initiatives were often national-level systems intended to govern the sector as a whole, whereas second-generation initiatives result in voluntary clubs with more stringent standards and enforcement mechanisms.

Self-Regulation Across Six Countries

This section examines the evolution of self-regulatory initiatives in six countries. First-generation initiatives are examined in Kenya, Malawi, and Tanzania. Second-generation strategies are illustrated by the cases of Ethiopia, Uganda, and Ghana; the emergence of a more recent second generation initiative in Kenya is also discussed. These case studies are based on a combination of primary and secondary data collection. The case studies in Uganda, Kenya, and Ethiopia incorporated fieldwork in all 3 countries that included interviews with 55 senior managers and program staff of NGOs, donors, and

governments using a semistructured interview questionnaire and transcription of interviews. Data collection for Tanzania, Ghana, and Malawi is based on review of publicly available government and NGO documents, peer-reviewed literature, and other secondary sources and telephone interviews with ten key informants who were involved in the development of these self-regulatory systems. Documents reviewed for all cases include reviews of available government legislation and national policy frameworks, NGO association evaluations, strategic plans and annual reports; extensive secondary document review including donor assessments, and a comprehensive review of available media reports.

First-Generation Efforts at Self-Regulation: Kenya, Malawi, and Tanzania

The first-generation of self-regulation initiatives in Africa sought to establish national self-regulation systems that would apply to all NGOs in the country. National-level self-regulation systems require the development of standards that can apply to all NGOs in the country. Typically these initiatives are sponsored or managed by a broad-based national NGO association. The need for national standards requires broad consensus across a large number of disparate organizations, which puts a premium on the ability of representative associations to facilitate the process and act fairly on behalf of members. As will be seen in the following, the need for broad-based collective action poses a challenge to the development of national systems. Moreover, national self-regulation is not developed in isolation from the state and the actions of governments also shape the potential for self-regulation. The response of government to self-regulation initiatives varied across Kenya, Malawi, and Tanzania. In the Kenyan case, state hostility toward the sector was relatively overt, and this helped to mobilize collective action among NGOs. In Malawi and Tanzania, state–NGO negotiations were initially more collaborative, but many NGOs ultimately perceived the process as favoring particular NGO actors and this tended to fractured NGO cooperation and trust. The twin challenges of developing national-level standards and engaging in ongoing negotiation with the state helps to explain why few national-level systems with strong self-regulating powers have emerged subsequent to the Kenya case.

Kenya. The first wave of self-regulation in Africa was largely initiated by events in Kenya, which was the first country in Africa to wrestle formally with issues of self-regulation. In the wake of rapid growth in the NGO sector and growing advocacy on the part of some NGOs, the government introduced the NGO Coordination Act in late 1990. In response, the main national umbrella organization, the Kenya National Council of Social Services (KNCSS), organized a conference on NGO coordination in which NGOs drafted an alternative proposal. The proposal, however, was largely ignored by the government, which subsequently introduced the NGO Coordination Act in parliament in late 1990. The act vested the government-controlled NGO Board with the sole power to register NGOs and created a national NGO council (National Council of NGOs, 2003) with no independent powers outside the state (Adiin-Yaansah, 1997; Ndegwa, 1996).

Though reaction from NGOs to the act was strong and highly negative, it was stifled by the repressive political environment. KNCSS had provided an initial organizing platform for NGOs, but after the passage of the legislation, many NGOs felt that this platform was too weak and that the ambiguous legal status of KNCSS made it vulnerable to government pressure. At the time, the NGO sector in Kenya consisted of about 400 NGOs, about half of which were KNCSS members. Recognizing the weakness of KNCSS, NGOs met and created the "NGO Network" with the sole purpose of discussing the legislation and creating alternative proposals to present to the government (Ndegwa, 1996). The 10-member standing committee of the network included a mix of large local and international NGOs. This network was able to mobilized the support of the donor community and protest the provisions of the act more strongly. A 3-year process of contestation and consultation followed. The 10-member standing committee was expanded to 20 NGO representatives. Network members lobbied individual government official and key donors, asking donors to commit to support to the efforts of the network. Donors exhibited increasing willingness to do so, viewing the network as part of the fledging prodemocracy movement. Donors backed NGOs with threats to withdraw aid to the government unless it reconsidered its position (Ndegwa, 1996). Ultimately, the government agreed to delegate some independent powers to the NGO sector. NGO representation on the registration board was increased. Most important, the government granted independent powers to the National NGO Council that had been created by the original legislation. The council was given a legal mandate to develop its own governance structures and code of conduct (Adiin-Yaansah, 1997) but required all NGOs to be members of the council and to abide by the provisions of the code as a condition of registration with the government.

Development of the NGO code of conduct was begun at the NGO Council's official inception in 1993 and was codified as Legal Notice No. 306 in 1995. The notice establishes a quasijudicial regulatory committee charged with the promotion and adherence to the NGO Code of Conduct; all registered NGOs are subject to its jurisdiction. Any person is allowed to bring a case against a registered organization, and the code sets out trial-type proceedings that are to be followed when a complaint is lodged. If an NGO is in violation of the code, the Regulatory Committee can issue verbal sanctions, levy fines, or recommend reregistration to the government-run NGO Board.

