DEMOCRACY, DIVERSITY, AND CONFLICT

Regime-Hybridity and violent civil societies in fragmented societies – conceptual considerations

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Hypothesis

We postulate the following hypothesis: hybrid regimes are typical and are bound to remain the dominant type of political regime in developing countries due to the correlation between regime hybridity and the rent economy that exists in those countries. Regime-Hybrids contain both democratic and non-democratic segments. In contrast to assumptions made in the relevant literature, non-democratic segments are not necessarily authoritarian, and these can exist both within the state and within civil society. This hypothesis requires an expanded definition of the political regime to include not only the state but also the civil society. In countries with regime-hybrids, the civil society is characterized by non-autonomy and fragmentation in general and violent fragmentation in particular.

Regime-Hybridity

The concept of the grey area between authoritarianism and democracy

Regime-hybridity falls into the grey area between authoritarianism and democracy. The idea of a grey area was first mentioned by the classical studies on transition by O'Donnell and Schmitter (1989: 9), who referred to semi-democratic stages as "dictablanda" (limited authoritarianism) and "democradura" (limited democracy). As these denominations indicate, the subtypes of this approach tend to go in either direction—democracy or dictatorship—and provide little opportunity for a new or intermediary stage to evolve between the regime subtypes.

"Democracies with adjectives" came into fashion with O'Donnell's (1994: 55–69) term of "delegative democracy." This ought to have limited the damage done by the previous exuberant optimism: prefixing a "pessimistic" adjective may save the "optimistic" noun. It also indicated that transition studies that once came up with simple dichotomies were bound to run into a dead end. After Latin America's "thorough democratization" (except for Cuba) was celebrated, even some of the most successful cases, such as Argentina, Brazil, Perú, Ecuador, and Bolivia, were labelled with the qualifying adjective of "delegative." Years later the same author

could count at most only six democracies in Latin America, *viz*, Argentina, Bolivia, Brazil, Uruguay, Costa Rica, and with some limitations, Chile, even though these authors agreed on minimal procedural criteria (O'Donnell 2001: 600). Some of the classical transition studies such as Lowenthal and Domínguez concluded that "it is premature and indeed misleading to talk about 'consolidating' democratic governance. In most nations, effective democratic governance is still incipient, inchoate, fragile, highly uneven, incomplete, and often contradicted" (Lowenthal/Domínguez 1996: 6f).

This "disillusionment after the pioneering years" is methodologically reflected in a continuing reduction of democratic standards and the use of even more minimalist criteria. Alvarez et al. (1996: 18–20), for instance, reduced Dahl's criteria of democracy to "contestation" and settled instead for Schumpeter's (1950: 397) minimal criteria of an "electoral regime." It is also revealing that when democracy is prefixed with adjectives it lessens its meaning in order to converge to a reality of "diminished subtypes" (Collier/Levitsky 1997: 430–51) or, at least, pretends to do so. According to the relevant transition research, we find such diminished subtypes as "limited democracy," "electoral democracy," "delegative democracy," "controlled democracy," "tutelary democracy," "guided democracy," "protected democracy," "facade democracy," "low intensive democracy," "counterinsurgency-democracy," "illiberal democracy," and many more.

With the formulation of lesser subtypes, democracy is considered as a "radial category," in contrast to authoritarianism, which is considered a "classical category" (Collier/Mahon 1993: 845–55; Collier/Levitsky 1997: 430–51). The addition of a secondary predicate (e.g., "bureaucratic") to the primary category, "authoritarianism" lowers its extension, while the addition of a (secondary) predicate to the primary category "democracy" (e.g., the attribute "formal") increases its extension. These authors pretend to avoid the problem of "conceptual stretching" by deleting the attribute when dealing with "classical categories," but when it comes to "radial categories" they pretend to avoid "conceptual stretching" by adding an attribute (Collier/Mahon 1993: 852).

Nevertheless, not all "democracies with adjectives" reflect diminished subtypes of *democracies*. The range of possible conceptual stretching of the radial category of democracy is not infinite. It ends when the adjective implies an antagonism to the term "democracy." Although "limited democracy" or "defective democracy" serve as "diminished subtypes," "counterinsurgency-democracy" or "illiberal democracy" do not. Neither is there such a thing as an illiberal

democracy, as liberal democracy became synonymous with democracy in the 20th century (Peeler 1998: xi); in the same way it is impossible to have a "cold fire." This is also true for "violent" or "exclusionary democracy," or, at its absurd conclusion, "authoritarian democracy." Adjectives such as "illiberal," "counterinsurgency," "violent" or "exclusionary" name basic criteria of a regime which are relevant to the definition and therefore challenge the scope of the term. They do not, however, support a definition of authoritarianism, which is the opposite of democracy.

The grey area between authoritarianism and democracy is incontestable, but its dimension and continuation is greater than its inventors suppose, and it is typologically richer. Neither is the non-democratic segment reduced to a remnant of the former authoritarianism, nor is it in all cases true that the non-democratic segment remains small enough for it to pass as a "diminished subtype" of a given democracy.

The concept of defective democracy

Among the efforts to make a virtue of the non-democratic gloom by using "diminished subtypes" of democracy, the advocates of "defective democracy" (Merkel 1999: 361–81; Merkel/Croissant 2000: 3–30) proved to be the most critical and innovative ones. These authors were able to observe the unease that is reached when analyzing the results of transitions, while maintaining an optimistic attitude because "the political regimes are still democracies."

The question then is how many defects may a democracy have and still be considered a democracy? In other words, is a car without tires, engine, or steering wheel, one that is fit for the scrap yard, in short, lacking all parts that define it as a car still a car or just a chassis? How many parts can fail while it remains a car that is fit to drive: the tires, the engine, or only the steering wheel? We argue that if democracy is not established in all its constituent parts, and lacks the "tires" or the "engine," it is not a democracy, even if it has a "steering wheel,"—such as universal suffrage. Moreover, a regime is only a democracy if it exists in reality rather than just written in a constitution, and if it is "fit to drive," with an "engine" with working seals and "tires" without defective valves. By contrast "scratches on the hood," "defective air conditioning," or a "car radio that is out of order" do not limit the quality of democracy.

The concept of "defective democracy" introduced by Wolfgang Merkel and colleagues refers to an illiberal democracy without the rule of law (Merkel/Croissant 2000: 5f). The analogy

of "cold fire" applies here. Otherwise, if the adjective "defective" were conceived as being more neutral, then it would have no other meaning than "limited democracy." The meaning and restriction of the adjective "defective" depends also on the definition of democracy. A democracy defined in a maximalistic sense as "popular government" (Volksherrschaft) would claim such a totality, that no defect could be ignored, but any existing regime would constitute a defect in itself because there is no existing "popular government" in the world. However, a democracy defined in a minimalist way as "contestation" also could not afford a defect, because in that case even the most minimalist criteria could not be met. Consequently, only democracies that are not defined as minimalistic nor maximalistic may show defects, while at the same time remaining democracies. By including checks and balances in a system of rule of law and basic rights, the concept of "defective democracy" reaches beyond Dahl's polyarchy criteria and is designed more systematically than other "democracies with adjectives." Yet only the "universal right to vote" is, in the end, denominated as defining and can not be ignored as the driving characteristic of this concept. The other characteristics, also labelled as "partial regimes," such as political participatory rights, civil liberty rights, horizontal accountability, and effective governmental power, are merely connotative and can be ignored for a typology such as democracy or non-democracy.

