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Civil Society Engaging  
Multilateral Institutions:  
*At the Crossroads*

*FIM was established in 1998 in Montreal as a global alliance of individuals and organizations with the goal of improving the influence of international civil society on the United Nations and the multilateral system. FIM believes that the stated goals of the UN are beyond reasonable reproach and that the challenge of the FIM alliance is to assist meaningfully in bringing them to fruition.*

*FIM provides a neutral setting for an annual Forum in Montreal for reflection and active learning about the interaction between international civil society and the multilateral system. In so doing, the Forum draws lessons from experiences in different sectors, regions and multilateral institutions that can strengthen the voice and participation of civil society actors in the multilateral system.*

**Civil Society Engaging  
Multilateral Institutions:  
*At the Crossroads***

*Proceedings from the first Forum, held  
in Montreal September 8-10, 1999.*

This publication has been designed to provide the reader with an introduction to and discussion of the first Forum, and includes six feature articles which were presented by key practitioners from the NGO community. These articles are presented in alphabetical order by author and represent selected case studies illustrating civil society's impact and changing role in six different arenas of the multilateral system. Following the papers is an analysis of the comments and discussions which took place at the Conference, September 8-10 in Montreal, Canada.

Reprints of articles that appear in *Civil Society Engaging Multilateral Institutions: At the Crossroads* may be ordered in quantities of 50 or more. For information on quantities and prices, please contact McCormick & Associates at (450) 691-9515, or by e-mail: [garneau@vl.videotron.ca](mailto:garneau@vl.videotron.ca)

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The feature articles in this publication represent the opinions of the authors.

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**I**t is a special thrill to write the opening words to this, the first 'Annual Journal' of the Montreal International Forum.



The first Forum, which forms the basis of this report, was two years in the making. Montreal International Forum is an international think-tank that is creating a space for reflection upon as well as the identification of strategy about issues relating to civil society and its interaction with the multilateral system. The non-governmental community, in particular, is composed of people who believe profoundly that action speaks louder than words. As a result their work lives are essentially operationally-oriented. Although they are constantly creating new knowledge, they seldom budget the time to reflect communally upon their activities and to commit their knowledge to the public domain.

The annual Montreal International Forum is an effort to redress this imbalance, specifically in the area of relations with and impact upon the multilateral system. As you will see in the accompanying documentation, there is every reason to believe that we have successfully identified a need and a want.

The overwhelming reaction of the 40 plus participants in the first Forum was strongly positive. This success, which I hope is conveyed in the following pages, is not primarily the result, however, of any strong conceptual precepts of the Forum, as important as they may be. Rather, it is a direct reflection of the quality of our participants, the strong mutual trust that was generated at the Forum, and the inspirational passion that ensued.

As one participant, I felt moved, validated and proud to be a small part of a vital and growing movement of international solidarity. Coming together as we did from around the world, we spoke in one tongue about success after success in the universal struggle for justice and responsible freedom. It is a worthwhile legacy for FIM to carry forward.

There are several people I would like to thank for their support and their working commitment to, what was at times, a distant and potentially ephemeral vision. Thanks to all of the interim board members, Lyse Blanchard, Jacques Champagne, Jacques Jobin, Paul Shay and Pierre Verronneau; without their intellectual and practical inputs FIM would never have gotten off the ground. A special thanks is due to Yves Pétillon who assumed the interim chair and who loaned to FIM the administrative support of CECI.

Thanks also to the main donors, Montreal International, Development and Peace and CIDA. They all participated knowingly and willingly in contributing risk capital. Ernest Hébert, Fabien Leboeuf, and Bruno Hébert were partners in the fullest sense of the term.

I am extremely grateful to my two working colleagues, Mario Lavoie and Chantal Lizotte. Mario is a constant and supportive reminder of my own limitations and his considerable intellect, knowledge and sense of strategy has been invaluable. Chantal's formidable and pleasant work ethic has allowed us to sleep easy, and her quiet efficiency has been indispensable.

Lastly, I am full of admiration for the current board members. They have given shape, structure and a strengthened vision to FIM. They embody the dream and help ensure an exciting and viable future.

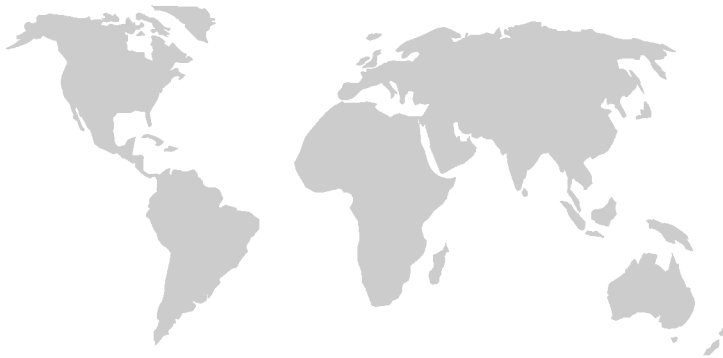
Next year's Forum theme will be Human Security. I invite all interested readers to contact us directly if they are interested in participating and contributing.

Nigel Martin  
*President / CEO*

# The Globalization of Civil Society?

*“The growing incapacity of states to tackle the global problems that make an impact on public opinion...leads civil society to increasingly take into their own hands the responsibilities of global citizenship...often attracting more funding, performing more effectively, and receiving greater legitimacy than government-sponsored international efforts. The ‘privatization’ of global humanitarianism is gradually undermining one of the last rationales for the necessity of the nation state.”*

*(Manuel Castells, **The Power Of Identity**)*



## Introduction

**O**n the eve of the millennium, it seems that the road to overnight success for civil society organizations (CSOs), has taken at least 150 years. From some of the older CSOs still in existence – YMCA, founded in 1844, or the International Red Cross and Red Crescent Societies, founded in 1863 – to today, civil society organizations cover every spectrum in a worldwide rainbow coalition. Many of the first CSOs were religiously inspired and imbued with the charity of “noblesse oblige”. After World War II, a “new world order” of CSOs emerged, mushrooming in the 1960s, as a younger generation supplanted the “establishment CSOs”; in the 1970s and 1980s, the tidal waves of change emerged from civil society in the South. In the 1990s, a series of United Nations global conferences on the environment, human rights, population and development, social development, women, and human settlements, illustrated the plethora of CSOs and demonstrated their sophisticated and effective advocacy and public relations capacities.

This redrawing of the CSO landscape has posed both challenges and opportunities. For the United Nations system and national governments, civil society organizations are a force to be reckoned with. However, CSOs themselves, are confronted with several issues:

- seeking strategic partnerships and alliances with a myriad of other CSOs;
- struggling to maintain their toehold while simultaneously striving to establish/maintain their credibility and funding base;
- re-thinking their institutional structures (governance); and
- navigating a future course of direction in uncharted territory.

Given this backdrop, the Forum International de Montreal (FIM) decided to convene its first international

Forum on “The Changing Role of Civil Society in the Multilateral System” (September 8-10, 1999, Montreal). The Forum coalesced CSOs from all over the world with disparate sectoral and geographic interests, to foster a dialogue and exchange of perspectives and experiences to examine whether CSOs face common problems and, if so, to explore the possibility of common solutions.