The standards developed in the code of conduct itself are broad, incorporating seven goals for behavior: probity, self-regulation, justice, service, cooperation, prudence, and respect. NGOs are not required to document compliance with these standards, and no detailed management standards for these goals were developed. Monitoring and enforcement power is vested in a regulatory committee within the NGO Council with power to act as a quasijudicial tribunal to hear complaints brought against NGOs. If an NGO is found to be in violation of the code, the Regulatory Committee can verbally sanction the organization, recommend to the NGO Board that it be deregistered, or the general assembly can levy a fine or recommend suspension. Although the complaints review board does have strong powers that include the power to recommend deregistration, the detection of violations depends entirely on the public complaints process, and it is not

clear to what extent the public is aware of the code and their rights to bring a case against an NGO. In 2003, the last year for which data area available, the council received 34 complaints; by the end of the year, 27 of those cases had been at least partly heard by the Regulatory Committee. The Regulatory Committee has been hampered in its enforcement in several respects. The NGO Council as a whole has suffered from funding problems; member organizations do not always pay their annual dues and the council has limited mechanisms for enforcing the payment of dues. Estimates by NGO Council officials in 2004 suggested that only 400 of the approximately 3,165 member organizations had paid dues for that year. As a result, the level of staffing and financial resources available to the regulatory committee has been low and enforcement of the code has been weak. In more recent years, the council experienced a number of leadership crises that have severely hampered the organization's ability to serve its members.

The Kenyan experiences highlights the challenge of maintaining collective action among a diverse NGO sector in the absence of an immediate threat. The initial emergence of self-regulation in Kenya took place in a hostile political environment that helped to mobilize cooperative action among NGOs, both domestic and international, whose operational interests were strongly threatened by the legislation. NGO efforts were strongly and publicly supported by donors and international NGOs and framed as issue of democratization (Maina, 1998). Because of the severity of the threat, NGOs may have been more willing to agree to a national system of self-regulation with jurisdiction over the entire NGO sector. In later years, however, this broad-based coalition has fractured and the NGO code of conduct weakened. In response, some NGOs have proposed a new initiative at self-regulation in Kenya which is discussed in more detail in the following.

Malawi. The self-regulation process in Malawi differed in several respects from that in Kenya. The process began when the country had already made the move toward multiparty democracy. The main NGO association involved was a preexisting national association, rather than one formed around the issue of self-regulation, as in Kenya. The timing of reform and the nature of the national NGO association play an important role in the evolution of self-regulation in Malawi. After the 1999 elections, the newly elected democratic government of Malawi began to draft a new act defining a regulatory system for NGOs. The stated goal of the government was to develop a regulatory system in which NGO policy was formulated and implemented with NGO participation. The need for a new regulatory system that offered legal protections to NGOs was made clear during the 1999 elections, during which several key civic education NGOs were closed down in the wake of (allegedly politically motivated) accusations of corruption and misuse of funds by donors (Meinhard & Patel, 2003). Unlike in Kenya, however, the process of developing a national self-regulatory system was initially characterized by a more collaborative consultation between NGOs and the government.

From the start, the largest NGO association, the Council of NGOs in Malawi (CONGOMA), was a key player in the consultations over reform. CONGOMA had been formed in the early 1990s as a relief coordination agency, but by the later part of the decade, it became the largest NGO umbrella association in the country. During the consultative phase of legislative design, CONGOMA facilitated a series of meetings

between NGOs and government officials over the content of legislation. Although there were many areas of disagreement, the meetings appear to have been characterized more by dialogue than by confrontation. When the provisions of the proposed NGO Act were made public in late 2000, however, the contents were a surprise to many NGOs, who argued that the legislation included provisions that had not been discussed in the consultative phase. The act designated CONGOMA as the official coordinating body for NGOs, required all NGOs to join the association, and charged CONGOMA with developing and maintaining a code of conduct for the sector. Some NGOs felt the act gave the government and CONGOMA excessive powers, and 15 prominent NGOs issued a public appeal against the bill.

When the act was quickly passed by parliament in 2001, CONGOMA found itself in an awkward position, as some of its members had supported the act while some of its members were vocal opponents (Mkamanga & Fanwell, 2001). The short period between the tabling and enactment of the bill precluded a process for generating consensus among NGOs, and the conflict ultimately led to the breakdown of the process. CONGOMA's unwillingness to come out against the act undermined its legitimacy with some NGOs, who felt it could no longer act independently of government. Many NGOs suspected the association was worried about losing the privileges and monopoly status it currently enjoyed (Mkamanga & Bokosi, 2001).

