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Global Governance?

A study of the relationship between NGOs, Human Rights and
the UN

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Abstract

The role of Non-Governmental Organizations (NGOs) in world politics in general, and in the United Nations (UN) in particular, is increasingly gaining the attention by scholars of international law, political science and social anthropology. In this study the NGO-UN relation is investigated within the area of Human Rights. This is done by examining how NGOs are perceived by member states within the UN Commission on Human Rights (CHR) during its final meeting sessions. By pursuing a qualitative documentary analysis, analyzing the summary records from the Commission's meetings, arguments against and in favour of enhanced NGO influence are identified. Using extensive earlier research on NGO-UN relations and on the concept of global governance, it is concluded that although NGOs are becoming increasingly influential actors on the international arena, several problems impede their influence from growing within the area of Human Rights in the UN. Finally, the study suggests several areas that require future research and more in depth study in order to make predictions about how NGO-UN relations will evolve in the coming decades.

Keywords: NGOs, the UN, Human Rights, Global Governance.

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Abbreviations

AI	Amnesty International
BINGO	Business and Industry Non-Governmental Organization
CHR	UN Commission on Human Rights
DINGO	Australian Non-Governmental Organization
ECOSOC	United Nations Economic and Social Council
ENGO	Environmental Non-Governmental Organization
GONGO	Government-Organized Non-Governmental Organization
HRC	UN Human Rights Council
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INGO	International Non-Governmental Organization
LMG	Like Minded Group of States
NGO	Non-Governmental Organization
OIC	Organization of the Islamic Conference
PINGO	Public Interest Non-Governmental Organization
QUANGO	Quasi Non-Governmental Organization
UN	United Nations

1 Introduction

“Full understanding of the complex dynamics of world politics requires knowledge of the influence achieved by the relevant private groups. In the United Nations these are known as non-governmental organizations or simply NGOs.”¹

As implied above, the influence of non-governmental organizations (NGOs) in the UN is a crucial and highly interesting subject to study. The role of NGOs has dramatically changed over the last few decades and today more than 3000 organizations have consultative status in the UN.² Peter Willetts describes “the new language of the 1990s”, introducing the notion of “social partnership” between states and NGOs, as “revolutionary” because it implies an equality of status between governments and NGOs.³ In this chapter, the subject that will be studied in this paper will be further introduced, followed by a statement of purpose and research questions.

1.1 Introducing the subject

According to Willetts, “almost all intergovernmental organizations now accept, as a norm of world politics, that they must have working relationships with NGOs.”⁴ The United Nations is not an exception. In fact, in the last decades a lot of emphasis has been made on different levels to enhance and improve the relationship between the UN and NGOs. It is obvious that the influence of NGOs in the UN system has increased dramatically since the establishment of the organization – thousands of NGOs attend all UN conferences, they are highly involved in the drafting of new conventions and their function as agenda setters, observers and policy-implementers is hardly denied by anyone. However, the relationship between NGOs and the UN is not solely a story of cooperation and mutual understanding. NGOs have been criticized by

¹ Willetts, Peter, “Introduction”, in Willetts, Peter (ed) “The Conscience of the World – The Influence of Non-Governmental Organisations in the UN System, London, Hurst & Company, 1996, p. 1.

² UN Doc. E/2007/INF/4, p. 1. In October 2007, there was a total of 3,051 NGOs with Consultative status with the ECOSOC: 136 in Category I, 1,955 in Category II and 960 in Category III.

³ Willetts, Peter “‘From Consultative Arrangements’ to ‘Partnership’: The changing status of NGOs in diplomacy at the UN” *Journal of Global Governance*, Vol. 6, 2000, pp. 191-213.

⁴ Willetts, 1996, p. 3.

governments and governments by NGOs and, as will be shown in this paper, the system has often had a hard time coping with its new partners.⁵

In the early 1990s former General Secretary of the UN Boutros Boutros-Ghali initiated the establishment of the Commission on Global Governance – a panel of 28 eminent personalities chaired by Ingvar Carlsson of Sweden and Sridath Ramphal of Guyana. Their final report *Our Global Neighbourhood* was published in 1995. In the report, global governance is described as “a broad, dynamic, complex process of interactive decision - making that is constantly evolving and responding to changing circumstances.”⁶ A new world order is described in the report - an order where nation states have no other option than to cooperate with non state actors and civil society, creating a “global neighbourhood” faithful to the catchphrase that begins the preamble of the UN Charter: “We the Peoples of the United Nations!” As one of many suggestions for reform, the report states that a wider involvement of the NGO community in the UN would benefit global governance.⁷

As a part of his UN reform in 2002, Boutros-Ghali’s successor Kofi Annan announced a special panel to address the relation between the UN and civil society. This was the Panel of Eminent Persons on United Nations–Civil Society Relations, with the duty to study how the relationship between civil society and the UN could be improved. Their final report *We the Peoples: Civil Society, the United Nations and Global Governance* was published in 2004. It states that “effective engagement with civil society and other constituencies is no longer an option - it is a necessity in order for the United Nations to meet its objectives and remain relevant in the twenty-first century.”⁸ Several suggestions are presented as of how the relationship between the UN and NGO’s could be improved, widened and made more efficient, for example by addressing north-south imbalances and easing the physical access of civil society to UN facilities.⁹ The report is widely known as “the Cardoso Report” because of Fernando Henrique Cardoso, the Chairman of the Panel.

In spite of both Boutros-Ghali’s and Annan’s attempts to establish closer and improved ties between the UN and civil society both scholars and NGOs continue to identify problems concerning this issue. This essay will study the relation between NGOs and the UN in one

⁵ See for example UN Doc A/57/387: Report of Kofi Annan, “Strengthening of the United Nations: an agenda for further change”, 9 September 2002, p. 24.

⁶ The Report of the Commission on Global Governance, “Our Global Neighbourhood”, New York, Oxford University Press, 1995, p. 4.

⁷ “Our Global Neighbourhood”, p. 254.

⁸ UN Doc. A/58/817, 11 June 2004, p. 30.

⁹ UN Doc. A/58/817, 11 June 2004, pp. 1-187.

particular UN body, namely the UN Commission on Human Rights (CHR)¹⁰. The following statement made by Claire Breen, who will be further introduced in the following chapter, is very much the point of departure for this study: “in spite of NGO success in the creation of human rights norms, it appears that NGO input, particularly in the Human Rights Commission, is being scaled back for reasons of finance and efficiency.”¹¹

1.2 Purpose and Research Questions

There are several underlying aims with this study. Firstly, it intends to fill a gap in the existing literature on NGO influence in the UN and further investigate what Claire Breen identifies as “the changing role of human rights NGOs at the United Nations.” This will be done by investigating how NGOs are perceived within the CHR forum and by distinguishing the arguments for their enhanced or limited influence. Secondly, in a more normative matter, it tries to discern the desirability of human rights NGOs influence in UN human rights bodies using the concept of global governance. Finally, while very much recognizing the difficulty in predicting the future in social and political analysis, curiosity about how the NGO-UN relation will develop in the near future acts as a source of inspiration for this study. These are broad and complex issues and questions on a high level of abstraction can be formulated. Does the concept of global governance apply to the UN human rights bodies? What influence do human rights NGOs have at the UN and what are the prospects for the future?

These substantial topics will be approached by investigating proceedings that are limited in scope, space and time. With the above stated questions as a background, narrower questions on a lower level of abstraction will form this essay’s research questions. Due to limited time and resources, only a small part of the overwhelming concept of global governance can be studied empirically here. It is the relation between nongovernmental actors - human rights NGOs with consultative status in the UN, and (inter)governmental actors - state delegates and representatives at the CHR, that will be examined in this study. Likewise, only a small fraction of the human rights NGOs influence at the UN will be studied. The study will not focus so much on what the NGOs actually achieve in the forum, but rather how they are perceived by other delegates, mainly

¹⁰ From here on, the abbreviation CHR or simply “the Commission” will be used referring to the UN Commission on Human Rights.