FIM commissioned six papers to illustrate civil society’s impact and changing role in six different arenas of the multilateral system. The objective was to provide a critical (as opposed to comprehensive) assessment of selected models in the following areas:

- **UN world conferences** (case: “The NGO Steering Committee and Multi-Stakeholder Participation at the UN Commission on Sustainable Development”);
- **Development banks** (case: “NGOs and the World Bank: Lessons and Challenges”);
- **Permanent structures of the UN** (case: “ECOSOC and NGOs: A Review of the Review”);
- **One-time coalitions** (case: “Civil Society and the Establishment of the International Criminal Court”);
- **UN agencies and their programmes** (case: “UNAIDS: NGOs on Board and on the Board”); and
- **Trade and investment negotiations and fora** (case: “Civil Society’s Interaction with the World Trade Organization”);

In each case, civil society has played a very important role although, as the papers reveal, with varying degrees of impact. It cannot be overlooked, however, that the impact is often determined by the structure or multilateral sector that CSOs work in. Therefore, the “old style” approach of the World Trade Organization places itself on a collision course with civil society.

The papers reflect various levels of interaction. There are nascent initiatives, such as the International Criminal Court, and relatively “old” relationships, such as the United Nations Economic and Social Council (ECOSOC), dating to 1945. There are collaborative initiatives, such as UNAIDS which has CSO representation on its Program Co-ordinating Board; and, to a much lesser extent, the World Bank NGO Committee. Finally, there are purely CSO initiatives: the NGO Steering Committee to the UN Commission on Sustainable Development; and the “outsider looking in” approach of civil society public campaigns against the World Trade Organization.

Each of the above-mentioned case studies has encountered and overcome obstacles and provided lessons to be drawn from their experiences. For the purpose of discussion, we have highlighted three principal thematic issues that have emerged collectively from the papers.

Under each sub-section, we pose a series of questions intended to provoke further thought and comment.

## Policy Advocacy and Monitoring of Agreements

Without question, CSOs have demonstrated their effectiveness in raising public awareness, disseminating information, and advocating policy on the issues they are impassioned about. They publish professional and high-quality publications (e.g. *Social Development Review* and *Social Watch*) and sometimes maintain websites far more sophisticated than some national governments (e.g. Jubilee 2000); organize and participate in highly successful international meetings and workshops (e.g. Civicus); and spearhead landmark initiatives (e.g. International Criminal Court and International Landmines Treaty).

All six case studies have documented the significant advances of civil society in policy advocacy. CSOs have progressed from being content to be merely invited to the party (e.g. WTO opening and closing sessions and dinners) to insisting on having a seat at the decision-making table (e.g. Program Co-ordinating Board of UNAIDS).

However, after reading all the papers, one is forced to ask the question: are civil society organizations, like Sisyphus, consigned to perpetually pushing the proverbial stone uphill? What happens after CSOs have successfully lobbied for issues that are reflected in the final text of official declarations? What impact does monitoring have on the actual implementation of official agreements? Have CSOs concentrated on success at the global level to the detriment of national dialogue and advocacy at the national level?

## Collaboration Versus Co-option

Another theme that has emerged from the case studies is the issue of collaboration versus co-option. This is a long-standing issue which has to be understood in a broader context, recognizing that one’s perspective can be influenced by the “political and social culture” that we operate in. There are national governments whose practices are to work closely with representatives of civil society; other governments view CSOs as an element of society that has to be endured; and there are governments that are openly hostile to CSOs and consider them enemies of the state. It is important to stress that these differences are not necessarily aligned along the North-South axis. Differences also arise within countries, depending on the political party in power. For instance, the recent wave of social democratic governments in Europe has created more space for CSOs than previously was the case.

Furthermore, when CSOs collectively participate in working groups, such as the NGO World Bank Committee, or participate in NGO briefings organized by the World Trade Organization, who is influencing whom? Is it also not equally legitimate for multilateral organizations and national governments to lobby CSOs and get them “on side”? Are CSOs seduced by the elixir of “consultation”? Does consultation imply that our views must be given a fair hearing or that our views must be adhered to? What price, if any, does a CSO pay for a seat at the table? For instance, if CSOs are invited on official delegations to international conferences, are they obliged to toe the government line? When governments recruit CSO representatives into government positions, have they been co-opted or are they now in a position to implement policy?

## Partnerships and Networks

This is possibly the most complex issue that has been raised by the case studies since it sometimes pits Northern civil society organizations against Southern civil society organizations, paralleling the North-South schisms that currently exist in the international community. The parallel exists because Southern civil society, like their own governments, have equally fought against the colonialism of Northern CSOs. The increasing strength of Southern civil society is reflected in the paper on ECOSOC. Ironically, that paper also demonstrates that the emergence of civil society has led governments and the United Nations to play decisive roles in granting accreditation to CSOs, thereby determining the impact of CSOs in international policymaking.

Furthermore, there is the question of who controls the purse strings. Some of the papers squarely address this issue, arguing that Northern CSOs wield undue influence by having more resources than Southern CSOs. Therefore, power and control becomes not only an issue between civil society organizations and governments but within civil society itself.

An issue not directly addressed by the papers but begs the question: what is the impact of information technology on civil society? Is this new technology an opportunity for improved communications and networking among CSOs or is it another form of colonialism between the well-resourced and under-resourced organizations?

Some papers have focused on the strategic partnerships formed by CSOs, (e.g. the NGO Steering Committee on Sustainable Development) that serve as a model to emulate in other sectors. However, even here, the issue of representativity arises. Most papers raised this issue.

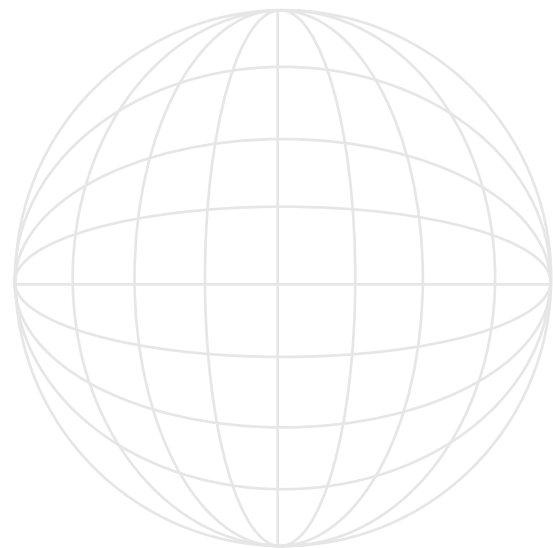
Who determines CSO participation? Who decides the legitimacy of CSOs or whether CSOs are representative,

democratic, transparent and accountable? Should CSO determine this? If so, who polices the police? Who do international CSOs represent? Is there an unspoken hierarchy among international, regional, national and community-based CSOs? Who, among them, really speaks for the grassroots? Does “think globally, act locally” mean that CSOs have sacrificed their local base for global recognition?

## Conclusion

Civil society organizations have made great strides, especially in the last decade, often outperforming governments as Manuel Castells noted. The themes outlined in this synthesis reflect both the challenges and opportunities that result from significant and swift progress. In a period of rapid change, it is important for civil society to pause and apply the same principles it advocates - namely, to review, evaluate and implement. We hope that FIM will provide a Forum for civil society to review its achievements and setbacks, evaluate the quantity and quality of its efforts and enable it to implement an action plan for the future.

It may sound cliché to remark that civil society is at a crossroads but it is true. Civil society is at a crossroads because the world itself is polarized between the “haves and have-nots”. The disparity between rich and poor widens and narrows in tandem with the decline and growth in economic and social development globally, regionally and nationally. If civil society is to continue to play an important role in social and economic progress, the critical path that the leaders of civil society will choose may prove to be their defining moment in determining how the next century unfolds and whether future generations will share equally in the benefits of a global society.