It should be noted that there *are* democracies with defects that do not threaten their existence and that thus are not crucial to their definition, and only in this context do they reflect the concept of a "defective democracy." From our point of view, *these* "defective democracies" only exist if no basic criterion is missing, even while they do not comply with some subcriteria. In any case, it is methodologically fatal to generalize the concept of "defective democracies" in such a way that any regime not complying with all the constitutive criteria of authoritarianism but not yet with those of democracy is *a priori* subsumed under this concept. "Defective democracy" authors use this concept to explain the whole grey area between authoritarianism and democracy. However, many of the regimes resulting from the "third wave of democratization" are not yet democracies, but can not be labelled authoritarian regimes either. Owing to their rigid structure they are not short-lived transitional phenomena. Rather they require their own label, one that reflects their typology as an independent regime status.

My position differs from that taken by the supporters of "defective democracies": I argue that in "defective democracies" all basic, constitutive criteria (though not all subcriteria) have to

be valid, with the term not covering the entire grey area between authoritarianism and democracy but rather the area directly adjacent to democracies. Hybrid regimes, in contrast to "defective democracies," lack both the basic constitutive criteria and the subcriteria of democracy. On one end of the spectrum the term connects to "defective democracies" while at the other it is linked to "competitive authoritarianism" (Levitsky/Way 2002: 51–65), and it is more heterogeneous than the regime types bordering on either side.

The concept of regime-hybridity

In addition those authors who further differentiate the grey area between authoritarianism and democracy, but who are nevertheless in debt to a final terminology of the existing regime (Krennerich 1999: 47), another kind of dissenter from the "diminished subtypes" thesis exists. Scholars in this category recognize mixed types or hybrids between authoritarianism and democracy. Although it died away in the scholarly literature on transitions as a "lonely call in the desert," the reference to "authoritarian enclaves" (Garretón 1991: 47) indicated that democratic and undemocratic segments may well coexist in one single regime. From this point, only a few authors advanced to assert the existence of hybrid regimes (Karl 1995: 72–86; Malloy 1988: 257; Rüb 2002: 93–119; Erdmann 2002: 323–42; Diamond 2002: 21). However, this idea has so far only been conceptualized in a fragmented manner.

The first person to articulate the idea of hybrid regimes was Karl (1995: 72–86), who focussed on Central America (without Costa Rica) in the mid-1990s, and proposed "some middle 'hybrid' terrain" (Karl 1995: 73) which combined elements of authoritarianism and democracy, similar to the concept of "democradura." Karl refers to the problem of a transition resulting in a regime that is governed by both oligarchic rule and a "new right," or as we would call it, a regime change that does not involve an anti-oligarchic change of trajectory and, thus, cannot transcend a hybrid. Karl, however, did not develop this idea further.

Additional pioneer work was done by Rüb (2002: 93–119), who developed a concept of hybrid regimes as independent and durable regime types which, in contrast to Erdmann's concept (2002: 323), are universal rather than limited to certain regions. Rüb makes an effort to set defining minima of both authoritarian and democratic regimes, and conceptually "encircles" the hybrid regime that lies in between. Regarding the defining minima of authoritarianism, Rüb follows the characteristics established by Linz (limited political pluralism, political legitimizing through

mentalities instead of ideologies, citizen passivity instead of mobilization, and “formally ill-defined limits”). Among these characteristics, Rüb emphasizes the “excessive executionalism” that is “reconciled” (German: “aufgehoben”) in the criteria’s “formally ill-defined limits,” such as a weak horizontal accountability stemming from the separation of powers. According to Rüb, a hybrid regime is the result of a certain dichotomic combination of two defining characteristics: on the one hand, democracy (with its free/fair elections and rule of law) and on the other hand authoritarianism (with its “formally ill-defined” structure of rule and access to rule that is not limited by law).

Rüb’s recognition of hybrid regimes as an independent regime type allows us to view the transition to democracy as a contradictory event, advancing-retreating, longer-lasting, even an incomplete process, instead of a singular event. However, Rüb weakens his hybrid regime category by following a “binary logic of a typology” (Rüb 2002: 114) and keeping the old dichotomy of authoritarianism and democracy. Although he objects to the idea of hybrid regimes being merely short-lived transitional phenomena, his definition remains teleological. To him, the road from authoritarianism to democracy is interrupted by a hybrid, but there is no branching out, with no byways or even parallel paths that might merge to form a very different kind of complex hybrid regime. For Rüb it is only a blend of these old and new segments which characterizes the new regime. Thus, he fails to understand that hybridity may include segments that are non-democratic but at the same time non-authoritarian, and that often do not evolve until the transition process itself begins.

My position corresponds with the perceptions of the debate on hybridity in the cultural sciences and humanities (García Canclini 1990; Brunner 1988; Schneider 1997: 13–66; Bronfen/Marius 1997: 1–29), a debate that is often ignored by political regime research and that has a less dichotomic understanding of hybridity. From this debate, it can be assumed that the hybrid components of the concept do not necessarily remain unmodified, nor do they disappear when they meet during the transition. Moreover, they are not necessarily assimilated nor are they nullified in a synthesis. Instead antagonistic forces among previously contrary segments are “inscribed” and “negotiated,” not necessarily only evolving into a mixture of contrary segments. They themselves change, and new mixed segments evolve into a new fusion, resulting in hybrids within hybrids. This means that when discussing political regimes, the category of “hybrid” does not refer to the relation of form and content, that is, formal and substantial democracy, where democracy

is merely the formal cover of a non-democratic content. It refers instead to a blend of democratic and non-democratic items. Even authoritarian regimes may feature democratic (sub)segments (such as elections in dictatorships) and democratic regimes may also feature non-democratic (sub)segments (such as deficient separation of powers in presidential regimes).

This concept of hybridity has implications for practice in the aftermath of conflict: it makes a difference whether only ignorable defects of democracy without transition have to be sorted out during peace negotiations, or whether the entire hybrid regime has to be destroyed by peace negotiations. The negotiated compromise would in each case display a very different dimension. If some non-democratic segments are too narrowly defined—that is, equated with authoritarian segments—and other non-democratic segments are overlooked, one could reach the pleasant conclusion that non-democratic segments are not even detectable. On the other hand, if non-democratic segments are defined too broadly, all democratic results will fall into non-democratic "holes." If the violence of a regime is regarded as one of these non-democratic "holes," that is, a non-democratic veto-factor that can override all democratic procedures, then only its elimination will enable the restoration of all other democratic characteristics. Conversely, this implies that no possibility of democratic action before this point ever existed. If the accomplishment of the polyarchy-criteria or if the presence of an electoral regime is regarded as a democratic "sine qua non" outshining everything else, then in some cases not even peace would be necessary for establishing democracies.

Hybrid regimes constitute the central sphere in the grey area between authoritarianism and democracy. They include a large number of segments that are democratic, authoritarian, or neither. Such a multi-layered and independent regime type can only be theoretically deduced if civil society—represented as a politically and not normatively designated sphere—is included in the regime term. These considerations can be arranged in the form of a checklist to determine democratic and non-democratic segments.

Checklist for determining regime segments

Regime reality and regime segments can only be measured and compared using rigid rather than flexible criteria. In order to build a regime typology, it is necessary to break down the basic criteria into a number of subcriteria, which for the sake of verification are formulated as alternative questions demanding clear cut positive or negative answers. We have done this exer-

cise elsewhere (Zinecker 2002: 32–35), and due to a lack of space we cannot repeat it here. For the "(non-)polyarchy" criteria—one of my basic five criteria below—there are Robert Dahl's (1989: 221) well known seven criteria. For a regime to qualify as a democracy, it is necessary that the majority of the questions or subcriteria under the five basic criteria be answered positively, and that no single sub-criterion have a veto. Determining the regime according to this checklist goes beyond the criteria of polyarchy and evaluates regimes more critically than Polity-Dataset and Freedom House do. The five basic criteria for (non-)democracy are:

A. (Non-) Civil rule. Elimination of regime segments of military rule by the establishment of a regime of civil rule (in case of non-compliance: military rule-authoritarian regime): Has military rule been replaced by civil rule, and is the army under civil control?