¹¹ Breen, Claire, “Rationalising the Work of UN Human Rights Bodies or Reducing the Input of NGOs? The Changing Role of Human Rights NGOs at the United Nations”, *Non- State Actors and International Law*, Vol. 5, 2005, pp. 101-126, p. 101.

member states. The time span of the meetings extends over five years and the main aim is to distinguish the different arguments and standpoints during this time concerning the NGO influence in this particular UN human rights body. Hopefully, some predictions about what can be expected concerning future NGO influence in the recently established Human Rights Council (HRC) can be made from the conclusions that will be drawn answering the research questions. The Council was established in 2006 as a way to regain the authority and credibility that had been lost in the CHR. However, since the Council is so new and comparatively little has been written about it yet, it will not be a subject of study in this paper. The research questions of this study hence read as follows:

1. What positions and arguments - against and in favor - can be distinguished concerning NGO influence within the CHR?
2. Which arguments are presented by whom?
3. Can any broad patterns of debate be distinguished?

The study will be carried out using existing research on NGO-UN relations as well as analyzing primary sources, consisting of summary records from the CHR meetings between 2001 and 2005. A further discussion of the material and method used in the study is presented in chapter 3.

2 Theory, Concepts and Earlier Research

This chapter will present the concept of “global governance” and its relevance for this study. How have different scholars described the relationship between NGOs and the UN and how are NGOs defined? These are questions that will also be addressed below.

2.1 What do the scholars say about Global Governance and the NGO-UN relation?

In *Global Society and International Relations* Martin Shaw discusses the growing of an international civil community and its implications in global politics. Using the language of a realist Shaw describes how the UN, as the principal international organization, is “a conglomerate of nation-states, in which voting takes place on the basis of states and the rights of sovereign states are recognized above those of individuals and social groups.” To deny these realities would, according to Shaw, be “clearly foolish.”¹² However, Shaw recognizes how globalization is having an important impact on international relations and state functions and he concludes that the development of a global society requires new politics of global responsibility. What he describes as “the paradox of the new world politics” is that “global state-building needs the assistance of forces in civil society.”¹³

In their often cited and well recognized book *NGOs, the UN and Global Governance – Emerging Global Issues*, Leon Gordenker and Thomas Weiss challenge the traditional international relations theory where states are the basic units of analysis. According to the authors, theoretical approaches to explain international cooperation generally provide little specific insight about the nature and function of NGOs. Most international relations theory is based on the assumption that the state is the only “noteworthy entity in international cooperation”, and does not consider that NGOs are “significant actors in their own right.”¹⁴ Gordenker and Weiss describe NGOs as

¹² Shaw, Martin, *Global Society and International Relations – Sociological Concepts and Political Perspectives*, Cambridge, Polity Press, 1994, pp. 173-174.

¹³ Shaw, p. 189.

¹⁴ Weiss, Thomas & Gordenker, Leon, *NGOs, the UN, and Global Governance*, Colorado, Lynne Rienner Publishers, 1996, pp. 32-33.

“omnipresent in the policy and administrative process of UN organization” and recognize NGO activity, without attributing either a positive or negative value to it, as “an important factor in global governance.”¹⁵ They define global governance as “more ordered and more reliable responses to problems that go beyond the individual and even collective capacities of states.”¹⁶ However, they recognize the difficulty in reaching consensus about the meaning of the concept: “several prominent intellectuals, as well as august commissions, have struggled with this notion.”¹⁷ Yet, they stress the following underlying meaning to the concept: “the agreed and proverbial bottom line for all definitions of global governance, however, consists of enhanced transparency, accountability and participation.” This “proverbial bottom line”, or theoretical assumption, will be applied throughout this study. The publication edited by Gordenker and Weiss presents several case studies of NGO influence in the work of the UN, ranging from issues on environment, AIDS and humanitarian emergencies. The chapter which is of greatest relevance for this study is the one by Felice D. Gaer, titled “Reality Check: Human Rights NGOs Confront Governments at the UN.”

Gaer is director of The Jacob Balustein Institute for the advancement of Human Rights of the American Jewish Committee and she was appointed a public member of the United States delegations to the World Conference on Human Rights in Vienna 1993. She begins her chapter by recognizing how “official acknowledgment of the importance of nongovernmental organizations (NGOs) in the work of the United Nations (UN) human rights programs remains a subject of intense controversy.”¹⁸ She discusses how several governments openly oppose the legitimacy of the engagement of human rights NGOs in UN programs: “often, governments launch transparent attacks upon NGO information by declaring the organizations to be politically motivated or smearing them as ‘terrorists.’”¹⁹ What Gaer described as being the situation for human rights NGOs and their influence in UN human rights bodies in 1996, has continued to attract the attention of scholars in more recent years.

One scholar in particular has addressed the circumstances for human rights NGOs in the actual meeting rooms at the UN. In 2005 Claire Breen published the article “Rationalising the Work of UN Human Rights Bodies or Reducing the Input of NGOs? The Changing Role of

¹⁵ Weiss & Gordenker, p. 44.

¹⁶ Weiss & Gordenker, p. 221.

¹⁷ Weiss & Gordenker, p. 221.

¹⁸ Gaer, Felice D., “Reality Check: Human Rights NGOs Confront Governments at the UN” in Weiss, G. Thomas, Gordenker, Leon, NGOs, the UN, and Global Governance, Colorado, Lynne Rienner Publishers Inc, 1996, p. 51.

¹⁹ Gaer, p. 64.

Human Rights NGOs at the United Nations” in the journal “Non-State Actors and International Law.” Claire Breen is a senior lecturer at Waikato Law School where she teaches international human rights law, the laws of armed conflict and contract law. As her background suggests, she applies a legal perspective on the situation regarding NGOs and their influence in human rights bodies, especially in the CHR. Analyzing summary records from several sessions in the Commission, after a thorough outline of the official legal status for NGOs in the UN, Breen gives several examples of state delegates criticizing NGOs and their input in the Commission using arguments of efficiency and workload rationalization. Breen concludes her article by stating that although some of the criticism of NGOs within the forum is justified, and although some NGOs, like some State parties, actually manipulate the procedures designed to facilitate their participation in human rights debates for their own political ends, this should not be used as an argument for sidelining NGO participation, “given their fundamental role in the protection and promotion of human rights in the UN system.”²⁰ The rights and obligations of NGOs are outlined in the ECOSOC resolutions and according to Breen, NGOs and Member States, as well as the Commission as an institution in itself, need to respect these resolutions “in order to ensure that the albeit limited rights accorded to NGOs are adequately protected.”²¹ In other words, Breen stresses that because of the fact that their participation is regulated by legal rights NGOs’ influence should not be limited. Even though strictly legal aspects will not be further addressed in this paper, Breen’s article is of much relevance for this study. Some of her methodology will be employed, using the Commissions summary records as the basis of the analysis, and her conclusions will be taken into account. However, somewhat different and additional conclusions will be drawn, using similar, and at times identical, primary sources.

Another scholar who has done much research and writing on human rights NGOs influence in the UN is Ann-Marie Clark who is associate professor of political science at Purdue University. She has studied the relationship between sovereignty and global civil society by analyzing NGO participation at global UN conferences, as in “The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in Global UN Conferences on the Environment, Women, and Human Rights” written together with Elisabeth J. Friedman and Kathryn Hochstetler. Using a different methodology, examining NGO influence at the huge and infrequent UN conferences instead of in smaller UN forums that meet on a regular basis such as the CHR, conclusions reached in the article somewhat differ from the findings made by Breen. Apart from exploring the mere emergence of a global civil society competing with a world order

²⁰ Breen, p. 126.

controlled by nation-states and the concept of sovereignty, the authors identify problems concerning divisions within the NGO community: “our empirical findings lead us to conclude that for nongovernmental organizations, as well as for states, the differences between North and South, rich and poor, developed and less developed, still mark contentious political territory.”²² It is clear that if NGOs from northern, developed countries have more influence in the UN than organizations from southern, less developed countries, the system still leaves much to be desired in relation to the notion of “global governance”. Their research also illuminates that there are important and disturbing inequalities in terms of influence and power not only from a north-south perspective but also between “new” and “old” NGOs and what is called “persistent divisions between the newer generation of small grassroots organizations focused on local action and the more professional, often larger and older, organizations with long-standing activities at the United Nations.”²³

Divisions within the NGO community are also thoroughly scrutinized in “NGO Legitimacy: Reassessing Democracy, Accountability and Transparency” in which Rana Lehr-Lehnardt poses the controversial question whether the world would be a better place without NGOs. The article is a master’s paper and the author has an LL.M in international human rights law from Columbia University Law School. After assessing both the negative and positive aspects of NGO work, the answer to her initial question is “no” although she suggests several improvements that must be made by NGOs in order to enhance their influence and participation in international law and policy-making. These suggestions include implementing greater transparency and accountability in all aspects of their work, and to some extent becoming more democratic. However, the very notion of democracy is not described as such an important aspect when it comes to NGOs. As Lehr-Lehnardt suggests, democracy is about majority rule and hence implies little protection for minority voices. Further, the author proposes, human rights NGOs “exist in large part to give voice to the voiceless minority.”²⁴ If NGOs would begin to follow democratic processes of formal representation of the world’s population, they would according to Lehr-Lehnardt, probably become more conservative and “cease to demand what some societies would see as progressive changes in the treatment of women, children, racial minorities,

²¹ Breen, p. 126.