# ECOSOC and NGOs:

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## *A Review of the Review*

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BARBARA ADAMS

### ABSTRACT

*In 1996, the Economic and Social Council concludes a review of arrangements for NGOs. This review had two main outcomes: the updating of the UN arrangements for consultation with NGOs and a recommendation that the UN General Assembly examine the question of the participation of NGOs in all areas (beyond ECOSOC). This article briefly describes the review and its outcomes. It also addresses some developments since 1996, and identifies some areas of progress and some obstacles.*

### NGO Relations with the United Nations

**N**on-governmental organizations (NGOs) have been an energetic force in the United Nations since its founding in 1945. They interact with the UN Secretariat, agencies, programmes and funds, and consult with the 185 UN Member States. NGO work related to the UN comprises a number of activities, including information dissemination, awareness-raising, development education, policy advocacy, joint operational projects, the provision of technical expertise and collaboration with UN agencies, programmes and funds.

Formal interaction and consultation between NGOs and the UN are governed by the UN Charter and related resolutions of the Economic and Social Council (ECOSOC). The Preamble of the UN Charter affirms the aims and purposes that “We, the peoples of the United Nations” are committed to realize through the Organization. Article 71 of the Charter, from Chapter X: The Economic and Social Council, specifically introduces NGOs:

“The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.”

This article and the arrangements established by ECOSOC form the basis for NGO consultation with governments at the UN and establish guidelines for the UN Secretariat when dealing with NGOs. These procedures and arrangements also govern or guide other UN agencies and programmes in their relations with NGOs.

### The ECOSOC Review

From May 23, 1968 through July 1996, the rules and procedures concerning NGO consultative status with ECOSOC and its subsidiary bodies were governed by the provisions of ECOSOC Resolution 1296 (XLIV).

Developments in the relationship between the UN and NGOs and in the participation of NGOs in the work of the UN were becoming increasingly visible. They increasingly took on the role of promoters of new ideas, alerted the international community to emerging issues, and contributed expertise and talent vital to the work of the UN at both the policy and operational levels. NGOs became more present, active and influential at the international level, and more directly engaged in the intergovernmental policy setting process.

Governments acknowledged this visibility and influence and practices began to evolve for NGOs to participate more fully in the work of the UN at an institutional level. These included participation in hearings, panels and regular briefings and dialogues with governments, as well as access to informal negotiating sessions.

National NGOs emerged at the international level, adding to the depth of work of NGOs at the UN. The emergence of NGOs based in developing countries (the “South”) and their active participation in international meetings and conferences made the NGO presence more representative of civil societies worldwide. These developments became more evident during the UN conferences held during the 1990s.

This evolution and the contributions of NGOs to the 1992 United Nations Conference on Environment and Development (UNCED) resulted in a decision to hold a review of UN arrangements for NGO participation. ECOSOC decision 1993/214 of February 1993 established the parameters and mandate for “a general review of current arrangements for consultation with NGOs, with a view to updating them.” The review took place from February 1993-July 1996, under the auspices of a working group comprised of Member States and chaired first by Ambassador Jamsheed Marker (Pakistan) and then by Ambassador Ahmad Kamal (Pakistan).

One of the most valuable consequences of the review was its educational impact on participating governments, NGOs, and UN officials. Government delegates underwent an intensive hands-on NGO experience, and familiarized themselves with both the rules and practices for NGOs at the UN. They learned, among other things, about the growing use of electronic communications among NGOs in their international advocacy work, about different forms of NGO affiliation and cooperation with one another, and about mechanisms and processes for funding NGOs from developing countries to attend UN conferences and other events.

NGOs also learned from the process. To cite one NGO representative from the Philippines, “We gained a better understanding of the situation of Southern governments, especially in relation to their capacities and bargaining

leverage in negotiations. We feel that the lobbying that we had to do created better working relations between us (Southern NGOs) and our governments.”

On July 25, 1996, ECOSOC adopted by consensus resolution 1996/31 and decision 1996/297, which together contained the results of the review. Among its outcomes, ECOSOC resolution 1996/31 included: eligibility of national, regional and sub-regional NGOs for consultative status, including national affiliates of international NGOs; change in the nomenclature concerning categories of consultative status from Category I and II to General and Special consultative status; agreement of a standard procedure for NGO accreditation to and participation in international conferences convened by the UN; and expansion of the role of the ECOSOC Committee on NGOs while streamlining its procedures.

The resolution defined NGOs as “any international organization which is not established by a governmental entity or intergovernmental agreement.” It said that “organization” refers to NGOs at the national, subregional, regional and international levels, except where expressly stated otherwise.

ECOSOC decision 1996/297 requested the General Assembly (GA) to examine at its 51st session “the question of the participation of NGOs in all areas of work of the UN”, with the caveat that “all areas” would not be understood to extend beyond what the GA itself was empowered to consider under Articles 10 and 12 of the UN Charter regarding matters that were dealt with in the Security Council.

## **New Elements**

One of the most significant outcomes of the ECOSOC review was that it firmly established the eligibility of national, subregional and regional NGOs, including the national affiliates of international NGOs, to accede to consultative status.

This development stemmed in part from the experience of the recent UN conferences, where many national and regional NGOs demonstrated an international perspective and programme of work. Their direct experience of conditions within their country or region gave depth and reality to discussions on global issues. In addition, many of the national and regional NGOs most active in the global conference processes and implementation of conference outcomes were based in and directly represented constituencies in developing countries. Their perspectives added a new and much-needed dimension to the UN/NGO relationship and to relationships among NGOs. A few international NGOs (INGOs) suggested that national and regional NGOs limit themselves to participation in UN conferences and

regional commissions. They noted, for example, that the granting of similar status to national affiliates could create problems within INGOs.

The ECOSOC review also emphasized the need for increased participation from NGOs from developing countries and the need to achieve a better North/South balance in NGO participation. This concept of North/South balance raised some concerns among developed countries that warned against any implied quota that might discriminate against admission of additional national NGOs from the (over-represented) industrialized countries. Some international NGOs were disgruntled at the emphasis on North/South balance, pointing out that international NGOs often represented an international membership and should not be judged as northern if their headquarters was based in the north or if their UN representative was from a northern country. Some national NGOs emphasized that while their institutional structure might be national, their work and experience were of international character. They noted that they often work in coalitions and networks that have an international nature which cannot be verified by their formal structure.

In the two to three years since the review, the application process for consultative status with ECOSOC is becoming more transparent, and there has been an increase in the numbers applying for such status (during the last two years approximately 300-400 per annum). This is likely due primarily to a number of factors unrelated to the specifics of the NGO review, including follow-up to the global conferences; emerging new democracies; and responses to human rights issues.

Of the new applications received, approximately forty percent have been from national NGOs. It is not clear whether it can be concluded that the review's recognition of national NGOs and their contribution encouraged this response. Nor is it possible to draw firm conclusions regarding North/South balance and better regional representation. There have been increasing numbers of applications from southern-based NGOs, but it is still too soon to know whether the rate of applications will help to correct the imbalance in participation between North and South. The problem of financing NGOs from the Global South remains. There are fewer resources available for enabling southern participation and they tend to be earmarked for specific processes or programme areas.

NGOs continue to raise concerns about inconsistencies in the way in which consultative status is granted and about the politicization, on occasion, in the work of the ECOSOC Committee on NGOs.

In addition there is a growing concern about the meaning and application of the term "civil society". It has

been used to recognize "non-governmental sectors" broadly – to include, for example, grassroots groups, local communities, indigenous peoples, labour organizations, women's organizations, business and industry, local authorities and the academic community. However, some NGOs have questioned how the rights and responsibilities of consultative status will be affected. Others fear an imbalance in the development of a relationship with the United Nations in favour of business and industry.