The process of developing a national system of self-regulation in Malawi differed from that in Kenya in several respects. In Kenya, an entirely new NGO association was created with widespread NGO participation. In Malawi, the NGO Act privileged an existing organization, and the lack of transparency in the process raised doubts among NGOs about its independence. Unlike in Kenya, donors in Malawi played a more marginal role in the development of self-regulation. Regulatory reform in Malawi took place after the initial move to democracy, so the issue of NGO regulation was not as clearly framed as an issue of democracy and opposition to an authoritarian regime, as it had been in Kenya. In general, the donor community in Malawi has been much less supportive of NGO political activity and most donors avoided the controversy over CONGOMA completely (Cammack, 2004). This allowed the government to run somewhat roughshod over the process. Another important distinction is that in Malawi, the regulatory power of CONGOMA was not codified in any way, either through legislation or through the development of a concrete administrative structure that could manage the code. Thus, NGOs are required join CONGOMA, but the association has little recourse if NGOs do not comply, and it appears that many do not and doubts over the legitimacy of the organization continue (Mzungu, 2010). In Kenya, the NGO Council developed a code of conduct that was gazetted as an official act. In Malawi, CONGOMA has yet to develop and publicize a code of conduct or other regulatory standards for NGOs, nor is it clear how they would enforce any such code, if developed.

Tanzania. The self-regulation process in Tanzania unfolded over nearly a decade and ultimately resulted in an attempt to set up a Kenyan-style national self-regulatory system. Whether this system will be fully institutionalized remains unclear, however. Beginning in 1996, Tanzania embarked on a process designed to produce a new NGO policy

framework and regulatory system. As in Malawi, the process began in a consultative manner with the government seeking NGO participation. The three major umbrella organizations, the Tanzanian Association of NGOs (TANGO, 2006), the Tanzanian Council for Social Development (TACOSODE), and the Association of NGOs of Zanzibar (ANGOZA) were lead actors for NGOs and organized workshops for NGO input on the potential content of a national NGO policy. A series of five draft documents were produced over the course of the next 3 years, with substantial NGO input at the national and local levels.

After several iterations, however, the process broke down when the idea of creating a single umbrella body for NGOs was proposed. As the fifth draft policy was being developed in 1999, the head of the donor-supported Aid Management and Accountability Program (AMAP) initiated a parallel consultative process on the establishment of a national NGO association (Mogella, 1999). The existing associations and their members threatened to pull out of the policy process altogether, leading to a near breakdown. The fifth draft of the policy was ultimately adopted in 2000, and a revised NGO Act was enacted in 2002 but without consultation with the sector (Irish & Simon, 2003). This act mandated the creation of a national umbrella association that would develop a code of conduct; the National Council on NGOs (NACONGO) was subsequently formed in 2003. A behind-the-scenes consultative process continued, ultimately resulting in amendments to the act in 2005 that reduced some of the more restrictive components (Iheme, 2005). But the experience left many NGOs distrustful of the process as well as the idea of a national apex body with self-regulating powers (Makaramba, 2007). In addition, donors did not appear to be willing to support the effort, with many of them preferring instead to support smaller thematic networks (Foundation for Civil Society, 2006). Had the government initially proposed more restrictive legislation, as in Kenya, divisions might have been overcome in the quest to oppose the legislation. But the consultative process did nothing to assuage the fears of existing associations that they might be left out of the final institutional arrangements. Moreover, the government's initiation of a parallel process led to confusion and competition over who might sponsor the code. NACONGO unveiled a National NGO Code of Ethics in 2008. The code seeks to establish an ethics committees at the national, regional, and local levels to oversee implementation of the code and to hear complaints against NGOs, but it is not clear to date whether such committees are operational.

In Tanzania, the process of developing a national system of self-regulation was complicated by the existence of several strong NGO associations, all of which sought to play a role in the development of self-regulation. Had the government initially proposed more restrictive legislation, as in Kenya, the divisions that resulted from associational competition might have been overcome in the quest to oppose the legislation. But the long-running consultative process did nothing to assuage the fears of each association that it might be left out of the final institutional arrangements. Moreover, the government's initiation of a parallel process led to confusion and competition over who might sponsor the code. Finally, donors threw their weight behind the idea of a new apex NGO body rather than supporting the position of NGO associations, which further fragmented the

process. The result is a national system with incomplete institutionalization and lacking buy-in from many NGOs in the sector.

Second-Generation Strategies for Self-Regulation: Ethiopia, Uganda, and Ghana

These first-generation cases illustrate the challenges of establishing national systems of self-regulation and the resulting weakness of many of the systems that have taken hold. These challenges have prompted efforts in some countries to develop a different form of self-regulation involving stronger standards and enforcement mechanisms. These voluntary self-regulation clubs were also sponsored by NGO associations, but participation was not government mandated as in earlier national initiatives. The Ethiopia, Uganda, and Ghana cases illustrate how the transition from first- to second-generation self-regulation strategies unfolded. The initiators of self-regulation in these cases were able to draw on the earlier experiences of other African countries. At the same time, the number of self-regulation initiatives around the world was growing exponentially, and the architects of self-regulation drew on these systems as well.

Ethiopia. In Ethiopia, a self-regulation voluntary club is sponsored by the largest NGO association in the country, the Christian Relief and Development Agency (CRDA). The Ethiopian code of conduct was originally intended to act as a national system of self-regulation, but the government has been unwilling to delegate oversight capabilities and NGOs have been unable to develop a program that would govern all NGOs. Thus, the code has remained a creation of CRDA. CRDA is the oldest NGO in Ethiopia, having been formed in 1973 as a relief coordination agency under the Marxist "Derg" regime during a period when NGOs were essentially illegal. CRDA remained the largest operational NGO in Ethiopia and until 2004 was the only legal umbrella association in the country.

