

The Legal Status, Involvement and International Recognition of NGOs within the UN System

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1 Introduction

At the dawn of the 21st century our world has to keep balance and adjust to transitions. Recent political affairs show the shifts in the balance of power and the tendency of contemporary societies to change. A democratic state is characterized by its accountability for transparency and equality. An essential requirement for this is the active role of civil society and especially the Non-Governmental Organizations (NGOs). They aim to pursue a social purpose within the sphere of politics. NGOs furthermore aim to alleviate the pain, help the poor, protect the environment, provide basic social services and undertake community development. Some NGOs act locally and other NGOs have spread their influence internationally, commonly referred to as INGOs. There is no accepted definition of the NGOs and this term is used widely for many types of organizations. Professor Peter Willetts from City University London

defines the NGO as association of people continuous basis for other than achieving money or illegal report will try to offer MUIMUN 2012 Legal to the field of NGOs, involvement and System. Firstly, NGOs their historical provides an



“an independent voluntary acting together on a some common purpose government office, making activities”.¹ This research the delegates of the Committee an introduction their current status, recognition in the UN will be defined in the light of evolution. This paper then assessment of the principal

key factors that have affected the development of NGOs and afterwards outlines the major players in the matter, followed by the previous approaches to the matter and the current situation. The paper concludes with a brief reference to the challenge that delegates are called to deal with and the possible questions their resolutions may cover.

2 History

The rise of civil society is one of the landmark events of our times. Global governance is no longer the sole domain of governments. The growing participation of NGOs is enhancing democracy and reshaping multilateralism. Being organized and task-oriented by people with common interests, NGOs are non-profit voluntary citizen groups that focus on certain issues such as human rights or environment and aspire to provide service and humanitarian services. However, it is usually argued that legitimacy of democratically elected organs weakens the role of civil society organizations.

¹ <http://www.staff.city.ac.uk/p.willetts/CS-NTWKS/NGO-ART.HTM>

NGOs are typically value-based organizations which depend on charitable donations and voluntary service. During their evolution the principles of altruism and voluntarism remain key defining characteristics. They are a vital part of civil society and their participation in the UN has been active since the foundation of the United Nations in 1945. The first NGOs were recognized in 1948. Today there are over 3,500 non-governmental organizations.² The term “NGO” is firstly traced in the UN Charter and specifically in the provisions in Article 71 of Chapter 10. It is stated that the Economic and Social Council makes arrangements with international organizations that are neither governments nor member states in order to discuss matters within ECOSOC’s competence.³ It is essential to distinguish international private organizations such as NGOs from intergovernmental organizations (IGOs). The term “INGO” is



traced in resolution 1996/31 and defines the NGO as “any international organization which is not established by a governmental entity or intergovernmental agreement”.

UN and NGO relations are established in UN Charter and several ECOSOC Resolutions. NGOs maintain branches within the Department of Social and Economic Affairs (NGO Unit of DESA)⁴ and the Department of Public Information (NGO Unit of DPI)⁵. NGOs currently attain a consultative status with ECOSOC and they are not subjects of international law.⁶ ECOSOC accreditation is separate and distinct from NGOs that are associated with the UN Department of Public Information (DPI). These organizations have fewer privileges with reference to their participation in UN negotiations.⁷

The first resolution about NGOs is Resolution 288 B (X) adopted on 27 February 1950. In 1968, a review of the arrangements for consultation with NGOs brought out Resolution 1296.⁸ The next adopted resolution about NGOs was Resolution 1996/31 and the review process lasted three years, from 1993 to 1996. In 1998, the UN Secretary General elaborated arrangements and practices for NGOs in his report A/53/170 and report A/54/329 came next in 1999. In September 2002, UNSG Kofi Annan released a report on UN Reform “Strengthening of the United Nations: an agenda for further change”, which proposed, inter alia, an independent panel of eminent persons to elaborate on the relations between the UN and Civil Society.⁹ The High-Level Panel began its work in 2003 and produced its final report in

² <http://csonet.org/content/documents/E2011INF4.pdf>

³ <http://www.un-documents.net/ch-10.htm>

⁴ <http://csonet.org/index.php?menu=77>

⁵ <http://www.un.org/wcm/content/site/dpingorelations/index.html>

⁶ <http://esango.un.org/civilsociety/displayAdvancedSearch.do?method=search&sessionCheck=false>