B. (Non-) Polyarchy. Elimination of civil rule-authoritarian regime-segments by the establishment of polyarchic regime segments, that is, a democratic-representative regime (in case of non-compliance: civil rule-authoritarian regime): Has authoritarianism been replaced by polyarchy?

One can say that the above two segments in their non-democratic version lead to an authoritarian regime. However, the remaining three segments in their non-democratic version do not necessarily reflect authoritarianism, but may also stand for a non-authoritarian form of non-democracy.

C. (Non-) Rule of Law. Elimination of illiberal segments by the establishment of a regime of the rule of law (in the case of non-compliance: illiberal regime): Does the rule of law exist?

D. (Non-) Civility. Elimination of violent non-state regime segments by the establishment of the state's monopoly on the legitimate use of force and on violence (in case of non-compliance: violent regime): Does the state exercise its monopoly in the use of force and violence over its territory and on all its citizens so that non-state violence is not prominent?

E. Political Exclusion/Inclusion. Elimination of politically exclusive regime segments to enable unlimited and nonviolent participation of all political forces—including alternatives—that comply with the constitution, i.e., enabling a democratic-participatory regime and an autonomous civil society (in case of non-compliance: exclusive regime): Is political inclusion guaranteed?

Item E of the checklist, political exclusion/inclusion, functions as a link to economic exclusion/inclusion (which is not included in the regime term) and thus the problem of socio-economic transformation.

In this model, democracy is a civilian-ruled, non-authoritarian, polyarchic regime, one with democratic representation and subject to the rule of law, and exhibiting civility (non-violence) and political inclusion. Adjectives such as "military rule," "authoritarian," "violent," or "exclusionary" are not covered by the category of "democracy" as a form of "diminished subtype" because they are opposed to it. To complete the transition and consolidation of democracy all basic criteria from A-E have to be met. If one or another sub-criterion is violated, the model has to be reviewed to determine whether this puts the definitory relevant basic criteria into question or if it poses only a minor "defect" to the category "democracy." Only when basic criteria A and B are met can an authoritarian regime be considered to have lost its power and to have been replaced by at least a hybrid regime, and it is only then that a period of liberalization is implemented. The hybrid regime can not be considered to have been replaced by a democratic regime until basic criteria C, D, and E are implemented. It is only then that the period of transition is completed and a democratic regime established in its place. The totality of the regime character does not result from the mere addition of these five segments but instead to their average, because A and B are more important than C, D, and E. If A and/or B are not complied with, then analysis of the other segments is unnecessary because by definition they are irrelevant. The basic criteria A-E are not necessarily successive sequences, but remain independent criteria. Within the ideal type of "liberalization" A and B overlap; within the ideal type "democratization" C, D, and E overlap each other. The basic criterion D holds a special status here, since it is only relevant for regimes with intra—non-state—violence. The transitions between A, B, C, D, and E are in flux insofar as each previous main criterion opens the space for the following one. Basic criterion E, political inclusion, provides the space for participation and may lead to economic inclusion.

Civil Society

Incorporation of civil society into the category of political regime

The thesis outlined here, that regime segments may be non-democratic even when they are non-authoritarian, is based on the inclusion of civil society into the definition of political regime (Przeworski 1990: 199). This definition implies a broad concept of (national) political

regimes as a category of comparative politics which not only includes formal institutions and processes, but also informal norms and relations. A regime defined in this way goes beyond the state (Strasser 1996: 16). Apart from the relations in and among state institutions, it also covers, on the one hand, the relations between state and civil society, and on the other, relations among the politically active citizens which exist without the establishment of any direct link to the state. Following in the footsteps of O'Donnell/Schmitter (1986: 73), this paper assumes that the characteristics of actors who do not have access to governmental positions and who attempt to obtain this access through their actions are part of the political regime too.

Most regime segments extend into civil society or position themselves therein. Even though some regime segments reflect "only" the democratic content of the state, this content can prevail only by extending itself into civil society: there is no effective governmental power as long as there are violent veto actors within civil society. Political liberties such as freedom of speech and organization are implemented within civil society. An electoral regime does not work if civil society makes no use of it. There is no rule of law when non-state actors of violence originate from civil society and massacre unarmed civilians without being penalized by criminal law. Horizontal accountability would be the only issue tackled by the state alone. Other regime segments are directly rooted within civil society. In non-authoritarian regimes the greatest acts of violence emanate from non-state actors located within civil society. The civility of a political regime is thus based on the civility of civil society. Political inclusion beyond the electoral regime implies the autonomy of civil society from the state, the economy, and the family.

Civil Society is to be defined as a non-normative, but analytical-logic realm

My definition of political regimes may include civil society, with the provision that it loses its normative perspective as a consequence of defining it analytically and according to the logic of its realm (German: bereichslogisch-analytisch) which lies between family, state, and economy.

As with the family, state, or economy, "universality" in civil society has the common meaning only of ubiquity, rather than that of the fulfillment of norms. There is no reason to elevate civil society to a "secular substitute for a civil religion" (Heins 2002: 240) or to award it a "teleological virtue" (Bayart 1986: 118). To presume a morally good civil society is inherently wrong, since moral purity is existentially impossible. Furthermore, there is no such thing as *the*

norm; rather, normative beliefs may compete. Only by focussing on the "real existing civil society" (Alexander 1999) through a non-normative definition in an "uncensored" way, can one evaluate its quality by measuring the gap between normativity and actuality.

A defining attribute of quality has to be restricted to what can be found equally in both industrial and developing countries—an approximate separation at least between economy, state, and family. In hunter-, gatherer- and tribal societies there exists no civil society. If, however, the existence of civil society is already linked to norms, civil society components may a priori be lost sight of. This we want to avoid. A proper focus is still possible by separating civil society from the spheres that are otherwise occupied. This means that civil society has no place where there exist economy, state, and family. Therefore we locate civil society as a sub-function system within the social system.[1] Graphically it can be represented by the inner space of a triangle, the sides of which are represented by economy, state, and family, as in Figure 1.

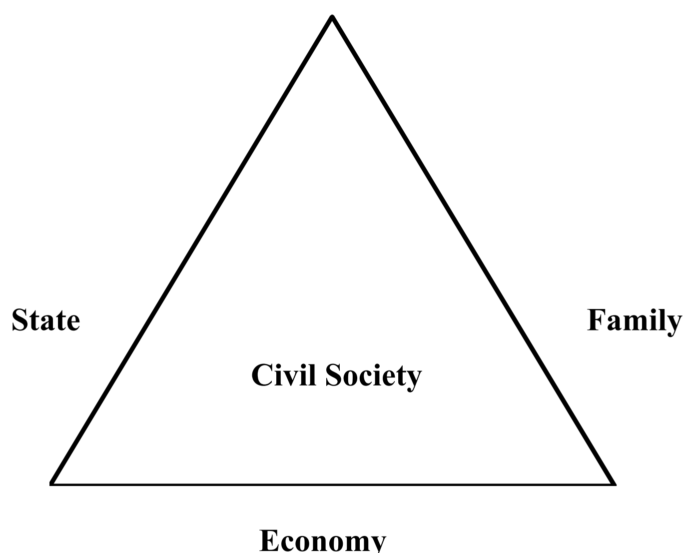

Figure 1: Location of civil society in society

When defining civil society, the mainstream uses either the logic of an action-normative perspective by designating it as a collective "good guy," or the logic of a realm-normative perspective by defining it as a realm in society which is free of all that is "unimmaculate" (non-

[1] In accordance with Luhmann, society is used here as a space that includes the sub-system civil society.

civilized/non-democratic).[2] We, however, propose instead to start from the logic of a realm-analytical perspective, i.e., from an interpretation of civil society that implies no normative setting. Civil society is considered as a normatively neutral, structural space, which is developed from the interactions of actors, and in which the actions of actors are reconciled. It is accessible analytically, i.e., by logical dissection. Such a perspective, being in particular theoretically unbiased, non-normative, and non-teleological, allows one also to take the flaws of civil society (exclusions, inequalities, violence) into account and thus implies an "open end" (Forschungsgruppe Weltgesellschaft 1996: 5, 11, 22; see also Menzel 1998: 20–38; for "national" civil societies see Pollack 2003: 46–52).