The impetus for the development of the Ethiopian code was similar to many other African countries. As the number of NGOs in Ethiopia proliferated throughout the 1990s, government concerns with NGO oversight increased and the government instituted increasingly restrictive administrative requirements for NGO registration and operation. As concern over these provisions mounted among NGOs, CRDA spearheaded the development of a code of conduct that was ratified by a national consultative meeting of more than 200 international and domestic NGOs (at that time a majority of registered NGOs in Ethiopia) in 1998. The original intent of the code was to establish a nationwide general assembly of NGOs that would elect a Code Observance Committee charged with monitoring adherence and hearing complaints. In practice, setting up such a separate body appeared to be a barrier to implementation, and so the code observance committee was housed at CRDA, as the largest, most representative NGO agency (CRDA, 2004). Unlike in Malawi, where the main NGO association suffered from capacity issues, CRDA was an association with relatively strong capacity, donor funding, and a waiting list for membership. Unlike in Tanzania, where multiple associations sometimes competed for membership and authority, CRDA at the time was the only national umbrella association

in existence in Ethiopia. The importance of CRDA's role was underscored in 2001, when the government introduced a new legislation revising the legal frameworks governing the registration and operation of NGOs; NGOs objected to a number of these provisions and initiated a review process and an alternative proposal under the auspices of CRDA (CRDA, 2001).

The standards embodied in the CRDA code of conduct are relatively strong in comparison with the Kenya case and other African national voluntary codes. The code lays out 40 standards of conduct, including a requirement for a written constitution defining a mission, objectives, and organizational structure, and the requirement of an annual financial audit performed by an independent auditing firm and made public. Interviews with CRDA managers, however, suggested that the organization is not able to monitor compliance with this final requirement on an ongoing basis.

The CRDA voluntary code has some advantages over the national model. Membership in CRDA is highly sought after because of the benefits of membership, including access to training programs, donor funding, and technical assistance. All members must pledge adherence to the code upon joining the organization, and the screening process for new entrants is relatively strict: NGOs must show proof of government registration, bylaws, and memoranda of association, audited financial reports, and letters of support from three current CRDA members. The screening provided by the membership process provides some signal of organizational quality and because the benefits of CRDA membership are substantial, NGOs can be expected to exercise at least minimal discretion in adhering to code provisions. The CRDA model, however, involves one important tradeoff: Rather than having national coverage, the code applies only to association members. In the Ethiopian case, this is about 60% of the total population of NGOs in the country, and membership is likely oriented toward larger, national NGOs and international NGOs. And like other national NGO association, CRDA has faced its own share of challenges to its authority. NGOs have often alleged that CRDA is too close to the government to represent NGO interests. The existence of the code has also not prevented additional government regulation. In 2009 the Ethiopian parliament passed the Proclamation for the Registration and Regulation of Charities and Societies, which has been widely condemned by a number of human rights organizations as severely restricting freedom of association and voice (Amnesty International, 2008; Human Right Watch, 2008). For example, the act prohibits foreign NGOs and those Ethiopian NGOs receiving more than 10% of revenues from outside the country from engaging in programming in governance, justice and human rights, or conflict resolution. After a struggle, CRDA was able to secure registration under the new act, but the future of self-regulation in Ethiopia remains unclear.

Uganda. Self-regulation in Uganda has had two phases. In the first phase, parallel codes of conduct were operated by the country's two main umbrella associations. The first association, DENIVA (Development Network of Indigenous Voluntary Network Associations), was founded in 1988 as a support organization for indigenous NGOs. DENIVA had developed a code of conduct for members, but the code had no monitoring or enforcement mechanisms associated with it. The second association, the NGO

Forum (2003), was founded in 1997 to represent both national and international NGOs operating in Uganda and to provide a platform for NGOs to contribute to policy processes in the country. The NGO Forum launched a code of conduct for members in 2001. Like the DENIVA code, however, the NGO Forum code of conduct had no provisions for reporting, monitoring, or enforcement. In addition, competition between the two associations for membership and influence weakened the incentives of each association for developing compliance and oversight mechanisms and initiatives; thus, the codes developed remained relatively passive codes of conduct.

The need for a system to promote stronger NGO governance in Uganda was underscored in 2004 when the government reintroduced into parliament a long-dormant bill to amend the Nongovernmental Organizations Registration Act. The provisions of the act gave the government more control over the activities of NGOs and narrowly defined the scope of allowable policy and advocacy activities. The bill was quickly passed by parliament and forwarded to the president for signature. The reaction among NGOs was swift. Rivalries among networks and associations were laid aside as NGOs formed the Coalition on the NGO Bill (CONOB). The coalition held sectorwide meetings, took out adds in the newspaper, and conducted a media campaign against the bill. Although President Museveni ultimately did not sign the bill, the threat of the legislation had helped to galvanize coordinated action and helped to mobilize the support of international donors and NGOs. Ultimately, a new version of the act was passed in 2006 and signed in to law. The NGO Registration Amendments Act of 2006 created a government-appointed committee with the power to issue and revoke registration NGO permits, which many NGOs claimed could be used to suppress politically active organizations.