⁷ <http://csonet.org/content/documents/DPIlist.pdf>

⁸ <http://www.un-documents.net/1296.htm>

⁹ <http://www.un-ngls.org/orf/UNreform.htm>

2004. The report of the Secretary-General in response to the report of the Panel of Eminent Persons on United Nations-Civil Society Relations on 13 September 2004 was officially called Cardoso Report.¹⁰

3 Key Actors

An important actor in strengthening UN-NGO relations is the Committee on Non-Governmental Organizations. It was established by ECOSOC Resolution 3 (II) on 21 June 1946. It reports directly to ECOSOC, according to rule 82 of the Rules of Procedure. The reports include draft resolutions on matters calling for action by ECOSOC. The Committee has 19 members according to ECOSOC Resolution 1981/50 adopted on 20 July 1981. The members are elected on equitable geographical representation; 5 members from African States, 4 from Asian States, 2 from Eastern European States, 4 from Latin American and Caribbean States and 4 from Western European and other States. The current terms of reference are included in Resolution 1996/31 adopted on 25 July 1996. Proceedings in the Committee follow the rules of ECOSOC. The Committee does not decide but recommends. These recommendations are included in the reports of regular session (January) and resumed session (May) and are then examined by ECOSOC in July every year.¹¹ In most cases, ECOSOC decides to approve the aforementioned recommendations. Annually approximately 400 organizations seek to obtain consultative status. An average of 100 to 150 applications are recommended by the Committee twice a year.¹²



Furthermore, it is highly significant to refer to the classifications of NGOs. According to the World Bank, NGOs are divided into operational and advocacy NGOs. Operational NGOs are associated with the design and implementation of development-related projects. Advocacy NGOs defend a specific cause, disseminate information and raise awareness. We can distinguish NGOs according to their range of activities and level of cooperation to community-based organizations, city wide organizations, national NGOs and international NGOs. According to their orientation, we distinguish the ones with charitable, service, participatory or empowering orientation.¹³ We also encounter acronyms such as INGO (International NGO), BINGO (business-related NGO), RINGO (religious NGO), ENGO (environmental

¹⁰ http://www.un.org/ga/civilsocietyhearings/a_59_354.pdf

¹¹ <http://csonet.org/index.php?menu=93>

¹² <http://csonet.org/index.php?menu=17>

¹³ <http://www.gdrc.org/ngo/ngo-types.html>

NGO), GONGOs (government-operated NGOs) and QUANGOs (quasi-autonomous NGOs). Another criterion for distinction of NGOs is the geographical one. Civil society organizations are usually divided into the ones developed in MEDCs and the ones in LEDCs. It is also pointed that there are NGOs in the North and the South. The latter ones are usually called 'social movements'.

As far as the legal status of NGOs is concerned, it was mentioned previously that NGOs have no legal status in the UN although they may seek to obtain consultative status with ECOSOC. Despite this rule there is an exception of the International Committee of the Red Cross which is subject to matters related to the Geneva Conventions. There are three types of consultative status that an organization may obtain; General, Special and Roster. General and Special Status NGOs are required to submit a 'quadrennial report' every four years.

According to their legal form, we distinguish NGOs into

- a) unincorporated and voluntary association,
- b) trusts, charities, foundations,
- c) companies 'Not Just For Profit' and
- d) entities formed or registered under special NGO or non-profit laws.

In the European continent, the Council of Europe drafted the European Convention on the Recognition of the Legal Personality of International NGOs in 1986, which is a common legal basis for the work and existence and work of NGOs in Europe. The freedom of association is a fundamental principle for every non-governmental organization and a right protected under Article 11 of the European Convention on Human Rights.

The consultative status that INGOs attain with ECOSOC is the actual tool for these organizations to promote their actions and participate actively in UN negotiations. Despite this fact it is alleged that the third sector is quite weak compared to the state sector and the market. It is also stated that civil society organizations are indeed weaker due to their lack of financial independence.