In contemporary discourses civil society is usually[3] no longer a duplicate of family, state, or economy, but a separate sphere. Aristotle, with his differentiation of civil society from the family, followed by Paine, Tocqueville, Montesquieu, Hegel, and Marx, with their non-state civil society, as well as Gramsci and Habermas with their non-state and at the same time non-economic civil society, have, from a theoretical-historical point of view, ultimately removed these layers. This serves as a basis for what follows, which is more controversial, since it examines the definition of civil society from "within."

Civil society is a political space: it is not free of politics

With the conceptual separation of civil society from the state, the question arises whether politics itself, just like the state, can be conjured away from civil society, and depending on the dominant normative discourse, whether "good" society can be contrasted with "bad" politics. During the upheavals in Eastern Europe, advocates of the normative line defined civil society as a sphere free of politics and of civil societal interventions. In Eastern Europe, where the real-socialist state had in fact usurped the whole of society, civil society had to articulate itself in an anti-state way. But did this make it anti-political ("Antipolitics"), as György Konrad postulated? After all, the Eastern European civil movement strove for human rights and civil liberties and attended round tables, which could hardly be seen as being free of politics (Schmalz-Bruns 1992:

[2] In between lies the position according to which the logic of action determination dominates within a space defined according to the logic of realm, so that the dimension of civil society can change in the historical process (Gosewinkel/Rucht/van den Daele/Kocka 2004: 11, 14; see: Bauerkämper 2003: 22).
[3] Of course there are exceptions, such as Keane (2003: 63 ff.), who perceives the market as part of civil society, or Budde (2003: 57 ff.), who assigns family to civil society.

247). In fact, the result of the antipolitical, illusionary vision of the civil movement was that "the paradise was lost" (Havel) and that civil society either failed as collective actor or was integrated into the state after the upheavals (Tempest 1997; Dryzek 1996).

Gramsci, as well as Habermas, defined civil society as a *political* project, but only a few authors (e.g. Brysk 2000 and Chandhoke 2001) do so today. Paradoxically, transition researchers such as Stepan (1988: 4) or Diamond (1994: 7) also deny the political nature of civil society. If civil society is understood as being unpolitical or even antipolitical, then all non-state political actors and structures have no place, or at least no place if one follows entirely the logic of realm. The issue is undoubtedly more complicated, as shown by the bowling clubs and choirs made famous by Putnam, just as with philatelic societies or sports clubs. Of course, not everyone who goes to a club to do gymnastics is engaging in politics. However, workers' sports clubs have repeatedly participated in politics throughout history, and even philatelic societies would be political if they, for instance, organized themselves to oppose e-mails. Thus, the boundaries fluctuate, as the idea of bringing citizens into civil society and through it into politics, thus turning them into citizens in the literal sense, is based upon the very diffuseness of these boundaries. Yet, if civil society *is* political, then it is also part of the political regime.

Civil society is not per se democratic and its existence is not bound to democracy

When civil society is understood as part of the political regime and at the same time stripped of any norm, it has to be open with regard to regime type. Thus, civil society can be democratic, but non democratic as well.[4] However, in contemporary literature, civil society is often used as a synonym for democracy. As Shils writes: "Civil society has come to be used very loosely as equivalent to liberal democratic society" (Shils 1991: 3). But if there is a presumed identity, the question arises why anyone would need civil society when they already have the category "democracy" available. Most of the authors who share this view do not just link civil society to any democracy, but to a democracy that meets the highest standards. Kocka links civil society to a high degree of social self organization, including such resources as the ability to communicate, education and trust, legitimate plurality, regulated conflict, appreciation of tolerance, independence, and achievement (Kocka 2001: 10), while Croissant/Lauth/Merkel connect

[4] This is also demonstrated by Carothers (1999), Puhle (1999: 328) and Lingnau (2003: 234).

it with fairness and tolerance (Croissant et al. 2000: 18). Other contributors to this volume who try to apply the premise of the opening article are forced to conclude that according to it they can find hardly any civil society actors in "their" developing countries (Birle 2000: 236; Bendel/ Krennerich 2000: 273 ff.). Nevertheless, the advocates of a civil society that is by definition democratic go even one step further: not only do they understand civil society as being democratic, but its very existence is linked to a democratic state framework. Shils bases any civil society upon a state with limited power, an independent judiciary, and a free press (Shils 1991: 11). Kocka has even higher pretensions and lists as conditions a decentralized economy, compliance with human rights and civil liberties through the rule of law and the constitutional state, as well as a high level of participation (Kocka 2001: 20). If these criteria are followed, civil society does not exist in any developing country, and its existence is doubtful in some developed countries, too.

Thus, a circular argument becomes evident: if civil society can be constituted only within the external state framework of "democracy," how can it at the same time have been the protagonist, even the catalyst, of the transformation processes that led to the establishment of the same democratic state in the first place? If an actor has to be fair and tolerant in order to belong to civil society, how can he/she at the same time demand changes to the system, changes that include *in*tolerance against at least those who try to preserve the system? How could one, according to this premise of democracy, deal with a basically *non*-democratic organized civil society which could bring down a dictatorship and thus initiate the *democratic* transition process, such as happened in Nicaragua with the FSLN? And would not a definition of civil society as per se democratic allow those actors who in 2003 vociferously supported Ríos Montt, a Guatemalan presidential candidate and former perpetrator of mass murder, to vanish into a definition vacuum? Particularly in developing countries, civil society is often "sadly undemocratic in both their organizational structures and their operations" (Makumbe 1998: 311). If this is true, the often asserted argument that a strong civil society is good for democracy is not valid.

Civil society is neither homogenous nor constant in its configuration, but a battlefield of elements pro and contra democracy. In historically exceptional cases it can, to a relatively large extent, homogenize itself into a democratic actor. This can as a consequence result in the possibility that non-democracies transform into democracies under the pressure of such temporary democratic civil societies. Eastern Europe is a common example of this. However, Eastern

Europe also provides evidence that civil societies may fall apart and deform after passing the transition-climax. Yet the mainstream worries instead about the opposite: that civil society could in the course of the democratization process further evolve and radicalize its democratic potential, so that it could outstrip that of the newly established regime. This leads to the attempt once again to "domesticate" the civil society that was once called upon for help, because now "governability" by "self-restriction" (Arato 1990: 112 ff.) of a "self-reflexive" civil society is the highest objective: "Societal autonomy can go too far, however, even for the purposes of democracy," writes Diamond (1994: 14). We doubt that Diamond is right in stating that civil society no longer exercises a crucial function during consolidation. This would imply an utterly static perspective on consolidation. It ignores the fact that the stability of democracy requires a corresponding consistency of involvement, to which democratic pressure from civil society contrib.-utes rather than being an impediment. If the regime has not yet transformed into a democracy, but has stabilized itself as a hybrid within the grey zone between authoritarianism and democracy, the intervention of civil society is all the more important for the completion of the transition. All things considered, civil society can be a channel of agency as well as a pitfall for democracy.