Alongside these events, several scandals tarnished the reputation of the NGO sector, including the 2005 suspension of funds from the Global Fund on AIDS, Tuberculosis, and on the grounds of corruption and misuse of funds. Subsequent investigations revealed that Global Fund resources administered by the government had been channeled though bogus NGOs linked to MPs, government ministers, and other government officials. The resulting scandal provided legitimate NGOs with a strong rationale for developing screening mechanisms that could separate legitimate from illegitimate organizations.

The combination of government threat, public scandal, and a new willingness of previously competitive NGO membership associations to work together gave additional support to ongoing efforts to develop a new system for NGO certification. With donor support, the two major umbrella organizations collaborated on the development of the Quality Assurance Mechanism (QuAM) in 2006. The QuAM is a certification system that includes detailed and specific standards for NGO behavior and a clear monitoring and enforcement system. To receive certification, NGOs must complete a detailed application and documentation process that is audited by district "quality-assurance committees" that act as certification bodies.

The QuAM system had its origins in the perceived weaknesses of the old system. It was clear to NGOs that some form of strong standard setting and accountability was needed. A critical factor in the development of QuAM was the ongoing and consistent support for the process by a major international donor, DANIDA. In addition, the

perceived strength of the threat gave the NGO Forum and DENIVA incentives to cooperate and to develop a district-level mechanism, even though the districts had been the site of the most intense competition between the two organizations. Finally, QuAM developers were able to draw explicitly on the experiences of other countries in developing self-regulation mechanisms unavailable in earlier periods (DENIVA, 2006). This type of information had been much less available in earlier periods. QuAM developers hoped that the accreditation system would address the threat of government regulation and the desire of donors to be able to distinguish legitimate NGOs from illegitimate ones. In this way, the QuAM system differed significantly from earlier systems that had sought to include all NGOs. Although the outlines of the QuAM system have been in place for some time, the program has struggled to achieve full institutionalization and has not yet begun to accredit NGOs.

Ghana. Another second-generation initiative is underway in Ghana, where NGO–government negotiations over NGO regulatory frameworks have been ongoing since 1995 when a bill was unilaterally framed by government and placed before the congress. The bill was met with protest and strong dissent from the NGO sector and was withdrawn. Subsequent draft policies on the NGO sector were revised in consultation with NGOs each year from 2002 to 2005. These drafts proposed the development of a national commission for NGOs that would register NGOs, oversee NGO policy, and develop and implement a code of conduct for NGOs. To date, the national commission has not been established.

In a parallel process, NGOs, with donor support, have been developing a standards-based accreditation system, the Ghana NGO/CSO Standards for Excellence. The standards program is a joint effort of two of the largest NGO associations in Ghana, supported by the Ghana office of CARE International and USAID-Ghana. The initiative is developing a set of standards for NGO governance and management that draw explicitly on global standard-setting initiatives. The certification process will be overseen by a standards commission that will vet applications and award certification to NGOs in compliance. The commission is a peer-review board composed of NGO managers from international and local NGOs. Applicant organizations will complete a self-certification process in which they document their adherence to detailed program standards for governance and management. Applications will be peer reviewed by a team of three reviewers drawn from previously certified organizations. The team makes a recommendation on certification to the commission, and recertification will take place after 3 years. The sponsors of the Ghana Standards have been explicit about their desire to move away from a code of conduct and toward the development of specific, measurable standards that include mechanisms for monitoring and compliance. The Ghana Standards program is relatively new, so it remains to be seen whether the program can be implemented as planned.

Finally, a more recent second-generation self-regulation initiative in Kenya deserves mention. The Kenyan CSO Standards have been developed by a consortium of NGOs, with the Poverty Eradication Network serving as the secretariat. The standards are intended to serve as a code of practice for the sector and provide an independent set of

standards that will serve as the basis for certification under a new accreditation body, VIWANGO (or "standards" in KiSwahili; PEN, 2009). Unlike the original code of conduct, which was relatively broad and aspirational in nature, the Kenyan CSO Standards are relatively detailed and provide specific governance, managerial, and financial guidelines (Kenyan CSO Standards, 2009). Like the other second-generation initiatives in Ghana and Uganda, however, the CSO Standards are still in the early stages, and it remains to be seen whether they can be fully institutionalized.

Discussion

These six cases highlight the challenges of institutionalizing effective self-regulation among NGOs in Africa. The cross-national evidence from 22 countries suggested that self-regulation is likely to emerge in the face of threats to NGO interests posed by new government regulation, but the threat of regulation alone does not fully explain the form of self-regulation that ultimately emerges. The six cases explore how the level of regulatory threat, the nature of donor support, and the legitimacy and capacity of NGO representative associations affect the development of self-regulatory systems. The cases also show how efforts to develop self-regulation have evolved from attempts to develop Kenyan-style national self-regulation systems to newer voluntary club initiatives that involve certification or accreditation.