²² Clark, Ann Marie, Friedman Elisabeth J. and Hochstetler Kathryn, “The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in Global UN Conferences on the Environment, Women, and Human Rights”, *World Politics*, 1998, pp. 1-35, p. 33.

²³ Clark, Friedman and Hochstetler, p. 28.

²⁴ Lehr-Lehnardt, “NGO Legitimacy: Reassessing Democracy, Accountability and Transparency” Cornell Law School LL.M. Papers Series, Paper 6, 2005, p. 24.

homosexuals and the oppressed generally.”²⁵ There is thus an important normative assumption, or idealistic perspective, about NGOs as “do gooders” that automatically involves a liberal, and to some extent westernized context. Since the mere existence of the human rights charter has been criticized for being a western, liberal and even neo colonial initiative it is quite obvious that the NGOs defending human rights will be criticized for the same reasons:

“Elitism in the NGO movement and wealthy Northern donors buying opinions and constituents through their selective funding, whether consciously or unconsciously, has led Southern NGOs and scholars to denounce the NGO movement as a means of cultural imperialism.”²⁶

Peter Willetts, already quoted in the introductory part of this paper, is perhaps the most cited author, and leading authority, when it comes to NGO-UN relations. He is professor of global politics at City University in London, has published several books and articles on the role of NGOs in international politics and one of the courses he currently teaches is called NGOs, Human Rights and the UN System. His writings give excellent insight in how the NGO-UN relationship has emerged and been regulated over time²⁷, and some of Willetts’ publications also shed light on weaknesses in texts on global governance published by the UN. For example he comments and critiques the Cardoso report in “The Cardoso Report on the UN and Civil Society: Functionalism, Global Corporatism or Global Democracy?” from 2006.

According to Willetts, the Cardoso report was filled with political naïveté and intellectual incoherence.²⁸ Willetts explains the flaws of the report as resulting from confusion about why NGOs should have influence in the UN. According to the author there are three different political and intellectual frameworks explaining the role of civil society actors in the UN - functionalism, neo-corporatism and democratic pluralism. Functionalist ideas are part of the UN history according to Willetts and concern the emphasis on “expertise” to make decision making efficient and depoliticised. According to Willetts, the report frequently used functionalist vocabulary, talking of “expertise, skills, evidence, knowledge, experience, efficiency, independent

²⁵ Lehr-Lehnardt, p. 24.

²⁶ Lehr-Lehnardt, p. 25.

²⁷ See for example Willetts “The Rules of the Game – The United Nations and civil society” in Foster, John W. and Anand, Anita (eds) *Whose World is it anyway? Civil Society, the United Nations and the multilateral future*, United Nations Association in Canada, 1999.

²⁸ Willetts, Peter, “The Cardoso Report on the UN and Civil Society: Functionalism, Global Corporatism or Global Democracy?” *Journal of Global Governance*, Vol. 12, 2006, pp. 305-324. According to Willetts, the Panel was “insensitive to the concerns of governments, gave inadequate attention to the procedural questions central to its terms of reference, lacked overall coherence, appeared to be ignorant of how the consultative arrangements work, and did not resolve arguments about the meanings of non-governmental organizations and civil society.”

specialists, mutual learning, and objectivity - and of being results-focused, technical, and more effective.”²⁹ This can be related to the elitism and professionalism that Lehr-Lehnardt describes within large western NGOs. The neo-corporatists will, according to Willetts, “actively seek out the major organized sectional interest groups but be unconcerned if the poor, the weak, or advocates of the general public interest do not participate” and neo-corporatism is by definition, as well as the functionalist approach that restricts participation to experts, incompatible with the democratic attitude to NGO influence: “when there is a great diversity of groups, each exercising some influence, and policy proposals can be initiated by their members, we have democratic pluralism.”³⁰ The democratic pluralist approach is similar to Gordenker and Weiss’s definition of global governance - more reliable responses to global problems, involving transparency, accountability and participation. However, and as Willetts acknowledges, functionalism is part of UN history and existing structures, and in another publication Willetts stresses the importance of NGOs following the rules of the game in order to gain influence at the UN. For example, he advises NGOs to follow the expected patterns of diplomatic behaviour and language in order to increase their opportunities to speak, gain attention and affect a negotiation process in the UN.³¹ So, even if Willetts on the one hand wants democratic pluralism to be the reason for why NGOs have influence in the UN, he also acknowledges that functionalist aspects, such as knowledge and experience, are crucial for NGOs to increase their opportunities to influence. As well as Clark, Willetts very much stresses the north-south divide and he states that there is a significant “under-representation of developing country NGOs within the NGO community at UN headquarters.”³²

To summarize, it can be concluded that the scholars above agree on the fact that global governance (although not everyone use that exact notion) is something desirable and inevitable and that NGOs play an important role as actors on the international arena. However, it seems as though they are becoming increasingly influential actors, several problems impede that their influence is enhanced further. What these problems are will be further investigated in chapter 4.

²⁹ Willetts, 2006, pp. 305-324.

³⁰ Willetts, 2006, pp. 305-324.

³¹ Willetts, 1999, p. 266.

³² Willetts, 2006, pp. 305-324.

2.2 What is an NGO?

Before pursuing with the study some definitional issues concerning the term NGO must be addressed. According to Willetts, “an NGO is any non-profit-making, non violent, organised group of people who are not seeking government office.” An international NGO has a less restrictive definition according to Willets and “can be any non-violent, organized group of individuals or organisations from more than one country.” Concerning the members of an international NGO they will usually be NGOs from different countries, but “they can also have any mixture of individuals, companies, political parties, NGOs or other international NGOs as members.”³³ The abbreviation for an international NGO, an INGO, is not used in all literature and the term NGOs is widely used to refer also to international NGOs.³⁴ To avoid confusion the term NGO will be used in this study referring to both single-country and multi-country groups. An Intergovernmental Organization, an IGO, is an organization with only governments as members, such as the United Nations.³⁵

The discussion on terminology does not end there. According to Anna Karin Lindblom, the variety of definitions concerning NGOs may be regarded as a problem: “very little about legal status can be assumed just on the basis of the fact that an entity labels itself an “NGO” (whatever that is).”³⁶ Riva Krut also discusses the broadness of the term NGO and addresses some complications that it involves. The term makes no distinction between operational organizations that provide services such as Oxfam and more advocacy-based groups such as the Third World Network. Neither does it differentiate between the “big eight”³⁷ that together have billion dollar budgets and tens of thousands of small organizations that have to struggle for funding.³⁸ Also, local, regional and international NGOs function very differently and incorporate with different types of civil societies. Riva acknowledges how “the difficulty of distinguishing between NGOs has generated a lexicon of descriptors” and lists a vast number of acronyms distinguishing

³³ Willetts, 1996, p. 5.

³⁴ Willetts, 1996, p. 5.

³⁵ Willetts, 1996, p. 10.

³⁶ Lindblom, Anna-Karin, *The Legal Status of Non-Governmental Organisations in International Law*, University of Uppsala, 2001, p. 52.

³⁷ “The big eight” NGOs are: CARE, World Vision International, Oxfam, MSF (Médecins Sans Frontières), Save the Children, CIDSE (Coopération Internationale pour le Développement et la Solitarité), the Coalition of Catholic NGOs, APDOVE (Association of Protestant Development Organizations in Europe) and Eurostep (Secular European NGOs), Krut, p. 53.