Civil Society is not per se civilized and free of violence

In the historical evolution of the term "civil society" misconceptions have appeared time and again, because "civilis" as an adjective can be seen as derived both from "civitas = civil right/citizens/state/town = politics" as well as from "civilitas = civility." The synonymous uses of the term since its conception are due to the desire to achieve civility through politics, whether it be as an antidote to the animal in nature, to war, to bad morals or manners, or according to Elias, to the human effects that can be suppressed through a process of self-disciplining (Elias 1997). The mainstream thus agrees with Shils, who states: "Substantive civility is the virtue of civil society. It is the readiness to moderate particular, individual or parochial interests and to give precedence to the common good" (Shils 1991: 16). Indeed, Shils goes beyond the mainstream when, elsewhere, he excludes from civil society the "breakdown of social authority," "drug use," "homosexuality," "the growing, lawless *Lumpenproletariat*" and "strikes by public employees," because he reckons that all these undermine civil society and lead to obscenity (Shils, quoted in Keane 1998: 114 f.). Anhelm sings from the same hymn sheet, although slightly

more modestly: “That which is evolving next to state and economy I would rather not yet denominate in all its manifestations as civil society. It also contains fundamentalisms, nationalisms, mafia-like practices and violent terror without civil quality…” (Anhelm 1996: 15).

The majority of even those authors, such as Lauth (1999: 109 ff.) or Schmidt (2000: 299), who concede that there are “dark sides” of civil society, fix *one* limit beyond which they will not acknowledge civil society anymore—its civility.[5] We, on the contrary, claim that as with normativity, the postulation of civility as a condition for the qualification of an actor or a structure as civil societal is to be rejected.[6] In societies that contain violence, civil societies may employ violence to countervail a state that fails with its monopoly of the use of force and violence, as well as countering it in a peaceful manner. We know only too well that politics is not necessarily civilized. If civil society were political, the non-civilized would not be content just to pass it by. The Mafia, ethnic or religious groups that resort to violence, the Ku-Klux-Klan, vigilante groups, death squads, believers in lynching, juvenile gangs and guerilla movements—in which sphere of society would these non-state actors of violence be located, if not in civil society? To repeat a notion by Michael Walzer: Civil society does not (or at least not necessarily—H.Z.) provide the material of which heroes are made (Walzer 1992: 93). Accepting the cleansing of civil society of everything disagreeable results in severe methodological problems: one would have to exclude guerilla movements when under arms, yet when they summon assemblies and convents of civil society, as FARC and ELN have done or rather planned in Colombia, one would have to include them in civil society. One would be obliged to exclude the FMLN, a former Salvadorian civil war army, from civil society, and to split its ally, the leftist-democratic FDR, into a civil societal part—the middle class parties—and a non-civil societal part—the revolutionary people’s organizations, which served as political and logistic hinterland for the FMLN during the civil war—but this would be absurd. The Mexican EZLN, who moved from the “war of weapons” to the “war

[5] Rüb observes that civil society can include uncivil elements, just as a party system may well include antisystem-parties (Rüb 2000: 185). Kaldor and Dubiel avoid this issue by stating that next to a civil(ized) society there may be an uncivil(ized) society, but this is not civil society (Kaldor 2003: 510; Dubiel 2001: 137 ff.). Reichardt, Keane, and Whitehead consider violence as a civil societal paradox and consider it as an expression of ambivalence between normative civil societal claims and real historical actions (Reichardt 2001: 45 ff.; Reichardt 2003: 64 ff.; Keane 2003: 155 ff.; Whitehead 1997: 104 ff.). Although Gosewinkel and Rucht want to transcend the over facile understanding of civil society as a good, peaceful, and harmonious society and are convinced, that the modern idea of civil society cannot simply disown violence, they still draw a line when faced with the “uncivil(ized)” (Gosewinkel/Rucht 2004: 30f., 51)—to them, civil societal actions, are always peaceful actions (Gosewinkel et al. 2004: 11). This differentiation lacks clarity.

of words," broadcasting its guerilla discourse over the internet, would have had to be "removed" at first from civil society and later "readmitted." Would we not have to praise Greenpeace as civil societal when peacefully campaigning against environmental degradation, but to condemn it as anti-civil societal when doing so using violent means? As for the piqueteros, organizations of the unemployed, which called attention to their plight during the recent crisis in Argentina by blocking major streets, were they still civil society, or no longer? How could we deal with the joining of forces by civilians and combatants that is especially typical of the new wars in developing countries (Heins 1999: 54)? How can it be possible from a logical point of view to define "voluntary associations" as being characteristic of civil society, but exclude them when they voluntarily join the resistance against a tyranny or anomie?

Stripping down the term civil society leaves a core definition: civil societies are all those structures and associations formed by actors,[7] which fill the societal sphere between family, economy, and the state. Civil societies are political and part of the political regime. They can contain democratic as well as non-democratic, civilized as well as non-civilized segments, with either segment outweighing the other. Depending on the balance, civil society as a whole can be configured democratic, non-democratic, civilized or non-civilized. Democratic civil societies are civilized, but civilized civil societies are not necessarily democratic.

Only with this determination of a civil society's quality as being (non)democratic or (non)civilized, but not before, can measurement of the gap between normativity and actuality come into the picture. The normativity applied here has nothing to do with norms of *civil society*, but with norms that exist for other realms—such as democracy or civility.

Civil society in rent economies

Specifics of the realm environment

Economy, state, and family demonstrate different configurations in developing countries from developed countries: in developing countries, the economy is dominated by rents rather than by market-economic association (Elsenhans 1994: 104–10). Commonly nation- as well as state-building processes are unfinished, so that a civil nation state has not yet evolved. Higher

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[6] This opinion is shared by White (1994: 377), Chandhoke (2001: 8 f.), Kopecký/Mudde (2003: 2 ff.) and Elsenhans (2001: 29 ff.).

[7] A convincing list of civil society actors can be found in Lingnau (2003: 235).

value is placed on the family than in western societies, where the value of the individual ranks higher. These specifics radiate into civil society and functionalize it. The boundaries between civil society and the three surrounding spheres of economy, state, and family are much more diffuse in developing than in developed countries, so that in the former, civil society is not autonomous from family, state[8] and economy (Elsenhans 2001: 29 ff., critical of Elsenhans: Heins 2003).

Civil society and the family

It is a controversial issue whether the heavily cited contrast between the decaying nuclear family in developed countries, and the intact extended family in developing countries does really exist. In Africa, Central Asia, and in modified form in the "comunidades indígenas" of Latin America, we find that family clans and tribal groups carry out politics, even replacing the state on a municipal level. Clientelism, particularly in its ritual kinsman form, emanates from the extended family and extends into civil society and the state. Particularly in Africa the claim arises time and again that clan-like and tribal structures should be incorporated into civil society (Hutchful 1996: 68). Tribal structures' particular interaction with civil society should in any case be stated.

Civil society and the state

Usually nation-building in developing countries is incomplete. Often there is also the problem of state failure, or that state-building has never been completed. Following the Washington Consensus, from the early 1980s to the early 1990s the World Bank and the IMF turned need into a questionable virtue, minimizing national investments and assuming that imperfect markets were still better than imperfect states.[9] Within this neoliberal discourse the state has become a cause of disappointment and cynicism, whilst its counterpart, civil society, has become the new hope (Hoffnungsträger) of development policy. This devaluation of the state automati-

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[8] The autonomy of civil society is based upon the independence of its actors from political power when acquiring resources, which they need for the realization of their objectives (Elsenhans 2001: 29).