## Post-review developments

NGOs have also played an increased role in shaping decisions taken at the UN, ranging from expertise offered by organizations in particular contexts such as humanitarian emergencies, to agenda-setting and policy formation in intergovernmental negotiations largely in the context of the global conference processes and their follow-up. NGOs played a significant role in the establishment of the International Criminal Court, the development and finalization of the optional protocol to CEDAW, and the ongoing negotiations on the Optional Protocol to the Convention on the Rights of the Child.

Information and communication technology in support of arrangements for consultation with NGOs has also transformed consultative relationships. The establishment of electronic interactive opportunities with NGOs, such as the listserv established by UNIFEM on gender-related violence, and the listserv established by the Chair of the CSD have enhanced UN-NGO and NGO-NGO collaboration. Listservs of NGO caucuses that work on thematic issues of intergovernmental processes being established on such issues as small arms, landmines, and the five-year review processes for the World Summit for Social Development and the Fourth World Conference on Women have been established. The UN is also now posting regular updates on the status of intergovernmental processes. Examples include the UN Division for the Advancement of Women's (UN/DAW) summary of the preparations for the five-year review of the Fourth World Conference on Women, and the Commission on Sustainable Development's CSD Update. UN outreach efforts have included the posting of official questionnaires on websites, such as those sent to governments regarding the five-year reviews of the World Summit for Social Development and Fourth World Conference on Women. The UN has recently developed a site on its home page dedicated to servicing civil society and many UN departments and the funds, programmes and agencies of the UN system are improving their "electronic" outreach to civil society.

The increase in NGO interest, presence and work at the UN since the ECOSOC review has required more

collaboration among NGOs and improved facilitation of NGOs by the UN and by the NGOs themselves.

The Conference of Non-Governmental Organizations in Consultative Status with ECOSOC (CONGO) has hosted consultations with representatives of Member States and with UN staff on issues of NGO status with all areas of the United Nations and has a programme of regional consultations on UN conference implementation. NGOs have developed differing forms of organizing with regard to their activities related to the functional commissions of ECOSOC and also regarding the Security Council. The most structured example is that of the Commission on Sustainable Development (CSD) NGO Steering Committee. Comprised of a diverse group of NGO representatives from the North and South, the Steering Committee works throughout the year, through electronic and other means, to prepare NGOs for substantive CSD meetings.

NGO representatives have made contributions to UN reports, have had an increasing presence in informal meetings and have increasingly served as experts in panels and educational events prior to and during intergovernmental meetings. Examples of this include expert group meetings convened by UN/DAW and UNFPA and the Population Division on the implementation of the Beijing Platform for Action and the Cairo ICPD Programme of Action respectively; and the Civil Society panels arranged by the General Assembly's Second Committee to inform the Financing for Development process, where NGOs, academics and business representatives shared views. In addition, the co-chairs of the GA Working Group on Financing for Development held two meetings with NGOs to elicit their responses.

The Commission for Social Development has introduced dialogue segments with NGOs and included NGO representatives on panels. The Commission on Sustainable Development has instituted multi-sector dialogues in its current five-year work programme. In 1998, CSD set up a multi-stakeholder committee to prepare a review of the voluntary initiatives and agreements. In 1999, the Dialogue focused on tourism and the agreed conclusions from the dialogue sessions were incorporated in the initial text prepared by the CSD Chair for negotiation by governments.

In addition to pioneering the concept of multi-sector dialogues, the 19th UNGA Special Session to review and appraise the implementation of Agenda 21 (Rio+5) in June 1997 agreed for the first time in UN history to invite 10 representatives of major groups to address its plenary session. At the 21st UNGA Special Session held at UN Headquarters from June 30 to July 2, 1999 to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development

(ICPD+5), three NGO representatives addressed the plenary of the Special Session. A similar arrangement was made for three NGO representatives to address the Special Session reviewing the Barbados Programme of Action for the Sustainable Development of Small Island Developing States (SIDS+5). This matter of NGOs addressing the plenary of a General Assembly session has become a lightning rod in the debate concerning NGO participation in all areas of the work of the United Nations.

### **“All Areas of the Work of the UN”**

During the 51st General Assembly, governments and NGOs began exploring additional forms of interaction, such as including NGO representatives on panels, and engaging in informal discussions with officers of the Plenary and Main Committees of the General Assembly.

Pursuant to ECOSOC decision 1996/297 requesting the General Assembly (GA) to examine “the question of the participation of NGOs in all areas of work of the UN”, a sub-group of the GA Working Group on the Strengthening of the UN System was established to consider how to expand NGO participation in all areas of the UN's work outside of the ECOSOC. Ambassador Ahmad Kamal (Pakistan) again chaired.

The sub-group began its first round of negotiations on January 29, 1997. While NGOs were not permitted to monitor the sub-group's deliberations on the scope of its work, they presented a common statement expressing their view that ECOSOC resolution 1996/31 could form the basis for arrangements in the GA and its main committees, and that arrangements for UN conferences as contained in part VII of the resolution should provide the basis for arrangements in GA special sessions.

Governments were not able to define the scope of the exercise, however. A division arose among governments with the United States and European Union seeking to limit the GA's examination solely to NGO participation in the GA and its main committees — though allowing consideration of participation of NGOs in special sessions of the GA, as a concession — and the Joint Coordination Council of the Group of 77 developing countries and Non-Aligned Movement (NAM) insisting that “all areas of the work of the UN” meant examining all bodies of the UN system.

Expressing frustration with the impasse, then-GA President Razali Ismail (Malaysia) noted, “The question of NGO participation has become a political football in this group, and that plays into the hands of governments who don't want anything to happen with NGOs.”

After months of negotiation, the sub-group failed to reach agreement on a mandate and was disbanded. As it

became clear that consensus could not be reached on extending NGO status, the 52nd GA, under Canada's guidance, adopted a decision that called for a report from the Secretary-General on current arrangements and practices with NGOs throughout the system, as well as legal and financial implications of any change in arrangements. Ross Hynes, who chaired the GA negotiations on the participation of NGOs said that he hoped the Secretary-General's report would generate momentum and show that many parts of the UN system were already "way ahead of the GA" in their collaborative work with NGOs.

The Secretary-General's report [A/53/170], issued on July 10, 1998 for consideration by the GA at its 53rd session, described existing arrangements and practices for UN/NGO interaction throughout the UN system. It also addressed legal and financial implications of modifications in the current arrangements and explored the question of participation of NGOs from all regions, in particular from developing countries.

Proposals toward enhancing participation of NGOs in all areas of the UN system included: harmonizing existing UN databases on NGOs to facilitate exchange and compilation of information on NGOs across the system; ensuring that NGO sections and liaison offices are appropriately staffed and allocated the necessary logistical and financial resources; and sharing best practices and experiences to promote coherence and efficiency in dealings with civil society. The report cited UN efforts to expand information dissemination through the Internet, and requested Member States to review funding for the UN's optical disk system (ODS) to allow for wider access by NGOs. It also requested Member States to establish a trust fund to facilitate participation of NGOs from developing countries in UN activities.

While informative on the work of the UN system with NGOs, particularly at the operational level, many NGOs felt that the report was cautious on the matter of NGO status with the GA, requesting only that Member States consider additional measures such as allowing NGOs with consultative status to occupy seats in the GA during public debates on items in social or economic fields. The same political impasse which had stalemated the working group mandate continued during the 53rd GA's deliberations, and consensus could only be found on a decision asking Member States and others, including NGOs, for their views on the Secretary-General's report.