The collective action approach employed here suggests a number of institutional requirements for self-regulation that are explored in the six-country case studies. National forms of self-regulation attempt to provide a public good through private collective action—in this case the cooperative efforts of NGOs organized through a national umbrella association. In order for national self-regulatory systems to be effective, however, they require some form of mandated authority from the state. National self-regulation systems have the potential regulatory advantage of being comprehensive, as all operating NGOs are covered by the standards that are developed. But the comprehensiveness of the system also creates a potential weakness in terms of regulatory strength, as signing on to the code of conduct does not provide any signal about NGO quality. In addition, the need to develop a code that all NGOs in the country agree on can result in relatively vague and weak standards. Finally, the NGO associations charged with code implementation are often plagued by weak capacity, unclear legitimacy, and low levels of funding. In the absence of mandated authority and enforcement capacity, national systems tend to become passive codes of conduct with weak self-regulatory potential.

The second-generation self-regulation strategies discussed here are examples of voluntary clubs, an alternative institutional form of self-regulation that does not require delegated governmental authority and may be formed even in the absence of a nationwide umbrella association. Unlike mandatory national clubs, participation in clubs is voluntary. As a result voluntary clubs must find a way to attract members, typically by developing a certification or accreditation mechanism that provides a signal of participant quality. Voluntary clubs may often have stronger standards than national systems, but at the cost of lower organizational coverage.

Table 3 summarizes the six cases and the explanatory factors investigated in each case. As expected, changes in the regulatory system play an important role in prompting self-regulation efforts in all six cases. But stronger systems appear to have emerged in the face of stronger perceived threats of repression, as in Kenya and Uganda. In the Kenyan case, the threat of repressive regulatory oversight was enough to galvanize both domestic and international NGOs behind a new umbrella association and made them willing to cede powers to it. Donors backed NGO efforts, and the coalition was able to win concessions from the government in the form of mandated participation and autonomy for the association. Similarly, in Uganda the threat of repressive legislation was sufficiently strong to unite two competing organizations in the development of a voluntary club.

The nature of NGO–government consultation also affects self-regulatory outcomes. Where governments initially took a more consultative stance, as in Tanzania and Malawi, weaker forms of self-regulation emerged. This may be the result of several factors. First, a weaker sense of threat may have lowered the perceived benefits from collective action. Second, donors and international NGOs did not view the self-regulation issue as an issue of democracy or civil rights, and therefore, played a more background role in the negotiation process. In all the cases, preexisting NGO associations play an important part in the process, but their precise role varies. Both Ethiopia and Malawi had a single, dominant NGO association, but in Ethiopia, the association had more legitimacy, capacity, and donor support. In Malawi, where a national form of self-regulation was attempted, NGOs had doubts about the capacity and independence of the largest NGO umbrella organization, and when the government attempted to give this association self-regulatory power, NGOs were unwilling to accept the system. Tanzania and Uganda both had multiple competing associations; in Uganda the threat of NGO legislation appeared to unite competing associations in the development of the QuAM system, whereas in Tanzania the consultative process and long timeline of self-regulatory development meant the challenge of associational fragmentation and competition is more challenging to surmount.

Ethiopia was one of the first African countries to develop a voluntary club system, a byproduct of the dominance and relatively high capacity of the main umbrella association there. The historical dominance of CRDA meant that there was little competition from other umbrella associations for membership. Moreover, the benefits from CRDA membership provided an important rationale for NGOs to join the association and agree to abide by the provisions of the code of conduct. In addition, many international donors channel funds through CRDA and had an important stake in the maintenance of the organization.

The timing of regulatory reform also shapes the institutional templates available to the architects of self-regulation—later efforts are able to build on the standards and enforcement mechanisms already in place in other countries. In Uganda and Ghana, NGOs have moved away from attempts to create nationwide systems and moved toward the creation of certification clubs. This probably reflects learning that has taken place over the period examined as well as a new desire and willingness on the part of legitimate

Table 3. Factors Underlying the Emergence of Self-Regulation - Six African Cases.

	First generation				Second generation		
	Kenya	Tanzania	Malawi	Uganda (Phase 1)	Ethiopia	Uganda (Phase 2)	Ghana
Government reform proposal for NGO regulation	✓	✓	✓	✓	✓	✓	✓
Year regulatory reform initiated	1990	1998	2000	2001	2001	2004-present	2006-present
High level of repressiveness of reform proposal	✓	—	—	—	✓	✓	—
Consultative stance taken by government	—	✓	✓	—	—	—	✓
Strong donor support for NGO efforts	✓	—	—	—	✓	✓	✓
International NGO participation in self-regulation efforts	✓	—	—	✓	✓	✓	✓
Type of voluntary regulation that emerged	National self-regulation	Emerging national voluntary code	—	Association-based voluntary code	Voluntary Club	Emerging Voluntary Club	Emerging Voluntary Club

Note. Tick marks indicate the presence of the explanatory factor given in the left-hand column. A dash indicates that this factor was not present in the case.

1108

NGOs to create mechanisms that may have the effect of excluding many organizations from participation. In Kenya itself, the ongoing challenge of capacity facing the Kenyan NGO Council fuels the creation of a new initiative, the CSO Standards, which seeks to lay out a series of benchmarks for NGO accountability, with certification undertaken by an independent agency.