[9] At least since the financial crisis in Asia, the World Bank (earlier and more self-critically) and the IMF (later and less self-critically) in the context of the Post-Washington-Consensus changed their position so that now states and good governance can play a vital role in poverty reduction. The World Bank and IMF are thus repairing the harm they had inflicted, even though this is still based on a narrow technocratic approach (Öniş/Şenses 2005: 263–90; cp. also: Stiglitz 2002:24 ff., 267ff.).

cally inspired a higher appreciation of civil society—with NGOs as its incarnation (Schedler 1996: 9).

How far the non-state but political sphere of civil society really extends depends upon whether a state exists—think of Palestine—in other words, on whether there is a functioning state or state failure. In the case of state failure the question arises whether this appears as an authoritarian "overextended state" through the overexpansion of state institutions, or as an "underconsolidated state" through the acknowledged weakness of a failed state (Wallensteen 1999: 2 f.). In an "overextended state" civil society would be minimized. In an "underconsolidated state," in contrast, many (non)democratic and (non)civilized actors would be found within civil society, competing to replace the state's functions. In developing countries the state extends into civil society notably by restricting it and/or forcing it to assume duties and responsibilities that are actually the state's. This does not rule out the possibility of civil society of its own accord permeating the state, as with the "underconsolidated state."

Thus, there is no autonomy of civil society from the state in developing countries, not least for those actors who are seen as civil society's incarnation by the state's development policy. At the same time, development cooperation acts on the erroneous assumption that civil society stands in a zero sum relation with the state. Together with the contradiction between reality and a—false—ideal, this produces disastrous consequences, because the necessary balance between two crucial pillars of society is disturbed and civil society is assigned (state) functions that it cannot solve.

Civil society and the economy

It is not so much the *existence* of civil society but rather its *quality* that is bound to the prerequisite of market-economical *Vergesellschaftung*.[10] A civil society that has autonomous status depends upon a functioning capitalist market economy. In rent economies, which are typical of developing countries, it cannot exist because in those cases labor is not in a position to negotiate (Elsenhans 2001: 32 ff.), Elsenhans 1994: 106). Unlike in developed countries, where capital is acquired by the bourgeoisie, in developing countries rents are acquired by oligarchies through the symbiosis of economic and political rule or by state classes through political office.

[10] There is no exact English equivalent to this category used by Tönnies—"civil-society-building" captures it only superficially. See Ferdinand Tönnies, *Gemeinschaft und Gesellschaft* (Darmstadt 2005), pp. 34–72.

Thus, economy and state press much closer in on each other in developing countries than in developed countries, with civil society getting caught in the "headlock" in between.

In rent economies rents are repeatedly used for exploiting and establishing institutions of the rent economy—including civil societal institutions, particularly NGOs—in order to acquire more rents (Elsenhans 2002: 21; Elsenhans 2000: 44, see also Seibel 1993). It is mostly the wealthy, well-networked NGOs or business NGOs, which in turn only evolve in order to profit from state development cooperation, that are included in this development cooperation (Lingnau 2003: 234). NGOs, for their part, are interested in being categorized as part of civil society, because this helps to guarantee the carrying out of projects and the appropriate financial means. The donors operate under a purpose-made civil society umbrella so that NGOs engaged in development policies are ideal potential partners. In some countries NGOs have succeeded in acquiring a virtually monopolistic claim to civil societal representation (Kuhn 2003: 394, 406). They are perceived as key actors in civil society, or even as civil society per se, and are gladly used to protect the "good" civil society from the "bad" one—as represented by peasant or workers' associations—a role that does not really serve their purpose of putting down roots within the population.

Unlike the state with its taxes, civil society does not have at its disposal any unique resource of wealth. This results in its dependence on the state and the economy. Neoliberal donor policy used to make a virtue of this necessity, dissolving the "bad" state in the "good" civil society, and in the end dissolving civil society itself into the market and the family. Here one is reminded of Margaret Thatcher's words: "there is no such thing as society" (Thatcher 1987), which bear an ironic proximity to Marxian economics, in a way that naturally Thatcher never intended.

Specifics of inner configuration

There is no reason for the social romanticization and mythologization of civil society in developing countries. Civil society is in those countries—and certainly not only in Africa—often "undemocratic, oriented towards individuals, and frequently merely a vehicle for acquiring rents from development politics" (Engel 2001: 18). In developing countries there is generally a configuration of civil society that derives from its non-autonomy and can be summed up as fragmentation. Fragmentation results from the fact that civil society is pressed into the "headlock" between

state, economy, and also family, through various channels that always accompany and support rent-seeking. The rent-seeking that is characteristic of developing countries clamps the three adjacent spheres so tightly together that civil society, which finds itself in the middle, is damaged and either shrinks beyond recognition or tries on its own account to infiltrate into the adjacent spheres through subversive channels.