³⁸ Krut, Riva, *Globalization and Civil Society: NGO Influence in International Decision- Making* Geneva, United Nations Research Institute for Social Development, 1997, p. 52.

different types of NGOs from each other - for example environmental NGOs (ENGOS) from Business and Industry NGOs (BINGOS) and Public Interest NGOs (PINGOS) from Australian NGOs (DINGOS).³⁹ These verging on comical differentiations of NGOs will not be used in this study, although the terms of GONGO – Government-Organized Non-Governmental Organization and QUANGO – Quasi-Non-Governmental Organization becomes relevant considering the following statement by John Sankey: “Bearing in mind the old adage ‘if you can’t beat them, join them’, some ‘governmental’ NGOs are funded or controlled by governments in order to infiltrate, inform or otherwise disrupt the work of genuine NGOs, particularly in the field of human rights.”⁴⁰

As shown above, it is very important to acknowledge that there is no “typical NGO.” When referring to NGOs in this study, it generally has to do with human rights NGOs. Traditionally, human rights NGOs, like for example Amnesty International (AI), have mainly been working with civil and political rights covered in ICCPR while economic, social and cultural rights covered in ICESCR more often have been emphasized by development NGOs.⁴¹ There is also a difference when it comes to cooperation with state actors, since states are the only actors that can actually guarantee civil and political rights, whereas the private sector and multinational corporations are better targets for economic and social rights.

In “Transnational Civil Society and Human Rights”, Thomas Risse claims that the influence of transnational civil society when it comes to human rights stems from two factors – moral authority and knowledge. The moral authority is connected to the claim that human rights NGOs represent the “common good”, acting as credible speakers for the oppressed. Also Willetts suggests that on issues such as human rights, NGOs generally are “the Conscience of the World.”⁴² The claim to knowledge by human rights NGOs is, according to Risse, widely accepted today and he demonstrates this by stating that AI, Human Rights Watch (HRW) and the Lawyers Committee for Human Rights often define what constitutes a human rights violation.⁴³ Risse argues that apart from working as agenda setters, awareness raisers and norm creators, human rights NGOs generally rely on “shaming” when dealing with human rights violating governments: “Shaming implies a process of persuasion, since it convinces leaders that their

³⁹ Krut, p. 9.

⁴⁰ Sankey, John, “Conclusions” in Willetts, Peter (ed), “The Conscience of the World – The Influence of Non-Governmental Organisations in the UN System, London, Hurst & Company, 1996, p. 271.

⁴¹ Lehr-Lehnardt, p. 48.

⁴² Willetts, 1996, p. 11.

⁴³ Risse, Thomas, “Transnational Civil Society and Human Rights”, in Florini Ann M. (ed.) et al., *The Third Force: The Rise of Transnational Civil Society*, Washington, DC: Carnegie Endowment for International Peace, 2000, pp. 185-188.

behavior is inconsistent with an identity to which they aspire.”⁴⁴ The method of “naming and shaming” very much lays the basis for the relation between NGOs and member states in the CHR, which is an important aspect to bear in mind when reading the analysis of this study. As well as several other scholars, Risse acknowledges the risk concerned with public funding and states that “their [human rights NGOs’] moral authority and knowledge as prime sources of normative power can easily be captured by private interests.”⁴⁵ According to Risse, a NGO can quickly lose its credibility if it becomes identified with special economic or political interests. As an example he mentions HRW which for a long time struggled to get rid of its initial reputation as an instrument for US human rights policy.⁴⁶

2.3 NGOs in the CHR: How does it work?

“NGOs play a vital role in the elaboration and protection of international human rights norms. The centrality of the role of NGOs may be traced back to the genesis of the United Nations and the lobbying by NGOs for the inclusion of human rights protection in the UN Charter.”⁴⁷

As the quotation above suggests, NGOs have played an important role throughout the history of human rights work in the UN. During the drafting of the UN Charter in 1945, 42 international NGOs lobbied hard and successful for the creation of a Commission on Human Rights and a new article - article 71 - providing NGOs access to the Economic and Social Council (ECOSOC) which, according to Willetts, became “the rock on which all UN relations with NGOs were built.”⁴⁸

“NGOs want more, governments want less, but the system generally works.”⁴⁹ The system that P. J. Simmons refers to concerns the arrangements for NGOs to acquire consultative status in the UN. The question of NGOs is, as mentioned above, accounted for in article 71 of the UN Charter, where it is stated that the influence of non governmental organizations in the UN should

⁴⁴ Risse, p. 188.

⁴⁵ Risse, p. 207.

⁴⁶ Risse, p. 186.

⁴⁷ Breen, p. 126.

⁴⁸ Willetts, 1999, p. 248.

⁴⁹ Simmons, P.J, “Globalization at Work: Learning to Live with NGOs”, *Foreign Policy*, 1998, p. 93.

be managed by the ECOSOC.⁵⁰ Via ECOSOC, NGOs can apply for consultative status at the UN. The arrangements for consultation between NGOs and the ECOSOC were adopted in Resolution 1296 from 1968. However, resolution 1296 applies only to international NGOs and in 1996 the ECOSOC adopted a new resolution, 1996/31, giving new prominence to national, sub-regional and regional NGOs as well.⁵¹ There are three different types of consultative status - General, Special and Roster, also known as Category I, II and III. General Status can be achieved by large, international and well established NGOs that work with a wide range of issues covered by the agenda of the ECOSOC. Special Status is given to smaller and younger NGOs whose working areas only cover some parts of the ECOSOC agenda. The Roster status can be achieved by NGOs that fall outside of both of the above stated categories, which can be small NGOs with very specialized or technical working areas.⁵²

Once an NGO has been accredited consultative status⁵³, depending on its category, its opportunities to influence differ. NGOs in all categories have the right to receive documents for all meetings and participate at meetings and conferences. However, only NGOs in Category I have the right to propose agenda items. NGOs in Category III may only give written and oral statements if invited, whereas NGOs in Category I and II have the right to submit written statements and give oral hearings voluntarily.⁵⁴ The form and scope of both written and oral statements are however regulated strictly, NGOs in Category I are allowed to give longer statements than those in Category II, and all NGOs are encouraged to make joint statements to save time.⁵⁵

The influence from NGOs also differs between the different UN bodies. According to Breen, in the CHR, apart from having a merely consultative role, only a comparatively few

⁵⁰ Breen, p. 103.

⁵¹ Willetts, 1999, p. 290.

⁵² UN Department on Economic and Social Affairs, <http://www.un.org/esa/coordination/ngo/> , Visited 5 May 2008.

⁵³ The application process starts by writing a letter of intent to the ECOSOC. When the NGO section has received the letter of intent they mail the "application package" containing an application form, a questionnaire and background information. The complete application, submitted in either English or French, must be sent to the ECOSOC by the 1st of June to be considered by the NGO Committee at the ECOSOC. The Committee, made up by 19 members, elected on the basis of equitable geographical representation: 5 members from African States; 4 members from Asian States; 2 members from Eastern European States; 4 members from Latin American and Caribbean States; and 4 members from Western European and other States, meet twice a year to decide which NGO applicants they will recommend to the ECOSOC council. The process can take several years. When the Council finally approves with the Committees recommendation official notification is sent out to the NGO by the secretariat. For more details see <http://esa.un.org/coordination/ngo/new/index.asp?page=howto> , Visited 5 May 2008.

⁵⁴ Willetts, 1999, p. 262.

⁵⁵ Breen, p. 120.

NGOs are accorded speaking rights.⁵⁶ Since its establishment in 1946, the CHR met for six weeks annually in March/April in Geneva with NGOs participating from the very beginning. In the last years of the Commission, before being succeeded by the UN Human Rights Council in 2006, NGO input was cut back, involving more joint statements and the loss of speaking rights for certain NGOs. Although the concerned NGOs were permitted to circulate written statements instead, the rights and status accorded to them under the ECSOC resolution 1996/31 were, according to Breen, “blurred.”⁵⁷ She explains the cutbacks mainly as resulting from interests of greater efficiency and workload rationalization in the Commission. However, in the analytical part of this paper additional explanations will be identified.