In summary, changes in regulatory frameworks are an important impetus for self-regulatory efforts among NGOs in Africa, but these effects are mediated by the perceived repressiveness of reform efforts, the nature and level of donor support, and the interaction with preexisting NGO associations. In more recent years, self-regulatory efforts appear to be directed at developing voluntary clubs. Although these initiatives have the potential for stronger regulatory power due to their stronger standards, they are also likely to be much narrower in their regulatory coverage.

Conclusions

This article, like others in the symposium, indicates that the development of NGO self-regulatory systems is an evolving and often iterative process. The collective action perspective used to analyze these cases suggests that self-regulation initiatives face the need to make a tradeoff between breadth of coverage and strength of standards and compliance. To achieve breadth of coverage, NGOs may need to design systems in concert with governments. In some settings in Africa, however, governments may not act in good faith, complicating the prospects for collaboration. And regardless of government intent, NGOs may view strong state involvement as a threat to the independence of the sector. But without government-mandated participation in self-regulation programs, NGOs have to find ways to attract participants and maintain the institutions of self-regulation. One way of doing this is to make self-regulation more exclusive: to develop strong enough standards and independent certification so that participation sends a credible signal of quality to stakeholders. The collective action challenges of providing a collective good to members may be easier to resolve than the challenge of producing the public good of national regulation through private means. The need for both sector-wide regulation and more credible certification systems suggests that NGO self-regulation in Africa may continue to evolve on a dual track, similar to many countries in Asia discussed by Sidel in this symposium. At the national level, NGOs will seek a voice with government over the design of national policy and regulations. Among themselves, NGOs may find it in their own interest to build voluntary clubs with more stringent standards. Although these systems will have more limited participation, the dissemination of stronger collective standards has the potential to raise the expectations of NGOs, citizens, and governments about the appropriate standards for NGO activity.

Declaration of Conflicting Interests

Funding

Notes

1. An alternative theoretic perspective suggests that collective action can be maintained through norms, coercion, or mimetic processes (DiMaggio & Powell, 1991; Scott, 1995). The view taken here is that collective action premised on these forces is unlikely to be fully credible to outsiders. Moreover, professional standards for conduct among nonprofits are often weak and contested (Borstein, 2003; Hopgood, 2005).

2. Countries that experienced extensive periods of conflict or that lacked a functioning central government during this period were excluded; 47 countries in sub-Saharan Africa are eligible for World Bank concessional lending. A primary criteria for selection of the countries was the existence of a functional governmental regime for the majority of the period 1990-2005, during which self-regulation efforts emerged on the continent. Countries that experienced prolonged governmental collapse or conflict during this period are excluded; this criterion excludes 6 of the 47 countries. Very small island nations are also excluded, which excludes four additional countries. There was insufficient public data available on the remaining 16 countries to include them in the sample. In general, Eastern and Southern Anglophone countries are well represented in the sample, whereas Central, West African, and Francophone countries are underrepresented.

References

Adiin-Yaansah, E. A. (1997). An experiment into self-regulation in Kenya. *Refugee Studies Programme*, University of Oxford, March 1997.

Amnesty International. (2008, June). *Comments on draft charities and societies proclamation, Ethiopia* (ALI Index 25/005/2008). London: Author.

Batley, R. (2006). Engaged or divorced? Cross-service findings on government relations with non-state service providers. *Public Administration and Development, 26*(3), 241-251.

Borstein, L. (2003). Management standards and development practice in the South African aid chain. *Public Administration and Development, 23*, 393-404.

Bratton, M. (1989). The politics of government: NGO relations in Africa. *World Development, 17*(4), 569-587.

Cammack, Diana. (2004). Poorly Performing Countries: Malawi, 1980-2002. *Background Paper for ODI Study on Poor Performing Countries*. Overseas Development Institute, March 2004.

Christian Relief and Development Association. (2004, July 1). *Three years program plan 2005-2007* (Draft, July 1, 2004). Addis Ababa, Ethiopia: Author.

Christian Relief and Development Association. (2001). *Second three-year program plan 2002-2004* (Draft, July 1, 2004). Addis Ababa, Ethiopia: Author.

Clark, J. (2000). *Civil society, NGOs and development in Ethiopia: a snapshot view*. Washington, DC: The World Bank.

DENIVA. (2006). *NGOs regulating themselves: The quality assurance mechanism*. Available from http://www.deniva.or.ug/files/_h_index.php?pageName=programme-governance_policies.html

DiMaggio P., & Powell, W. (Eds.). (1991). *The new institutionalism in organizational analysis*. University of Chicago Press.

Edwards, M., & Hulme, D. (2006). *Beyond the magic bullet: NGO performance and accountability in the post-cold war world.* West Hartford, CT: Kumarian Press.

Fisher, J. (1998). *Nongovernments: NGOs and the political development of the third world*. West Hartford, CT: Kumarian Press.

Foundation for Civil Society. (2006, June). Development department quarterly report for Q2. Dar es Salaam, Tanzania: Author.

Gibbelman, M., & Gelman, S. (2004). A loss of credibility: Patterns of wrongdoing among nonprofit organizations. *Voluntas, 15*, 355-381.