In their responses many NGOs expressed their support for extending NGO status to the General Assembly. Some recommended the use of part VII of ECOSOC resolution 1996/31 on the participation of NGOs in international conferences as a model for NGO accreditation and access to special sessions of the GA and perhaps the GA itself and its main committees.

The NGO responses also included some recommendations for strengthening the UN/NGO relationship. While some NGOs placed emphasis on an annual civil society forum to be held to relate to the regular sessions of the GA, other NGOs proposed moving beyond consultations and annual meetings, toward permanent and structured consultations at the national and/or regional levels.

A new UN report on the "Views of Member States, members of the specialized agencies, observers, inter-governmental and non-governmental organizations from all regions on the Secretary-General's report (A/53/170) dealing with 'Arrangements and Practices for the Interaction of Non-governmental Organizations in All Activities of the United Nations System' will be presented to the 54th General Assembly and the member states will take up the matter again sometime between September and December 1999 during the main session of the General Assembly

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*NOTE: This article has been written in a personal capacity and does not reflect the views of the UN NGLS.*

# Civil Society and the Establishment of the International Criminal Court

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IRIS ALMEIDA

## ABSTRACT

*In this article, the author highlights the innovative strategies employed by civil society organisations towards the establishment of an International Criminal Court. Drawing on the gains made so far, the author reviews the means used by civil society to impact on the unfolding of events. The challenges that lie ahead include the need for greater vigilance by civil society organisations to ensure that States do not backslide on their commitments; increasing public awareness on this unique universal instrument for justice; and encouraging States to ratify the Rome Statute to make the Court a reality.*

## Introduction

**W**e live in a fractured world torn by wars, conflicts and violence. While international conflicts have ebbed, intrastate conflicts are on the rise.<sup>1</sup> Not only do these wars and conflicts result in massive destruction of property, but what is despicable is that numerous civilians are caught in the crossfire of the warring factions and the gruesome war machines result in torture, disappearances, rape, maiming and killings. During World War II, the percentage of civilian casualties was 5%; in the 1990s, that number has increased to 80%.<sup>2</sup> The United Nations has made ardent efforts to place a high premium on peaceful negotiation through diplomatic actions, early warning systems and the deployment of peacekeeping missions. The costs of peacekeeping operations estimated at US \$200 million in 1986, reached over US \$ 1 billion in 1997.<sup>3</sup> However, the gulf between what is needed and what is done has widened. The strategies adopted by States in response to crises and the resources committed to deal with them are often too little and too late to be effective. The near instantaneous global media coverage highlights to a world audience, in graphic detail, stunning images of the human costs of some of these conflicts. The situation in many countries is a glaring reminder that States have failed to match their rhetoric with action to promote and protect human rights. There is a blatant lack of accountability mechanisms that can translate the myriad of international covenants, declarations, treaties and resolutions into effective rights at the national level for all citizens.

Nevertheless, in recent years, a growing number of individuals, non-governmental organisations (hereinafter NGOs) and States have begun to recognise that the principles of sovereignty and non-interference in the internal affairs of a State should not excuse massive and systematic violations of human rights.

To address the issue of egregious crimes and to put an end to the impunity<sup>4</sup> enjoyed by the violators of human rights, States need to demonstrate the political will to act. In this regard, the role played by civil society organisations

in advocating for effective action by States is crucial. One example of this is the effort to establish an International Criminal Court (hereinafter the *Court*) with a global jurisdiction to prosecute individuals for gross breaches of international humanitarian law.

On July 17, 1998, the statute for the *Court* was finally adopted.<sup>5</sup> The *Court* will focus on crimes of the “most serious concern to the international community as a whole,”<sup>6</sup> namely genocide, crimes against humanity, war crimes and, when a definition has been agreed upon, the crime of aggression. It will have jurisdiction over any “natural person”<sup>7</sup> over 18 years of age<sup>8</sup> who commits a crime under the *Statute*, without distinction based on official capacity.<sup>9</sup> The *Court* will be a permanent judicial institution, unlike the International Criminal Tribunal for the former Yugoslavia (hereinafter ICTY)<sup>10</sup> and the International Criminal Tribunal for Rwanda (hereinafter ICTR),<sup>11</sup> whose jurisdictions are chronologically and geographically limited. The work of these ad-hoc tribunals will certainly provide a valuable expertise in procedure and jurisprudence, as will their predecessors, the Tribunals for Nuremberg<sup>12</sup> and Tokyo.<sup>13</sup>

Current efforts in the internationalisation of the struggle for human rights are spearheaded by the concerted work of civil society organisations including women’s rights activists, academics, journalists, professional bar associations, national and international NGOs around the world. This paper will attempt to review the pivotal contribution of international civil society in the process of establishing the *Court*, the means used in order to have an impact on the unfolding of events so far and the challenges that lie ahead.

### Concerted Action to Establish an Effective Court

In accordance with General Assembly resolutions 51/207 of December 17, 1996 and 52/160 of December 15, 1997, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (hereinafter *Rome Conference*) convened in Rome, Italy from June 15 to July 17, 1998. Delegations representing 160 countries, 14 United Nations agencies, 17 inter-governmental organisations and 235 NGOs took part. Over 800 NGOs co-ordinated their advocacy efforts under the umbrella of the Coalition for an International Criminal Court (CICC) and lobbied States from their respective national capitals for several months prior to and during this conference. Their expertise in international human rights and international humanitarian law; their practical experience in co-operating with the ICTY and the ICTR, in particular with regard to effectively addressing gender-related crimes; their networking and base of support from numerous civil society organisations in countries of the

North and the South; their long term commitment to the struggle against impunity; the participation of their senior leadership in the Conference negotiations and their focussed advocacy work positioned them to play a valuable role. The coherence of their positions and the consistency of their actions not only earned them the recognition by many States as important actors in the creation of the *Court*, but many States even included NGO representatives as advisers or members on their official delegations.

The road to Rome was however a long and arduous one. Following the Holocaust engineered by the Nazis, the popular cry “never again” reverberated in many parts of the world. Many calls were made, but plans envisaged for the creation of a *Court* were not pursued until 1949 when the International Law Commission (ILC) was tasked with studying the possibility of establishing such a *Court*. It prepared a draft treaty for consideration by the General Assembly in 1954. However, these efforts were put on hold once the Cold War set in. Only in June 1989, following a proposal made by Trinidad and Tobago for an international mechanism to combat drug trafficking, did the General Assembly once again request the ILC to address the question of establishing a *Court*. Support for a *Court* was enhanced in diverse national and international fora, where civil society played a dynamic role. Present in large numbers at the World Conference on Human Rights in Vienna in 1993, they advocated for progress in the establishment of the *Court*. The ILC submitted to the General Assembly a draft statute in 1993 and a final draft statute in 1994.

In 1997, prior to the Commonwealth Heads of State Meeting in Edinburgh and the *Sommet de la Francophonie* in Hanoi, civil society organisations, through electronic media, encouraged States to pass resolutions in support of the *Court*. These organisations put forward their views on the establishment of the *Court* as a universal judicial body and emphasised the need to ensure its effectiveness, independence and impartiality. They focussed on informing both national delegations as well as regional groupings of States such as the Caribbean Community (CARICOM), the Rio Group of Latin American States, the Southern African Development Community (SADC), the European Union and the League of Arab States about their positions. Their participation in the six meetings of the Preparatory Committee which took place between 1996 and 1998<sup>14</sup> assisted in developing a good contact and working relationship with many delegations. At each Preparatory Committee, they were better able to appreciate the positions of delegations and identify those who were sympathetic and committed to the creation of an independent, fair and effective *Court*, as well as those who were open or opposed to systematically addressing gender

concerns in the definition of crimes and in the structure and functioning of the *Court*.