⁵⁶ Breen, p. 125.

⁵⁷ Breen, p. 125.

3 Method and Material

In this chapter the method applied in the study will be presented and the material used will be discussed in order to provide consistency and reliability to the work done.

3.1 Analyzing Summary Records

This is not a study based on a particular theory, nor is it a quantitative study measuring the actual influence of human rights NGOs in the UN. Rather, it is best described as a qualitative documentary analysis where documentation from meetings at the CHR are analyzed, with the help of existing literature, to find some indicative factors for how NGOs are perceived within that forum. Another way would have been to perform interviews, both with state delegates and NGOs, but because of limited time and resources this method has not been applied. Summary records from meetings at the CHR during the 57th to 61st sessions are thus the primary empirical sources used in this study.

“Although reliance on the summary records of recent meetings of the Human Rights Commission does not constitute a totally satisfactory means by which to critique fully movements within the Commission, it does provide a useful record by which to gauge the manner in which NGOs are perceived within that forum.”⁵⁸

Being primary sources, that have not been altered, the documents are highly reliable, and as Breen suggests in the extract above, they provide valuable insight for the purpose of this study. The limitation to summary records from the 57th to 61st session of the Commission seemed reasonable for the scope of the study and because of the patterns that were clearly distinguished by analyzing them. Of course, had even more meeting records been accorded for, the study would have had an even higher level of reliability. However, in relation to the time span and purpose of this study the summary records accounted for seemed quite sufficient and the conclusions drawn from them plausible and trustworthy. The quotes were selected by using the search function in the pdf documents, reading all statements including the notion “NGO”. If the statement reflected a position against or in favor of enhanced NGO influenced it was selected

⁵⁸ Breen, p. 125.

and cited. Once selected, the statements were grouped in similar categories in order to find patterns in the debate and to identify the arguments against and in favor of enhanced NGO influence used in the forum. Only a few were disregarded - it would have been impossible for the scope of this paper to account for every single statement - and thus the statements used in the analysis are highly representative for the debates on NGO influence at the meetings. The fact that the categories of arguments were distinguished and formulated after the statements were selected and grouped enhances the reliability of the results because of the absence of a predetermined theory or pre-stipulated answers. Therefore, were the study to be replicated, similar conclusions would most probably be reached.

4 Analysis

When reading the summary records, different standpoints and arguments both for and against enhanced NGO influence in the CHR can be identified. These will be discussed and analyzed below.

4.1 Arguments against enhanced NGO influence

An argument that many delegates have used, and which Breen very much highlights, is that the NGO participation has a negative impact on the efficiency of the Commission. Several delegates have argued for the rationalizing of NGO participation, many with the suggestion that the NGOs should make more joint statements. Countries like Pakistan, Egypt and China have brought forward such arguments. For example Mr. Akram, the Pakistan delegate of the 57th session of the Commission, speaking on behalf on behalf of the States members of the Organization of the Islamic Conference (OIC), stated that because of the rapid increase in the numbers of NGOs in the Commission they should make joint statements to save “precious time and resources.”⁵⁹ Ms. Kunadi, the Indian delegate at the same session, suggested that the Commission should explore ways of managing time more effectively, among other things by “rationalizing NGO participation in its work.”⁶⁰ Also at the 59th session the issue was brought up. This time it was Mr. Loutfy, the delegate from Egypt, who said that it would be helpful if NGOs issued more joint statements to save time.⁶¹ The Chairperson of the meeting brought up the fact that the Commission had suffered from serious time constraints, since the list of participating NGOs had increased. She said she would work with the Expanded Bureau during the intersessional period to try to find ways to use the time more efficiently in the next session.⁶² The discussion on efficiency was continued the following year at the 60th session of the Commission. This time the Chinese

⁵⁹ E/CN.4/2001/SR.3, para. 15, p. 4.

⁶⁰ E/CN.4/2001/SR.2, para. 55, p. 16.

⁶¹ E/CN.4/2003/SR.49, para. 82, p. 16.

⁶² E/CN.4/2003/SR.63, para. 107, p. 20.

delegate, Mr. Sha Zukung, speaking on behalf of the Like-Minded Group (LMG) of States⁶³ clearly stated that more speaking time should be allocated to observer States than to NGOs.⁶⁴ This can be clearly connected to the statement by Shaw, quoted earlier in this study, concerning the fact that the rights of states still are recognized higher than those of individuals and social groups in the UN system. The rapporteur, Mr. Omotosho, said that the Commission had managed its time more effectively at the 60th session, and stated that if NGOs made even more joint statements in the future “perhaps extra meetings could be avoided altogether.”⁶⁵ There is no doubt that the argument about efficiency is important for many member states, and as Breen suggests, the decision to cut back NGO input in the interests of greater efficiency “may have some justification.”⁶⁶ However, as will be suggested below, other arguments seem to be of greater importance, and it is possible that the argument of efficiency has been used to cover up, and legitimize, other underlying motives for why some states want the NGO influence to be limited or cut back. Also, one might ask, can global governance even be efficient? Perhaps more reliable responses to global problems, with more democracy, transparency, participation and accountability, automatically imply a lack of efficiency? According to a representative of the NGO Association for World Education at the 57th session, the grouping together of NGOs in joint statements was a matter of concern because joint statements often failed to get to the heart of the matter. He said that “a growing number of people were losing faith in the possibility of any type of real dialogue” and in accordance with democratic principles, all causes should be heard.⁶⁷ Perhaps it is the forums for governance that should be altered, not the actors.

A second argument that has been used much more abundantly, and been brought forward by more delegates, is the concern about accountability. Several delegates have made statements about NGOs not being reliable and trustworthy, many have said they use forged material, and some have accused terrorist groups for attending sessions under the patronage of NGOs. As will be shown below, state delegates from India, Algeria, Indonesia, Sri Lanka, China, Japan, Cameroon, Nepal and Iran all have presented such criticism. Many statements of this kind were made at the 57th session of the Commission. Mr. Kunadi, who also brought forward the argument of efficiency as mentioned above, said that it was essential to end the distribution of

⁶³ Algeria, Bangladesh, Bhutan, Cuba, Egypt, India, Indonesia, Islamic Republic of Iran, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Sudan, Viet Nam, Zimbabwe and China, E/CN.4/2004/SR.2.

⁶⁴ E/CN.4/2004/SR.2, para. 62, pp. 9-10.

⁶⁵ E/CN.4/2004/SR.61, para. 56, p. 10.

⁶⁶ Breen, p. 125.

⁶⁷ E/CN.4/2001/SR.74, para. 70, p. 12.

“spurious or scurrilous documents” inside and outside the conference room by certain NGOs “in order to advance certain interests other than human rights.”⁶⁸ The Algerian delegate, Mr. Sahraoui, said it was regrettable that certain NGOs only gave credence to sources that supported their prejudices and that often were based on “rumor and unverified facts.”⁶⁹ Mr. Sutoyo from Indonesia also said that NGOs attending the Commission should not be permitted to hand out “scurrilous and politically motivated material.”⁷⁰ At the same session Mr. Vaez Mahdavi, Observer for the Islamic Republic of Iran, said he strongly denied the “unjust and politically motivated” comments made about his country by certain NGOs.⁷¹ Very similar argumentation was used at the following session in 2002. Mr. Nogowa, the Japanese delegate, used the very same words – spurious, politically motivated, and scurrilous – about some NGO’s documentation and urged the Commission to see over the rules concerning NGO participation.⁷² Mr. Ngoubeyou, minister for foreign affairs of Cameroon, urged NGOs to “refrain from making unfounded accusations.” Further, he suggested that the purpose of such accusations often was to “criticize sovereign States unfairly without offering any remedies for the damage thus caused.”⁷³ At the Commissions 60th session in 2003, delegates from Nepal, China and Korea accused NGOs for spreading false, unfounded and exaggerated information about the human rights situations in their respective country.⁷⁴ Mr. Nam Choe Myong from Korea urged the Commission to ignore NGOs’ attempts to spread false information and to take steps to “address the relentless and provocative politicization of human rights issues by NGOs, playing to the tune of their invisible masters.”⁷⁵

In addition to questioning NGOs accountability because of the information or documentation they use, some states have also taken the accountability argument a step further, accusing NGOs for letting questionable groups, political parties and terrorists enter the Commission. At the 57th session Mr. Jooyabad from Iran said his government reserved the right to “challenge the presence of two terrorists in the Commission under the umbrella of certain

⁶⁸ E/CN.4/2001/SR.2, para. 56, p. 16.