Gugerty, M. K. (2008). The effectiveness of NGO self-regulation: Theory and evidence from Africa. *Public Administration and Development, 28*(2), 105-118.

Gugerty, M. K., & Prakash, A. (Eds.). (2010). *Voluntary regulation of nonprofits and NGOs: An accountability club framework*. Cambridge, UK: Cambridge University Press.

Hopgood, S. (2005). *Professionalization and bureaucratization of humanitarian action*. Paper prepared for the Social Sciences Research Council Initiative, The Transformation of Humanitarian Action, March 23, 2005.

Human Rights Watch. (2008, October 13). *Analysis of Ethiopia's draft civil society law*. New York: Author.

Iheme, E. (2005). Strengthening civil society in the South: Challenges and constraints, A case study of Tanzania—response. *International Journal of Not-for-Profit Law, 8*(1). Available from http://www.icnl.org/knowledge/ijnl/vol8iss1/special_3r.htm

Irish, L., & Simon, K. (2003). The Nongovernmental organizations act 2002, for the United Republic of Tanzania. Gazetted in the Official Gazette 4 October 2002. Comments by Leon Irish and Karla Simon. *International Journal of Civil Society Law*, *1*(1), 70-72.

Kenyan CSO standards: Draft copy. (2008). Retrieved February 8, 2010, from www.penkenya.org

Kwesiga, J. B., & Namisi, H. (2006). Issues in legislation for NGOs in Uganda. In L. Jordan & P. van Tuijl (Eds.), *NGO accountability: Politics, principles, and innovations.* London: Earthscan.

Maina, W. (1998). Kenya: The state, donors, and the politics of democratization. In A. Van Rooy (Ed.), *Civil society and the aid industry* (pp. 134-167)*.* London: Earthscan.

Makaramba, R. (2007). The legal context for the non-profit sector in Tanzania. In *The third sector in Tanzania: Learning more about civil society organisations, their capabilities and challenges* 40-95. Geneva, Switzerland: Aga Khan Development Network.

Meinhardt, H., & Patel, N. (2003, November). *Malawi's process of democratic transition: An analysis of political developments between 1990 and 2003*. Sankt Augustin, Germany: Konrad Adenauer Foundation.

Mkamanga, G., & Fanwell, B. (2001). *Council for Nongovernmental Organizations in Malawi (CONGOMA) consultative appraisal*. Washington, DC: Gilbert Consultants.

Mogella, C. (1999). *The state and civil society relations in Tanzania: The case of the national NGOs policy*. Dar es Salaam, Tanzania: University of Dar es Salaam.

Mzungu, W. (2010, February 28). NGO questions CONGOMA fees. *The Daily Times*. Retrieved from http://www.bnltimes.com

Naidoo, K. (2004). The end of blind faith? Civil society and the challenges of accountability, transparency and legitimacy. *AccountAbility Forum*, 14-23.

National Council of NGOs. (2003). *Kenya: 2003 annual report*. Nairobi, Kenya: Author.

Ndegwa, S. (1993). *The two faces of civil society: NGOs and politics in Africa.* West Hartford, CT: Kumarian Press.

NGO Forum. (2003). *The road to a collective voice: A history of the National NGO Forum*. Kampala, Uganda: Author.

Olson, M. (1965). *The logic of collective action*. Cambridge, MA: Harvard University Press.

Ostrom, E. (1990). *Governing the commons*. New York: Cambridge University Press.

PEN (Poverty Eradication Network). (2009). *CSO Standards: Why VIWANGO/CSO Standards now?* Retrieved April 8, 2010, from http:// www. penkenya.org

Prakash, A., &. Gugerty, M. K. (2010). Trust but verify? Voluntary regulation programs in the nonprofit sector. *Regulation and Governance, 4*, 22-27.

Prakash, A., & Potoski, M. (2006). *The voluntary environmentalists: Green clubs, ISO 14001 and voluntary environmental regulations.* Oxford, UK: Cambridge University Press.

Putnam, R. D. (1993). *Making democracy work : Civic traditions in modern Italy*. Princeton, NJ: Princeton University Press.

Raymond, L. (2006). Cooperation without trust: Overcoming barriers to endangered species protection. *Policy Studies Journal, 34*(1), 35-55.

Schlager, E. (2002). Rationality, cooperation, and common pool resources. *American Behavioral Scientist, 45*, 801-819.

Sidel, M. (2003). *Trends in nonprofit self-regulation in the Asia Pacific region: Initial data on initiatives, experiments and models in seventeen countries*. Iowa City: University of Iowa Law School.

TANGO. (2006). *District and regional NGO networks defy the odds*. Retrieved February, 14, 2007. Retrieved from http://www.tango.or.tz

Bio

Mary Kay Gugerty is associate professor of public affairs at the Daniel J. Evans School of Public Affairs at the University of Washington. Her recent work on nonprofits and collective action includes two edited volumes: *Voluntary Regulation of Nonprofits and NGOs: An Account-ability Club Framework*, and *Advocacy Organizations and Collective Action*, both coedited with Aseem Prakash and published by Cambridge University Press.