In Rome, a group of approximately sixty like-minded States, including Argentina, Australia, Canada, Chile, Denmark, Germany, Senegal, Singapore, South Africa, Sweden and South Korea, through quiet diplomatic efforts, played a constructive role in the negotiations towards a final *Statute*. This group included many enthusiastic States in Sub-Saharan Africa who made a valuable contribution in ensuring that the *Statute* reflected efforts to establish a *Court* not just for the poorer, underdeveloped countries, but a *Court* for the world. NGOs met on a regular basis with the like-minded States and exerted pressure on them to demonstrate leadership and to use their strength of numbers in the negotiation of fundamental issues on the agenda.

### Vibrant Advocacy Efforts of Civil Society

In the effort to internationalize the struggle for human rights, civil society organisations are devising strategic partnerships among themselves to advocate for the implementation by States of international norms and treaties. They are also engaging in policy dialogue and co-operation with those States interested in and committed to enforcing international standards, to building democratic institutions and to fostering democratic participation and accountability. Using electronic communications, building national, regional and international coalitions, actively participating in the United Nations sponsored international conferences, basing their advocacy efforts on solid research and analysis, focussing on a few priority issues of global concern, setting benchmarks for the achievement of their goals and objectives and broadening the base of public support through education campaigns are but some of the means being employed by civil society to get States to act on the duty to fulfill their international obligations. These advocacy efforts emphasise public education and mobilisation, as well as persuasion and pressure on States to act.

These actions are slowly demonstrating positive results. In the face of massive violations of human rights, an increasing number of States are shedding the mantle of silence and acquiescence. Following the atrocities committed in the former Yugoslavia since 1991 and the genocide in Rwanda in 1994, the sympathy expressed by the public for the victims, their outrage at the actions of the violators, and NGO efforts to mobilise public opinion and pressure Governments played, in part, a role in moving the United Nations Security Council to act. International Commissions of Investigation were sent to the field and months later the ICTY<sup>15</sup> and ICTR<sup>16</sup> were set up.

Civil society organisations prepared and widely disseminated, in advance of the Preparatory Committees

and the Rome Conference, numerous briefing documents analysing the substantive legal and political issues involved in the negotiations. They exposed the inconsistencies in the positions advanced by some States hostile to the *Court* and presented alternative proposals on some of the contentious issues in the negotiations. Most importantly, they clearly articulated a set of benchmarks on which they believed there could be no compromise without a significant dilution of the *Statute*. These efforts focussed on ensuring the effectiveness, fairness, independence and gender sensitivity of a universal judicial mechanism.

The accreditation process for the Rome Conference, facilitated by the CICC Convenor, was instrumental in ensuring the access and active participation of NGOs in the deliberations. A few NGO representatives were offered the opportunity to present submissions at the opening and closing plenary sessions. Thirteen NGO Working Groups were convened to ensure a systematic contribution to each part and deal with all 128 articles in the *Statute*.<sup>17</sup> Sectorial groups on children's rights, victims' rights, gender justice and peace issues also enhanced the qualitative input of civil society. At the Conference, massive public education events organised by NGOs enabled the local population in Rome to demonstrate their interest and support for an effective *Court*. Daily strategy sessions organised by the CICC assisted in regular exchange of information among NGOs. Additionally, two daily newspapers and an on-line bulletin managed with professionalism over the entire five-week period was a useful source of information and provided an impetus to the advocacy efforts of NGOs. Interestingly, numerous delegations awaited with interest and enthusiasm the "new highlights" from these news sources.

### Mosaic of Views and Complexity of the Negotiation Process

As the Rome Conference opened, it was clear that States held differing views on what the *Court* should be and how it should function. The "consolidated" *Draft Statute*,<sup>18</sup> which was the subject of the deliberation, contained 1,300 bracketed texts with several options to choose from. The United Kingdom broke from its old tradition of hesitancy about international justice and immediately prior to the Rome Conference indicated support for the *Court*. The French were stubborn and intransigent in their position on the need to temper the role of the Prosecutor and to maintain a high threshold on war crimes. Japan was concerned about maintaining the principle of non-retroactivity of treaties, given that the issue of justice, redress and compensation to the "comfort women" victims of sexual slavery by the Japanese Imperial Army during World War II has not yet been settled. The complex nature of the political

process in the United States of America was reflected in their large delegation with representatives from the State Department, the Department of Justice, the Department of Defence and the National Security Council. The “permanent court,” noted the US Ambassador-at-Large for War Crimes Issues and head of the delegation, “must ensure that national systems with the will and the ability to prosecute persons who commit these crimes are permitted to do so, while guaranteeing that the perpetrators of these crimes in countries without competent, functioning legal systems nonetheless will be held accountable.”<sup>19</sup> The United States was particularly concerned that its peacekeepers may be subjected to politically motivated prosecutions and was joined by other permanent members of the Security Council (P-5 States)<sup>20</sup> in working to ensure that the *Court* would be, in effect, under the control of the Security Council.

### Progress amidst Hurdles: Appraisal of the *Statute*

On July 17, 1998 following five weeks of intense negotiations, in a dramatic secret vote, delegations overwhelmingly expressed their approval for adoption of the *Statute*. Of the 148 States present and voting, 120 States voted in favour, 21 States abstained and seven States voted against.

The adoption of the *Statute* marks a watershed in the struggle to end impunity enjoyed by perpetrators of heinous crimes. It provides for the codification of pre-existing rules of customary international law. The crime of genocide and crimes against humanity defined in the *Statute* reflect the definitions elaborated in several earlier treaties such as the *Convention on the Prevention and Punishment of the Crime of Genocide* and the Hague and Geneva Conventions on humanitarian law in time of war. It also affirms that crimes against humanity could occur both in times of peace and in situations of armed conflict. Also, the *Statute* expressly states that the *Court* shall have jurisdiction in respect to war crimes, in particular, when committed as part of a plan or policy, or as part of a large scale commission of such crimes.

A subject of contention related to the issue of child soldiers. Notwithstanding NGO efforts, at the insistence of the United States delegation, the compromise language adopted was not “recruitment” but “conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in the hostilities.”<sup>21</sup> Another difficult provision to resolve related to the prohibition of nuclear weapons and landmines. There was strong opposition from the major military powers and the largest exporters of such weapons, namely China, Russia and the United States. While the *Statute* prohibits the use of asphyxiating, poisonous or

other gases, and all analogous liquids, materials or devices<sup>22</sup> and bullets that expand or flatten easily in the human body,<sup>23</sup> references to landmines, chemical and nuclear weapons are absent.