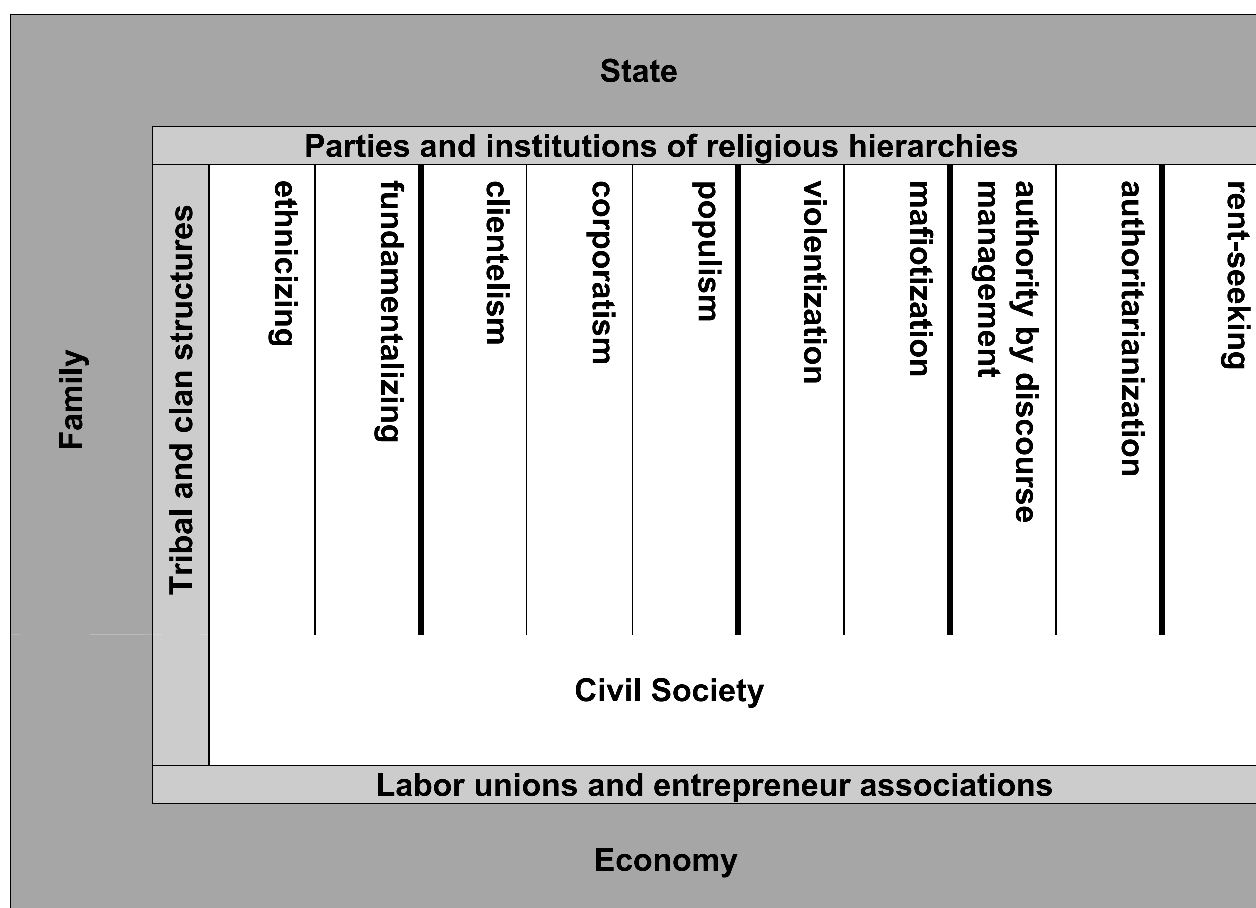

Figure 2: Structure of civil society in developing countries

Figure 2 shows—notwithstanding the schematism that inevitably comes with figures—how the structure, pervaded by "subversive," fragmenting channels of civil society may be visualized for developing countries. For the sake of lucidity we have confined ourselves to those channels that permeate civil society between state and economy, and left out those running between family and state, as well as those between family and economy. For the same reasons

the channels have been drawn in parallel, even though this does not illustrate how in reality they overlap and cross. The fragmented channels show how the quality of civil society depends not only on the quality of the adjacent realms that permeate it, but also on its capacity for self-structuring.

"Parties and institutions of religious hierarchies," "tribal and clan structures" as well as "labor unions and entrepreneur associations," highlighted in light grey, are located at the juncture realm between civil society on the one side and state, family, or economy on the other. Parts of them are attributed to the adjacent spheres, others to civil society. With regard to Iran, where one part of the clerics, that is to say, of the religious hierarchy, belongs to the state, there is another part which does not. There the anti-clerical religious institutions led by lay intellectuals are placed in civil society just like the non-state clerics (Schirazi 1995: 140). In the Muslim south of the Philippines, policies of violence often emanate from the interests of political clans operating in civil society, yet even here not every family or clan is an actor of civil society (Kreuzer 2005: 4ff.). El Salvador is an obvious example of how labor unions and entrepreneur associations politicized during the civil war and won an autonomous place in civil society, while operating exclusively for the economic representation of interests in peaceful times (Zinecker 2004: 23ff., 184ff.).

The fragmented channels are structured following the tendency of all non-market economical or non-democratic sociopolitical processes. They bind together state, economy, and family and thereby pervade civil society. Such channels exist in developed countries too. However, in developing countries they are engraved deeper, overlap more markedly, and intersect and reproduce each other, thus displaying a complex fragmenting cross-effect which usually prevents civil society from acting as a collective democratic actor, and which may in cases of absolute disorder produce anomie. Of course there are also counter-channels, marked as arrows in Figure 3, such as civilization (versus violentization) or democratization (versus authoritarianization). Civility is only achieved through empowerment of labor and "thorough capitalization," thus dissolving the rent-economy; if economic investment and labor are not in demand the marginalized have a greater tendency, according to the argument of opportunity costs, to substitute violence for access to the market. Yet in reality, in developing countries the counter-channels never exist for all the channels, i.e. as an "antidote" against all fragmenting channels, and even if they do develop, they are, in contrast to the fragmenting channels, rarely dominant over a longer period.

Certainly not all fragmenting channels are present in every developing country's civil society. One will not find ethnicizing where there is no multiethnic society. If either ethnic or religious identities do not develop at variance with each other, fundamentalization will not take place. As a general rule only rent-seeking pervades civil society in every developing country. It is the main channel of fragmentation, and all other fragmenting channels are interdependent with it, even though there is no such essential interdependence among them more generally.

The respective degrees of occurrence of the channels and counter-channels have to be determined and assessed in relation to each other in concrete cases, upon which basis one could carry out a typologization of civil societies according to their configurations. One could place the types so deduced in relation to the respective degrees of achievement of the tasks of development politics, such as the reduction of poverty, and see whether correlations and finally causalities appear, or if maybe a particular type of civil society promotes development better than others, despite its non-autonomy and fragmentation.

The two following figures provide a simple illustration of this idea. They are based on tentative qualitative assessments. In order for the model to be practically applied, an operationalization on the basis of adequate encoding would be necessary.[11]

A comparison of the two images reveals the profoundly different length of the channels and counter-channels in Guatemala and Costa Rica. With a typology based on this model it can be demonstrated in which particular channels civil society has weak points on which development politics would have to focus. Prior to any decision on the support of a civil society agent, it can be determined in which channel the actor is situated. Furthermore, it can be established where exit- or end-points in the context areas of "family," "economics" and "state," which are important for development policies, are located. In the ideal democratic and socio-economic egalitarian scenario the table would be all white, indicating the absence of fragmenting channels in civil society. Such a civil society free of fragmenting channels could be considered to be self-structured and would thus fulfill the condition for its autonomy from the various context realms.

[11] These figures are based on the experience the author has gained in several qualitative studies over a long period. An operationalization could be conducted according to the five- to ten-level ratings, as was used for instance for the Bertelsmann-Transformation Index. The criteria and sub-criteria for the parameter value of the (counter-) channels would still have to be developed.

