CHAPTER 2

Civil Society and Policy Making

Introduction

The 1990s and 2000s were periods of intense civil societal activity in Latin American democracies. Participants in CSOs were embracing important causes, conducting research, influencing public opinion and policy agendas, interacting with governing elites, and contributing to policy debates in myriad ways. Transparency advocates in Argentina, for example, published a steady stream of analysis and news editorials, deployed a virtual army of volunteers, worked closely with public officials in the formulation of policy, and lobbied deputies and senators to pass much-needed reforms. Propo- nents of children’s rights similarly pressured policy makers to adopt sweeping child-protection legislation. Having spent years raising awareness of a rights-based perspective of childhood, advocates gained a presence in policy decision making. Meanwhile, their Chilean counterparts were also increasing their visibility and attracting the attention of officials in both the executive and legislative branches, who began to welcome their involvement in the reform process. Members of various groups were thus able to participate in almost all phases of policy making.

Although civil societal actors made great strides forward, several factors limited their ability to influence policy decisions. The purpose of this chapter is to illuminate the differences observed across these cases of policy making. Accordingly, several questions are addressed: What types of groups have been most active in the issue areas of transparency, the rights and well-being of children, and the environment in Argentina and Chile? What strategies have civil societal actors used while engaging in advocacy? Have they succeeded in creating meaningful opportunities for participation in policy debates and decisions? For each case, I determine the extent to which CSOs were involved. These findings are summarized as follows: high levels of particip- ipation in the case of freedom of information (FOI) legislation in Argentina;
intermediate levels in the cases of comprehensive child-protection policies in both Argentina and Chile; and low levels of involvement in the case of the Bío Bío River dam project.

**Freedom of Information Advocacy in Argentina**

In the campaign for FOI legislation, NGO members achieved high levels of participation in policy making. They were active and influential in building support for reform, contributing to the formulation of a bill, including it on the policy agenda, and pressuring the lower house of congress, the Chamber of Deputies, to pass the bill that they endorsed in May 2003 (Proyecto de Ley Nacional de Libre Acceso a la Información Pública). Numerous participants in the campaign viewed this development as the result of their steadfast advocacy efforts. Activists also identified the campaign as an important “test case” for both citizen participation in policy making and serious political reform in Argentina.1 These efforts notwithstanding, by 2006 the bill had lost its parliamentary status. The advocacy campaign aptly illustrates how civil society involvement in policy decision making does not guarantee the desired policy outcome. Civil societal actors have continued to push for a national law.

The basis for this transparency-enhancing reform is every citizen’s right to access information from all branches and levels of government. Information on governmental actions and outputs—which is public by definition—encompasses laws; the voting records of elected officials; and data on existing and proposed policies, public facilities (such as hospitals or schools), and public spending in general. Articles 38, 41, and 42 of Argentina's constitution reference the right to information; the international human rights conventions that were incorporated into the text in 1994 also underscore its importance.2 Advocates have nevertheless clamored for national legislation that would facilitate the process of soliciting and receiving information. Access to information has traditionally depended on the discretion of elected officials and bureaucrats, who often decline or ignore requests. In many cases, citizens must resort to legal action. On the other hand, a well-designed law would establish penalties for noncompliance.

Members of NGOs that defend citizenship rights, encourage citizen participation in public affairs, and/or promote institutional reforms have been the most vocal proponents of FOI in Argentina.3 These organizations serve as monitors of the state, political institutions, and elites; some are experienced in public-interest law. For instance, participants in both the Civil Rights Association (ADC) and the Environment and Natural Resources Foundation (FARN) have engaged in both legal and policy advocacy. ADC (Asociación por los Derechos Civiles) is a pioneer in the defense of constitutional rights