⁶⁹ E/CN.4/2001/SR.26, para. 134, p. 20.

⁷⁰ E/CN.4/2001/SR.3, para. 19, p. 5.

⁷¹ E/CN.4/2001/SR.31, para. 30, p. 7.

⁷² E/CN.4/2002/SR.2, para. 64, p. 13.

⁷³ E/CN.4/2002/SR.31, para. 3, p. 3.

⁷⁴ E/CN.4/2004/SR.22, para. 78, p. 22, E/CN.4/2004/SR.35, para. 1, p. 2, E/CN.4/2004/SR.45, para. 68, p. 18.

⁷⁵ E/CN.4/2004/SR.45, para. 68, p. 18.

NGOs.”⁷⁶ Mr. Kodagoda from Sri Lanka said that letting persons connected to terrorist groups under the patronage of NGOs attend sessions of the Commission undermined its integrity and credibility.⁷⁷ The same issue was raised again at the 60th session when the delegate from Pakistan on behalf of the OIC said the Commission should avoid the “infiltration of questionable groups under the guise of NGOs.”⁷⁸ The question about NGO accountability has not solely been addressed by states. At the 57th session Mr. Marzouk from the NGO Organisation tunisienne des jeunes médecins sans frontières, said that in order to play their key role, NGOs needed to remain “objective and credible.” Further he stated that his organization “was appalled every time it heard the wellworn rhetoric of certain NGOs, always the same ones, inveterate professional speechifiers.”⁷⁹ Breen also cites this statement, and describes it as “some of the most insightful criticism of NGOs in recent years.”⁸⁰ However, she does not develop her reasoning suggesting why the statement is especially insightful. As mentioned when accounting for earlier research, Lehr-Lehnardt has addressed important clashes within the NGO community in relation to elitism and professionalism. According to Lehr-Lehnardt, critics argue that NGO professionals have lost touch with the uneducated poor they claim to represent, that they come from elite backgrounds and represent their own interests.⁸¹ The fact that the representative from the Tunisian NGO blamed “certain NGOs” for being “professional inveterate speechifiers” implies that the criticism Lehr-Lehnardt describes also, to some extent, flourishes between NGOs represented in the Commission, suggesting important divisions within the NGO realm as well as between them and some member states.

A third argument, which has been used quite commonly, concerns the ambience in the Commission and the tension and controversy that many state delegates believe the NGO presence creates. At the 57th session Mr. Chatty, observer for Tunisia, said that his government was always open for dialogue although it believed that some NGOs “persisted in an aggressive and counter-productive approach.”⁸² A dialogue between a representative from the Transnational Radical Party, Mr. Khanbiev, and Mr. Rogov, the delegate from the Russian Federation, very much highlights the mood of controversy and tension within the Commission. Mr. Khanbiev said he

⁷⁶ E/CN.4/2001/SR.40, para. 92, p. 17.

⁷⁷ E/CN.4/2001/SR.40, para. 68, p. 14.

⁷⁸ E/CN.4/2004/SR.2, para. 57, p. 9.

⁷⁹ E/CN.4/2001/SR.42, para. 5, p. 3.

⁸⁰ Breen, p. 118.

⁸¹ Lehr-Lehnardt, pp. 20-21.

⁸² E/CN.4/2001/SR.43, para. 77, p. 15.

was one of the doctors who had worked in Grozny in the Republic of Chechnya under Russian bombardment. He had spent three weeks in a 'filtration camp' and said that "only a sick mind could invent the types of torture and humiliation practiced there." Mr. Rogov answered that the speaker represented a political party and was abusing NGO status. The president of the meeting remarked that only admitted terminology regarding political status could be used in statements in UN bodies. However, Mr. Khanbiev continued to describe the situation in the Republic of Chechnya saying that "human rights defense mechanisms were paralyzed" and that "the leaders of democratic governments made friendly noises to the Kremlin in exchange for gas." Mr. Rogov concluded that it was "clearly improper" to permit the speaker to continue his statement since he persisted in using non-diplomatic language and intruded on the territorial integrity of a Member State. The president of the meeting invited the next speaker to the floor.⁸³ It is quite possible that the Russian delegate at the 60th session, Mr. Fedotov, had the above mentioned meeting in mind when he stated that "States and NGOs would have to adjust their fundamental approach to the discussion of important human rights issues and adopt a different attitude to international cooperation in the field of human rights" in order to improve the effectiveness of the Commission's work. An "atmosphere of confrontation and politicization" during the recent sessions had, according to the Russian delegate, undermined the Commission's authority.⁸⁴ Perhaps not surprisingly, the delegate from Iran Mr. Khoshroo, made a similar statement, saying that "confrontational approaches that served political ends" frequently had proved "counterproductive and futile." According to Mr. Khoshroo, the ultimate victims had become the human rights themselves.⁸⁵ Ms. Abdelatif, the delegate from Egypt at the 61st session, also raised the issue and stated that the Commission "must work in a calm and constructive atmosphere without politicization."⁸⁶

Breen, mostly focusing on the argument about efficiency, does not explicitly address this part of the debate. She does refer to Mr. Fedotov and his statement about the need of an attitude change, but she does not treat this discussion as something separated from the discussion of efficiency. This can be viewed as a limitation in her research. The fact that the Russian delegate refused to contest the statement by the representative from the Transnational Radical Party because he did not use diplomatic language highlights issues that have been dealt with by several scholars. To relate to the discussion by Willetts, the use of diplomatic language is important for

⁸³ E/CN.4/2001/SR.41, paras. 1-6, p. 4.

⁸⁴ E/CN.4/2004/SR.7, para. 46, p. 11.

⁸⁵ E/CN.4/2004/SR.9, para. 64, p. 14.

⁸⁶ E/CN.4/2005/SR.2, para. 47, p. 10.

NGOs to increase their opportunities to exert influence. At the same time, there is a huge paradox in addressing appalling human rights violations, as the ones in Chechnya, in a diplomatic, calm and non controversial way, - especially when it is an actual victim who addresses them. Even if it is said that NGOs represent the voice of the people, they can not use the language of the people in the meeting rooms if they want to be listened to. The division between the older generation of “professional” NGOs and the younger generation of more “activist” NGOs, as described by Clark, becomes clear.

The statements above highlight many important issues concerned with the questions raised in the beginning of this study. Is global governance - a cooperative interaction between state and non-state actors – applicable in this forum? NGOs are there mainly to criticize states that commit human rights violations, and the states defend themselves. Is controversy and tension not inevitable? Can human rights work be isolated from politics? Breen suggests that a correlation can be drawn between the rather strong criticism of NGOs by certain Member States, and these State’s rather poor human rights records - “the Russian Federation and China being prime examples.”⁸⁷ And as Gaer’s research implies, this problem has existed in the Commission since its very beginning. According to the author, as mentioned in chapter 2, many governments, especially those criticized by NGOs, persistently work to limit the formal access and participation of NGOs within the Commission, and continuously challenge the legitimacy of their reports and suggestions.⁸⁸ In spite of the theoretical discourse concerning the universality of human rights, few would disagree on the fact that reality, and human rights in practice, present a different story. In real life human rights are political and unfortunately not universally ensured and the main task for NGOs within the Commission is to bring human rights violations into light and promote policy changes. In the state of the world today, the politicization of human rights is inevitable. The following extract by Gaer supports this reasoning: “As their [human rights NGOs] impact grows, the political struggle waged against them – and against their access and legitimacy – intensifies.”⁸⁹

A fourth argument, not addressed by Breen, concerns the north-south divide. At the 57th session, The Cuban delegate Mr. Martinez stated that the Commission was becoming more and more confrontational in its work. Most reports that were discussed in the commission tended to focus on human rights violations in the countries of the south according to Mr. Martinez, partly

⁸⁷ Breen, p. 125.

⁸⁸ Gaer, p. 51.