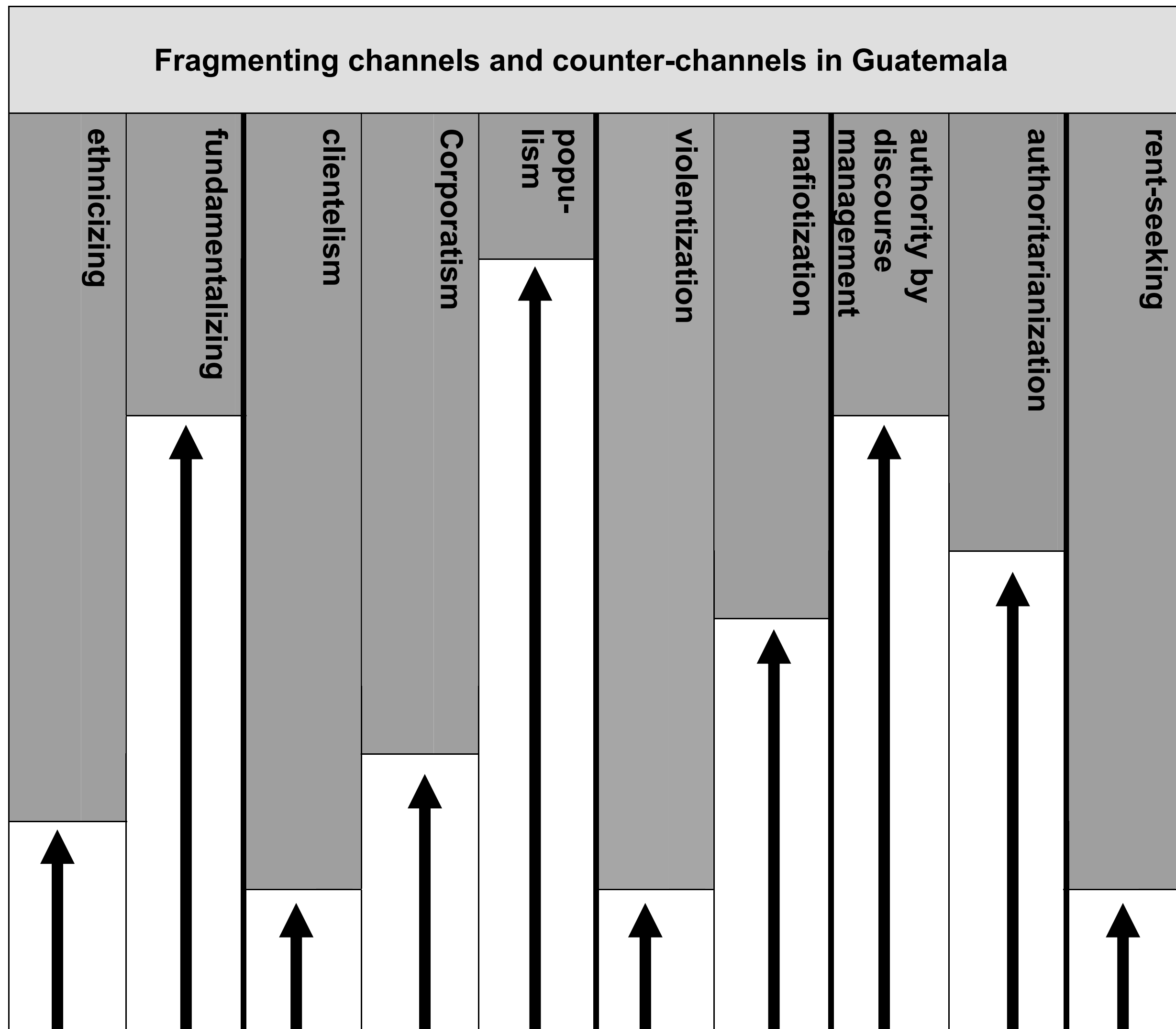

Figure 3: Fragmenting channels and counter-channels in Guatemala

Conclusion

In contrast to the mainstream discussion regarding regime hybridity, this paper asserts that hybrid regimes not only feature democratic and authoritarian segments, but also non-democratic segments that are at the same time non-authoritarian.

Democratization is achievable in rent-economies as well, but only insofar as a hybrid regime allows it to happen. The establishment of fully-fledged democracies in developing countries, such as Costa Rica, is also evidence that the rent-economy was opened up by capitalistic

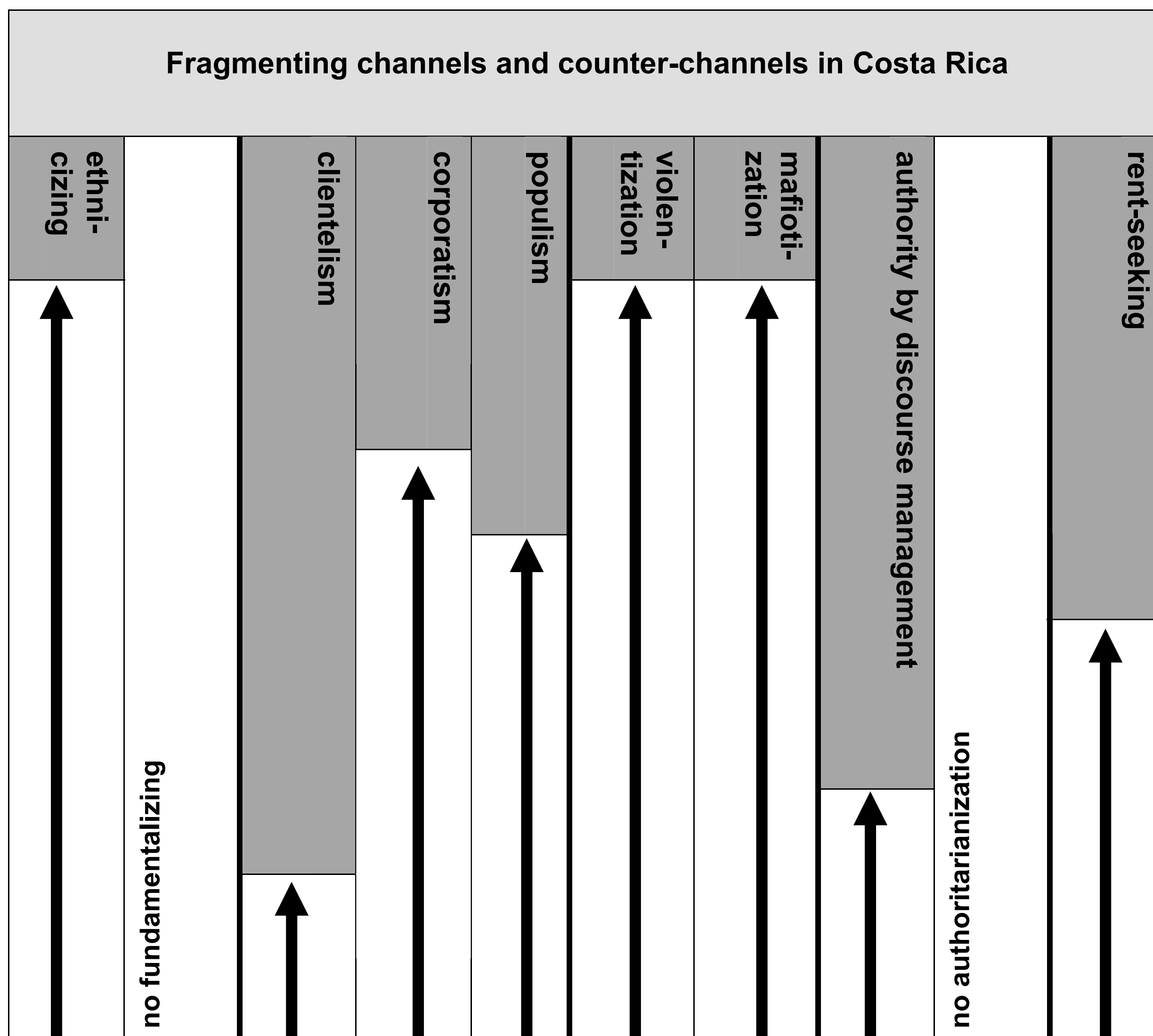

Figure 4: Fragmenting channels and counter-channels in Costa Rica

functional conditions. While the regime segments of civil rule and polyarchy are in principle also achievable in rent-economies, this is not the case with the other regime-segments or constitutive criteria for democracy: civility, rule of law, and inclusion. It is specifically those segments, which are not necessarily authoritarian in their non-democratic version, that require an extensive transformation from a rent-economy to a *Vergesellschaftung*, and consequently to a market economy, for their full democratic implementation.

In the ideal case, which is usually not that of developing countries, state, family, economy, *and* civil society are strong and civilized. Between them there exists not a zero-sum game,

but balance, and yes, mutual support. However, in the real situation of developing countries this balance does not occur, since civil society is not autonomous and is, moreover, fragmented. On the one hand, development politics should concentrate on the conditioning of civil society to overcome its fragmentation through increasing structural self-organization and, on this basis, to become autonomous from the adjacent spheres. On the other hand, it should provide the adjacent spheres of civil society's development with such efficiency as to allow them not to be sucked into civil society, but to become autonomous from it so as to form together a stable societal—because *vergesellschaftet*—structure. The efficiency of society as a whole, and consequently the outcomes achieved by development politics as well, are to be measured according to how far all four parts of the structure contribute together—and not just civil society alone—to the remedying of the existing development and democracy deficiencies. At the same time civil society, particularly in developing countries, must neither be elevated to a "deus ex machina" nor be degraded to a "technical tool" (Howell/Pearce 2001: 2), and far less be upgraded *as* a "technical tool" to a "deus ex machina."

Abbreviations

ELN Ejército de Liberación Nacional
EZLN Ejército Zapatista de Liberación Nacional
FARC Fuerzas Armadas Revolucionarias de Colombia
FDR Frente Democrático Revolucionario
FMLN Frente "Farabundo Martí" para la Liberación Nacional
FSLN Frente Sandinista de Liberación Nacional

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