Despite the rhetoric of States, the violations of the human rights of women, including in armed conflicts, have been largely neglected. However, there are signs that this attitude has begun to change, largely due to organised efforts of civil society. Picking up on the gains made at the World Conference on Human Rights in 1993, the Fourth World Conference on Women in 1995 and a few landmark judgments of the ICTR<sup>24</sup> and the ICTY,<sup>25</sup> a concerted campaign organised by the Women’s Caucus for Gender Justice met with wide support from most NGOs and some States. They succeeded in making the *Statute* a model for gender justice in its codification of both crimes of sexual, reproductive and gender violence, and of processes and criteria for personnel designed to ensure the capacity of the *Court* to implement justice for women. Gender related crimes are defined under article 1 (g) as “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of a comparable gravity.” The *Statute* also recognises the crime of persecution against any identifiable group or collectivity on grounds of gender.<sup>26</sup>

Gender related crimes covered by the *Statute* apply to international and non-international conflicts and are explicitly listed as crimes against humanity and war crimes.<sup>27</sup> The *Statute* is the first international treaty recognising the crime of forced pregnancy, despite efforts by the Holy See and Ireland, backed by some States in Latin America, in Africa and in the Arab League and joined by a few NGOs representing anti-abortion activists to exclude it. In addition to the crimes of enforced prostitution and enslavement, the crime of sexual slavery is also codified, thus recognising that the coerced nature of sexual services goes beyond the crime of slavery.

### Taking Stock of the Outcomes

In the view of NGOs, many compromises were made in order to get a large number of States to support the adoption of the Treaty. Foremost on this list are: 1) the inclusion of a seven-year opt-out provision on war crimes which was done to bring France on side; 2) the non-inclusion of nuclear weapons, binding laser weapons and landmines in the list of prohibitive weapons due to pressure exerted by states such as China, Russia and the United States; 3) the pre-conditions to the exercise of jurisdiction by the *Court* in cases where an investigation is not triggered by the Security Council, resulting from intense pressure by the United States delegation.

The positions advocated by civil society recognised as welcomed outcomes are: 1) the provision for an independent Prosecutor; 2) the inclusion of crimes committed during international as well as non-international armed conflicts; 3) the recognition and inclusion of gender related crimes; 4) the creation of a Victims and Witness Protection Unit; 5) the guaranteeing of rights of suspects and the accused to fair treatment and trial; 6) the non-admissibility of reservations to the ratification of the *Statute*; 7) the complimentary nature of the *Court* to national courts by being in a position to render justice where national courts are unable or unwilling to do so; 8) the exclusion of the death penalty as a means of punishment; and 9) the diversification of funding sources for the *Court*.

Agreeing on a *Statute* that would ensure an effective and independent *Court* was an extraordinary challenge. The able leadership of the Chair of the Committee of the Whole, the Chair of the Drafting Committee and the President of the Plenary Assembly, the synergy, dynamism and focussed advocacy efforts of NGOs mobilised within the CICC and the quiet diplomatic efforts of the like-minded States helped stir a rather complex and difficult negotiation process to fruition.

## The Movement Forward

The *Statute* will enter into force on the first day of the month after the sixtieth day following the date of the deposit of the sixtieth instrument of ratification.<sup>28</sup> Senegal was the first State to ratify the Treaty on February 2, 1999. Trinidad and Tobago took the bold step on April 6, 1999 and became the first State in the Americas to ratify, followed by San Marino on May 13, 1999.

It is important to get moving with the ratification process and maximise on the momentum generated so far by the adoption of the *Statute* as well as by growing public interest and concern with the wider issue of impunity, as highlighted in the Pinochet case<sup>29</sup> and the on-going atrocities in places like the Democratic Republic of Congo, Colombia, and Kosovo.

The sustained contribution of civil society is vital to making the *Court* a reality. Thus, to encourage States to ratify the *Statute*, an effective NGO strategy should focus on the following six points:

- 1) To contribute to the work of the Preparatory Commission whose mandate is to make progress on and complete the Rules of Procedure and Evidence and the Elements of Crimes before June 30, 2000. This will enable States to design enabling legislation domestically;
- 2) To promote public awareness on the *Statute* through the print and electronic media so that public interest, support and mobilisation for such a *Court* would be forthcoming;
- 3) To encourage, in each region, a State who is a keen supporter of the *Court* to lead the way with ratification;
- 4) To ensure that States and international agencies including NGOs provide technical and legal assistance to States in reviewing their domestic legislation in order to comply with the provisions of the *Statute*;
- 5) To use the available opportunities and up-coming regional and international events to both formally and informally place the issue of ratification on the agenda;
- 6) To continue to dialogue with those States that abstained or voted against the adoption of the *Statute*. Attempts to reopen the *Statute* in order to dilute its contents should be brought to the attention of the public and vigorously opposed.

## Conclusion

To predict with any certainty when the *Statute* will obtain the first sixty ratifications and when the *Court* will be established is impossible and unnecessary. The determination and commitment of the NGOs and like-minded States to encourage the ratification process remains critical to the establishment of the *Court*. The difficulties encountered by the UN Security Council to put an end to the atrocities in Kosovo, the controversy surrounding the recent North Atlantic Treaty Organisation air strikes and the obstacles faced by the ICTY to proceed with indictments, arrests and prosecution of alleged war criminals are revealing. They are an indication that institutional arrangements for the promotion of peace, truth, justice, reparation and reconciliation are complex and should necessarily be varied. Establishing a permanent *Court* as a universal instrument of restorative justice in a fractured world will be a significant step forward for the whole of humankind and the role of civil society is fundamental to its success.

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- 14 See UN GA Resolutions: A/RES/49/53 (9 December 1994), A/RES/50/46 (18 December 1995), A/RES/51/207 (16 January 1997) and A/RES/52/160 (15 December 1997).
- 15 Statute ICTY, *supra* note 10.
- 16 Statute ICTR, *supra* note 11.
- 17 The thirteen parts of the Statute were: 1) Establishment of the Court; 2) Jurisdiction, Admissibility, Definition of Crimes and Applicable Law; 3) General Principles of Criminal Law; 4) Composition and Administration; 5) Investigation and Prosecution; 6) Trial; 7) Penalties; 8) Appeal and Revision; 9) International Co-operation and Judicial Assistance; 10) Enforcement; 11) Assembly of States Parties; 12) Financing; and 13) Final Clauses.
- 18 Report of the Preparatory Committee on the Establishment of an International Criminal Court, UN Doc. A/CONF:183/2 (1998).
- 19 Scheffer D. US Policy on the International Criminal Tribunals. 1998: 13 *Am. U. Int'l L. Rev.* 1383 (Extract from a speech at the Conference on "War Crimes Tribunals: The Record and Prospects" organised by the Washington College, American University).
- 20 The P-5 consists of the Republic of China, France, the United States of America, the United Kingdom of Great Britain and Northern Ireland and Russia. See Charter of the United Nations, 26 June 1945, Can. T.S. 1945 No 7, as amended in 1965, 1968 and 1973 [hereinafter UN Charter], Chapter V, Article 23.
- 21 Statute, *supra* note 5, art. 8 (2) (b)(xxvi).
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# UNAIDS: *NGOs on Board and on the Board*<sup>1</sup>

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DENNIS ALTMAN

## Abstract:

*Epidemics ignore national borders, and so too need effective responses to them. The creation of UNAIDS as a “joint and co-sponsored program” of a number of key United Nations agencies is a test of how effective international responses can be. The involvement of in/affected communities, particularly through their formal involvement in the governing body of UNAIDS, is the focus of this paper.*

**E**very day 1,500 South Africans are estimated to contract HIV. There are many places in southern and eastern Africa where only grandparents and grandchildren remain: AIDS has wiped out most of the adult population. By the turn of the century it is likely that the number of infections in south Asia will exceed those in Africa, though the percentage of the adult population infected will remain far higher in countries such as Botswana, Zambia and South Africa.<sup>2</sup>

AIDS linked the least and the most “developed” regions of the world, and despite attempts to close borders to its spread (as in the restrictions on entry of HIV-positive people applied by many countries) the virus makes a mockery of national sovereignty. Its rapid spread is closely related to the forces of “development”, and to global population movements. HIV followed the huge population movements of the contemporary world, whether these were traders moving across Central Africa, women forced into sex-work as a means of survival as the old social order crumbled, men seeking work on the minefields of southern Africa, or tourists, refugees or soldiers.