⁸⁹ Gaer, p. 65.

because they were initiated from NGOs from the north.⁹⁰ Mr. Sahraoui, the delegate from Algeria at the 57th session who complained about NGO accountability above, also said that it was curious that the situation of human rights in Western countries didn't seem to engage the concern of such NGOs, "which in many cases were run by apparatchiks paid out of public funds."⁹¹ At the 58th session, another Algerian delegate, Mr. Bencherif, made a statement continuing this line of argument. According to Mr. Bencherif, the NGO International Federation for Human Rights "had once again felt obliged to give Algeria some lessons in economic development" and according to the delegate the NGO did not deserve a place in the Commission. Mr. Bencherif said that the NGO had defended colonialism and that "he would be interested to know its views on the exploitation of developing countries' primary commodities."⁹² At the 61st session a third delegate from Algeria, Mr. Bessedik, took on a very similar standpoint, saying that some NGOs "stubbornly clung on to their biased, inconsistent stance with regard to his country. They plainly knew nothing about the real situation."⁹³ In defense of NGO accountability Mr. Graves from the NGO Interfaith International, said at the 57th session that "Human rights NGOs did not seek to challenge the integrity of States, but rather to cause oppressive Governments to listen to reason." Further, he said that NGOs had an obligation to make dialogue between the oppressors and the oppressed possible, and that they had to support victims of human rights violations even if they were identified as "terrorists."⁹⁴ Even if this view is probably shared by many NGOs, and it cannot be denied that serious human rights violations often take place in southern, developing countries, the following quote from Risse sheds some interesting light on the discussion:

"Although human rights INGOs do not simply represent Western interests (they have been fighting Western policies for too long for such a claim to be credible), their moral authority is not totally disconnected from political, economic, and even military power in the global system."⁹⁵

Having this extract in mind, arguments in favor of enhanced NGO influence will now be examined, and the origin of the delegates presenting them will be scrutinized.

⁹⁰ E/CN.4/2001/SR.40, para. 57, p. 12.

⁹¹ E/CN.4/2001/SR.26, para. 135, p. 20.

⁹² E/CN.4/2002/SR.35, para. 84, p. 17.

⁹³ E/CN.4/2005/SR.54, para. 100, p. 22.

⁹⁴ E/CN.4/2001/SR.65, para. 40, p. 9.

⁹⁵ Risse, p. 187.

4.2 Arguments in favor of enhanced NGO influence

Although the argumentation and confrontation described above paints a rather gloomy picture of the relationship between state delegates and NGOs in the CHR, many states also openly present arguments in favor of enhanced NGO influence. The main argument is that of democracy, brought forward by countries like Denmark, Greece, Austria, Ireland, Norway, Luxembourg, Canada, Finland, Norway, Guatemala and Cuba, as will be described below. At the 57th session Mr. Petersen from Denmark said that NGOs played an essential role in the work of the Commission “as they were the voice of civil society” and “represented the defenders of human rights.” According to the Danish delegate NGOs “deserved the full attention of the Commission.”⁹⁶ At the following session, Mr. Møller, Minister for Foreign Affairs of Denmark, used almost the exact same words as Mr. Petersen, defending the NGOs and their influence in the Commission: “they represented civil society, the victims of human rights violations and human rights defenders.” Further, “they had earned their place in the Commission and deserved the full attention of its members.”⁹⁷ At the same session, Mr. Satuli, Secretary of State at the Ministry for Foreign Affairs of Finland, said that his government believed that NGOs played an important role in monitoring the performance of Governments and that “only genuine partnerships between all parties would bring about universal respect for human rights.”⁹⁸ Not only Nordic delegates have defended the NGOs. The delegate from Guatemala at the same session, Mr. Arenales Forno, said his delegation opposed any proposal to limit the participation of NGOs in the work of the Commission and that it rather believed that the participation should be enhanced.⁹⁹ At the following session the Canadian delegate, Ms. Gervais-Vidricaire, speaking on behalf of the Western European and Others Group, said that the group would not support any attempts to limit the references by certain NGOs to particular governments. She referred to the freedom of expression as a “key principle governing the work of the Commission.”¹⁰⁰ At the 59th session, Mr. Giannitis from Greece, speaking on behalf of the European Union and the acceding and associated countries¹⁰¹ said that the European Union “welcomed the role of NGOs in the

⁹⁶ E/CN.4/2001/SR.32, para. 1, p. 2.

⁹⁷ E/CN.4/2002/SR.23, para. 17, p. 6.

⁹⁸ E/CN.4/2002/SR.3, para. 25, p. 9.

⁹⁹ E/CN.4/2002/SR.3, para. 60, p. 18.

¹⁰⁰ E/CN.4/2002/SR.4, para. 115, p. 22.

¹⁰¹ Acceding countries: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Associated countries: Bulgaria, Romania and Turkey, E/CN.4/2003/SR.3.

Commission's work and in shaping policies more closely related to people's aspirations."¹⁰² Mr. Kyrle, the Austrian delegate speaking on behalf of the Human Security Network¹⁰³, said that the Network's "people-centered approach" took the form of direct dialogue between governments and civil society and therefore they thought that the role of NGOs in the Commission "should be maintained and further developed."¹⁰⁴ At the 61st session delegates from Ireland, Norway and Luxembourg made statements defending the NGOs and their input in the Commission. Mr. Lenihan from Ireland described the contribution made by NGOs as "invaluable" and Mr. Helgesen from Norway said that his delegation advocated the continuity of active NGO participation.¹⁰⁵

Another argument for enhanced NGO influence is the monitoring role that NGOs play examining the human rights work by the individual governments as well as the Commission, thereby enhancing the transparency of the Commission. Mr. Asselborn from Luxembourg speaking on behalf of the European Union said that the European Union welcomed the role played by NGOs in the Commission and that it would "engage in dialogue with them to ensure greater transparency of the activities of member Governments and the Commission."¹⁰⁶ Both the arguments describing NGOs as "the voice of the people" and as monitoring bodies, are very closely linked to the concept of global governance as described by Gordenker and Weiss. The cooperation between state- and non-state actors, in this case member states delegates and NGO representatives, is according to the concept of global governance, aimed to bring more reliable responses to global problems. However, in the CHR the work is not designed as to address global problems, such as for example global warming or human trafficking, but rather to point out problems that exist in different member states. The way the protection of human rights is designed, it is the responsibility of every individual state to protect their citizens from human rights violations, and therefore the whole idea of transnational cooperation becomes questionable. The key means to deal with human rights violations is through "naming and shaming" and this is also the reason for why the CHR has been so dominated by tension, controversy and lack of efficiency. And because of the fact that nation-states have the power to

¹⁰² E/CN.4/2003/SR.3, para. 19, p. 5.

¹⁰³ Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Slovenia, Switzerland, Thailand, and South Africa, E/CN.4/2003/SR.3.

¹⁰⁴ E/CN.4/2003/SR.3, para. 42, p. 9.

¹⁰⁵ E/CN.4/2005/SR.11, para. 66, p. 15, E/CN.4/2005/SR.11, para. 49, p. 12.

¹⁰⁶ E/CN.4/2005/SR.3, para. 16, p. 5.

exert political, economic and military control over each other, in a way NGOs do not, it is in the interest of some governments that NGOs speak the words they cannot, or dare not, pronounce.

The north-south perspective can thus be looked upon from two angles. On the one hand, it concerns the problems about dissimilar representation and unequal access, that western NGOs from developed countries have more influence in the forum than NGOs from southern developing countries. According to some states, as shown above, northern NGOs are biased and used as political tools from their respective governments. Even if the criticism of unequal access is justifiable, it must be concluded that many attacks on NGOs and their credibility have to be seen in the light of states with low human rights records defending themselves against often proper criticism. This on the other hand brings another dimension of the north-south perspective to the light, as a clear pattern can be distinguished concerning states that are positive to enhanced NGO influence. With a few exceptions, such as Guatemala, the states that make statements in the defense of the NGOs are all western, developed countries. That there is a connection to the fact that NGOs seldom criticize these states within the Commission is highly probable. Again, the above quote by Risse becomes relevant. As he also, quite truthfully, argues: "human rights belong to the core identity of the community of liberal and democratic states."¹⁰⁷ However, it is of vital importance to recognize that human rights violations are carried out in liberal and democratic countries as well, and it is the responsibility of the NGO community to bring even these issues to light in the meeting rooms of the UN - first then would it be relevant to talk about true transparency, accountability and democratic pluralism in the organization.