NGOs may receive accreditation from the United Nations in order to hold conferences, summits or other events which are issued through the Secretariat. Another opportunity that NGOs are given is the formation of working groups and units in UN Departments, specialized agencies and programs. Advocacy NGOs may raise awareness through the NGO Unit of the Department of Public Information. Moreover, consultative status provides NGOs access not only to ECOSOC, but also to its main subsidiary

bodies, to the various human rights mechanisms of the United Nations and special events held by the President of the GA.

An NGO may request a consultative status with ECOSOC provided that there are specific circumstances. The NGO must be existent for at least two years and it has to be already registered with the respective authorities and government. Furthermore, it has to be a democratic institution and it must echo the principle of representation. There have to be established authorities and it is essential that the NGO is independent from governmental control and accountable for transparent and democratic decision-making.

Civil society organizations act in numerous spheres depending on their aim. Most of these organizations act in accordance with the Millennium Development Goals and centralize their efforts in fields such as poverty and hunger, universal education, gender equality, child health, combating HIV/AIDS, environmental sustainability and global partnership.¹⁴ Another area these organizations are active in is fighting against drugs and crime.¹⁵

4 Block Positions

Contemporary society of scholars and government officials do not have a one-sided opinion about civil society organizations. There are three diverging views. On the one hand, full legitimacy is supported by those who appoint the vital role of NGOs in the representation of the rights of the people and the promotion of equality and democracy. On the other hand, there are those who argue that NGOs should not be subjects of international law and should only act as agencies in the international political arena. There is also the statement which supports the consultative status of NGOs with ECOSOC but stresses the need for ways to be found in order for their role to be strengthened.

A critical issue that has to be discussed is the accountability and transparency of these organizations. The evolution of NGO accountability has shown that even though NGOs echo the voices of the people, there are figures that some civil society organizations have been dependent on state actors or corporations for their funds. Many also point to the reliance of non-state actors on philanthropy in order to conceal business interests. Several NGOs especially in the United States have been accused of embezzlement, defrauding of public money, deception and offences. Even those in favor of NGOs stress the importance of addressing corruption and enhancing transparency. Moreover, those in need may see very little of the funds that were donated specifically for their benefit.

There have been cases in which both NGOs and UN Member-States have engaged. In the mid-1980s, the “Rainbow Warrior” case between France and New Zealand. In 1985, the French military security service conducted an undercover operation in the islands of French Polynesia which was spied by a British-registered Greenpeace ship ‘Rainbow Warrior’. The ship was sunk by DGSE (General Directorate for External Security, France) in Auckland Harbor because it was attempting to disrupt French Nuclear Tests.

¹⁴ <http://www.un.org/millenniumgoals/>

¹⁵ <http://www.unodc.org/unodc/en/ngos/NGO-Database.html>

New Zealand subsequently caught and convicted two members of the French Secret Forces. For this case, an ad hoc tribunal was established presided by the UN Secretary General, Javier Perez de Cuellar.

5 Challenge

The second agenda item which is examined throughout this study guide is quite controversial and it poses questions that assure a fruitful debate in the 6th Committee of the General Assembly at MUI MUN 2012. Delegates are expected to research the topic and decode the role that civil society organizations play in their State at first glance and then, expand their research in the field of world politics and diplomacy. Civil Society Organizations are said to echo the voices of the people whereas opposite arguments pinpoint their tendency to act according to their interests which are either monetary or political most of the times. Moreover, should NGOs continue to attain a consultative status with ECOSOC or should they seek to become legal subjects of international law? On top of that, are NGOs accountable and transparent enough or are there signs to show they are involved in corruption? Finally, is the work that has been done so far proportionate to the needs of contemporary society or do NGOs have a long way to bridge gaps world faces today?

A resolution ought to answer, amongst others issues that will arise, the following:

- a) Which steps should be taken to enhance the UN-NGO relations?
- b) Will a change in the current status of NGOs trigger a shift in UN-NGO engagement?
- c) Which actions should be followed to reinforce the equal representation of all NGOs?
- d) How to implement the recommendations of the Cardoso report 2004?

6 Sources - Further reading

- <http://www.csonet.org/>
- <http://csonet.org/?page=view&nr=13&type=13&menu=14>
- <http://www.un.org/en/development/desa/index.html>
- <http://www.un.org/en/documents/charter/>
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- <http://www.worldbank.org/>
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