¹⁰⁷ Risse, p. 187.

5 Conclusions

In this final chapter the conclusions drawn from the analysis will be summarized and discussed and ideas about future research will be presented.

5.1 Conclusions drawn

What answers have been found to the research questions posed in the initial part of this paper? In the analytical part of this study four rough categories of arguments against enhanced NGO influence were identified - efficiency, accountability, tension and the north-south divide. It is clear that they are all interconnected and that many state delegates used them in combination to criticize the NGOs. The arguments in favour of enhanced NGO influence – democracy and transparency - were not as many, and neither were they pronounced with much variation. Yet, what is clear is that they are intimately connected to the notion of global governance and democratic pluralism. A very clear pattern could be distinguished when scrutinizing which states used which arguments and the north-south divide cannot be overseen. The connection between states with poor human rights records and arguments against NGO influence was obvious and the arguments in favour of enhanced NGO influence and states with generally good human rights records as well. In the light of these conclusions, limitations in Breen's article become clear. The author suggests that NGO input was scaled back in the Commission for reasons of finance and efficiency. She does not explicitly address the financial argument in her research and such statements were not revealed in this study either. However, it can be argued that arguments of efficiency and work rationalization implicitly have a financial aspect. However, when studying the summary records from the Commissions 57th to 61st sessions, it became clear that there was much more to the debate than solely the argument of efficiency, and this is very important to acknowledge if one wants to understand how NGOs are perceived within the UN. Without a more in depth understanding of which arguments against and in favor of enhanced NGO influence are used, it is hard to predict what the future might hold in terms of NGO-UN cooperation. Hopefully, this study has been able to partly contribute in bringing the debate a little bit further.

To relate to the questions on a higher level of abstraction several other conclusions can be

made. Does the concept of global governance apply to the UN Human Rights bodies? Technically, one could answer yes to this question. The NGOs are there, physically present, sharing the meeting room with state delegates in an attempt to bring transparency, accountability and democratic pluralism to the work of the Commission. However, two different types of problems impede that this influence is enhanced. On one hand, there are problems within the NGO community concerning for example professionalism, elitism and the north-south divide. Although this aspect has not been empirically studied to a large extent in this paper, earlier research gives substantial credence to such reasoning. On the other hand, there are problems between the NGO community and (some) states, partly because some states still defend the old world order with strong nation-states and solid principles of sovereignty, partly because the issues dealt with involve contradictory relationships. Also, the very structures of the UN system are firmly built upon, and still favor, a nation-state world order, and although some attempts to reform are being made it is a slow and difficult process.

In the case of human rights, states are the ultimate actors in guaranteeing the political and civil rights of their citizens and the human rights NGOs acts as monitors of their work. Controversy becomes inevitable since the very notion of human rights is a political issue. If the “cooperation” only includes criticism on the one hand and self defence on the other, it can hardly fit under the definition of global governance. The actors have not really defined a common problem that they are working towards because human rights in practice are not universal. It is hence crucial when studying the notion of global governance, to identify the working area and scrutinize its special characteristics. The area of human rights is a wide, multifaceted and particular kind of issue, very different from other global issues such as for example AIDS or global warming, and therefore it is impossible to make more general conclusions about NGO influence and how NGOs are perceived by states from studying this particular issue area.

Another conclusion that can be drawn partly from the analysis, but mostly from the earlier research, is that there is an ongoing polarization within the NGO community. On one hand, there are the large, influential NGOs, often northern, with general or special consultative status in the UN, who play according to the rules of the game. These NGOs are being criticized for being too professional, too elitist, and paternal and even parochial in their relation with southern NGOs. Such concern was expressed by Simmons already in 1998 in the article “Learning to Live with NGOs”: “As these groups acquire the access and influence that they have long sought, they must not lose the qualities that have made them a source of innovation and progress.”¹⁰⁸

¹⁰⁸ Simmons, p. 94.

Simmons refers to the increasing NGO dependency on public-sector funding creating a situation where many NGOs become beholden of their national governments, but also to the increased bureaucracy and predictability that goes hand in hand with increased influence, “potentially dulling the passion and richness of views that can emanate from narrowly focused groups.”¹⁰⁹ On the other hand, there are the more activist NGOs that refuse to give in to professionalism and play according to the rules of the game. As shown in the analysis, some NGOs refuse to use the diplomatic language generally adopted within the UN and are accused for having an aggressive and provocative attitude. These two poles can be related to what Willetts describes as the functionalist vs. democratic pluralist approach to NGO influence in the UN. What can be concluded by scrutinizing the critical statements made by some state delegates about NGOs is that many governments, especially ones with low human rights records, cannot accept the CHR to be a “democratic pluralist” body, where different standpoints are expressed by different groups in a straightforward manner. As Willetts states, the functionalist approach is part of the UN history and therefore it is not easy to introduce global governance or democratic pluralism in the system. Either all NGOs wanting to exert influence have to start acting according to the existing rules of the game, or structures must be altered within the UN system. Considering their important role as agenda setters, norm creators and monitoring bodies, the desirability of influence from human rights NGOs in the UN cannot be overseen. With this in mind, it will be highly interesting to follow the development of NGO influence in the HRC in the near future.

This brings us to the final topic of this study – ideas about future research.

5.2 Future Research

During the pursuit of this study many issues have been discovered that need additional clarification. For example, the question about a growing polarization within the NGO community should be further investigated empirically. Is passion being replaced by professionalism? Is it possible for NGOs to be influential international actors without losing their devotion? Concerning the development of the HRC much research lies ahead. Will the HRC be able to be more efficient than its predecessor and will the NGOs there within play by the rules of the game or will they continue to provoke controversy and tension? And, maybe more importantly, how will they be perceived by the member states? UN WATCH, a NGO in Category II with the ECOSOC, dedicated to monitoring the UN and promoting human rights,

¹⁰⁹ Simmons, p. 94.

published a rather negative report concerning the Council's achievements in its first year in May 2007. According to the report titled "Dawn of a New Era? Assessment of the United Nations Human Rights Council and its Year of Reform", 47% of the 47 member states of the council are non-democracies according to Freedom House's standards, and four of them - China, Russia, Cuba and Saudi-Arabia - are among Freedom House's "Worst of the Worst" of human rights abusing regimes.¹¹⁰ The following extract from the report is quite distressing: "The abuser regimes have been energetically seeking negative results throughout. They seek to limit the participation of Non-Governmental Organizations (NGOs)."¹¹¹ Will they succeed? This is an important question for future research.

Moreover, what type of actor do we want NGOs to be? Do NGOs have to act like states in order to gain respect from states? Do we want NGOs to use the same diplomatic language used by states, "expressing deep concern" instead of "naming and shaming" and making load accusations? Can functionalism and democratic pluralism be combined after all? Should we as Simmons argues, "let NGOs be NGOs"¹¹² or are we facing a future where NGOs, as Willetts suggests, are comparable to governments?¹¹³

To conclude, this study has perhaps created more questions than answers, and it is obvious that the study of international relations and human rights is facing many new and exciting challenges as we are soon about to enter the second decade of the new millennium.

¹¹⁰ Freedom House have a measuring system where Civil and Political Rights are graded on a scale of 1-7, with 7 being the worst human rights record. Countries with two sevens are described as the "Worst of the Worst." In the latest report from Freedom House from 2008, Saudi Arabia, China and Russia all had one 6 and one 7 and are hence today only very close to be described as "Worst of the Worst." Freedom House, "The Worst of the Worst - The World's Most Repressive Societies 2008", New York, Freedom House, 2008.

¹¹¹ UN WATCH Report, "Dawn of a new era? Assessment of the United Nations Human Rights Council and its Year of Reform", United Nations Headquarters, May 7 2007, p. 8.

¹¹² Simmons, p. 94.

¹¹³ Willetts states that NGOs are comparable to states in the sense that each has legal personality, but not in the sense that they have the same rights and obligations. Willetts, 2000, p. 213.

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