Moreover the very policies urged by international organizations and economic theorists to promote faster development have added to the conditions which make people vulnerable to HIV infection. Under conditions of social dislocation, poverty and the absence of health services, HIV will spread much faster. There is an irony to the World Bank putting increasing sums of money into AIDS work in countries such as Brazil, India and Zimbabwe, where the Bank’s own policies had helped weaken the health structures which might have helped prevent the spread of HIV.

AIDS becomes symptomatic of new forms of security risks. As Robert Kaplan put it: “A second Cold War might be upon us – a protracted struggle between ourselves and the demons of crime, population pressure, environmental degradation, disease and culture conflict.”<sup>3</sup> The impact on national security of major epidemic disease among the young adult population is considerable, and there are suggestions that HIV was a factor in the gruesome civil wars

in Rwanda and Zaire. Equally the response to AIDS reflects a new global humanism which is establishing minimum standards of behaviour to which all governments can be held accountable.

### **International Responses to HIV/AIDS**

The first significant international response to the new epidemic came in 1986 when the World Health Organisation (WHO) established the Global Program on AIDS (GPA). GPA can be seen as having had three clear achievements: the establishment of an international discourse around HIV/AIDS which stressed the language of empowerment and participation; technical support for a number of developing countries in a range of policy and program areas; and mobilisation of donor countries to support a multilateral response to the epidemic.<sup>4</sup>

In large part due to the Global Program, the non-government sector was recognised as legitimate internationally, which suggests a somewhat different pattern to that usually involved in the creation of advocacy transnational networks.<sup>5</sup> Under GPA's aegis, networks developed such as the Global Network of People Living With AIDS (GNP Plus), the International Council of AIDS Service Organisations (ICASO) and the International Community of Women Living with HIV/AIDS (ICW).<sup>6</sup> At the same time these networks enabled links to be made with other transnational social movements, particularly among gay/lesbian organisations, sex-worker groups and some development organisations.

During the 1990s there was increased involvement of other UN agencies – especially UNDP and more recently the World Bank – and growing dissatisfaction among some donor governments with the workings of the GPA, seen as hamstrung by its place within WHO and unable to work co-operatively with other UN agencies. This combined with larger pressures for United Nations reform resulted in a number of donor countries proposing the creation of a “joint and co-sponsored program” of the United Nations, UNAIDS, which began operations in 1996.

UNAIDS is meant to co-ordinate the activities of seven of the international agencies – WHO; UNDP; UNESCO; UNICEF; UNFPA; the World Bank; and UNDCP – which are involved in AIDS policies, while acting as “the main advocate for global action on HIV/AIDS” (UNAIDS Mission). Co-operation is encouraged both globally and at country level, and there is now a single budget across the United Nations system for all HIV-related activities.

The Program Co-ordinating Board (PCB), which oversees the operations of UNAIDS, has tripartite membership, including the co-sponsoring agencies, representatives of both donor and recipient countries – and representatives of the NGO sector, specifically including People Living with HIV & AIDS (PLWHAs). This is the first time a United Nations agency has included representatives of affected communities on its governing board. The move was opposed by some governments, notably China (but also the Netherlands), for fear of the precedent it might set for other international agencies. While it was hoped that this model would be followed in country “theme groups” it is not clear that this is always the case, and there are complaints from some countries of the omission of community representatives and PLWHAs.

UNAIDS is based in the WHO offices in Geneva, with a headquarters staff of about 60 and an equivalent number in the field.<sup>7</sup> There is some tension within UNAIDS between what might be described as an emphasis on advocacy as against an emphasis on program support, but the advocacy role has become increasingly important even at country level. In some cases UNAIDS has been able to improve inter-agency co-operation at the country level, but the extent to which agencies will resist co-operation should not be underestimated. In his magisterial survey of “the information age” sociologist Manuel Castells writes: “International institutions... partly because of the inherent logic of any large bureaucracy, tend to take on a life of their own. So doing, they define their mandate in ways that tend to supersede the power of their constituent states, instituting a de facto global bureaucracy.”<sup>8</sup>

### **Civil Society and Governance**

The first attempts to create a framework for the international response grew out of ideas of the “new public health” and the Ottawa Charter, with its emphasis on community participation and a move away from an overly medicalized view of health. The first director of GPA, Jonathan Mann, made human rights and support for non-government and community-based organisations centerpieces of his approach. His successor, Mike Merson (1991-6), placed more emphasis on traditional public health, particularly in emphasising the links between HIV and STDs, although continuing the commitment to human rights. The first director of UNAIDS, Peter Piot, has added to the emphasis on human rights the importance of a simultaneous response from governments, from grassroots organisations and from business (which UNAIDS seems to regard as part of ‘civil society’).

All three recognised that the nature of HIV infection requires the mobilisation of considerable resources and direct interventions in areas of personal behaviour which often infringe upon taboos and involve stigmatised groups. This immediately sets AIDS aside from most other diseases, where the necessary precautions may be difficult and expensive (e.g. the elimination of mosquitoes or the provision of sanitation) but they are not emotionally charged in the way that is true for providing adolescents with condoms or drug-users with clean needles.

The epidemic arose when the revival of democracy in many parts of the world, particularly South America, and the collapse of Communism in Eastern Europe in the 1980s, led to a new emphasis on civil society.<sup>9</sup> To quote Castells again: “The growing incapacity of states to tackle the global problems that make an impact on public opinion... leads civil society to increasingly take into their own hands the responsibilities of global citizenship. Thus Amnesty International, Greenpeace, *Médecins sans Frontières*, Oxfam, and so many other humanitarian non-government organizations have become a major force in the international arena in the 1990s, often attracting more funding, performing more effectively, and receiving greater legitimacy than government-sponsored international efforts. The “privatization” of global humanitarianism is gradually undermining one of the last rationales for the necessity of the nation state.”<sup>10</sup>

In contrast, a World Bank Report on AIDS stresses the importance of national governments: “Only governments have the means and mandate to finance the public goods necessary for the monitoring and control of the disease... have a unique responsibility to intervene to reduce the negative externalities of high-risk behaviour, while preventing discrimination that would inhibit behavioral change... The government role extends to ensuring equity in access to HIV prevention and treatment for the most destitute.”<sup>11</sup> Nonetheless, the authors of this report consistently stress the need for collaboration between governments, NGOs and international donors, which is part of the accepted international rhetoric around the epidemic.

In practice the involvement of civil society has underpinned almost all successful examples of response to the epidemic, whether this be community-based support for those who are sick in New York or rural Uganda, peer education for gay men and sex workers, or attempts to establish needle-exchanges against official opposition. The

first explicit links between AIDS and the ideas of civil society probably come from Brazil in the 1980s; in a series of papers, Herbert Daniel and Richard Parker sought to explain the connections between the new epidemic, the larger political context and mobilisation around AIDS.<sup>12</sup>

For governments to meet even minimal demands for genuine support (both political and financial) of community and local actions requires political pressures and well-informed lobbying by those who care enough about AIDS to make it a leading priority. This sort of lobbying is unlikely in the absence of strong civil society. A strong autocratic government could take unpopular measures necessary to restrict the spread of HIV (an actual example comes from Cuba, which used traditional public health measures of testing and isolation with some success.<sup>13</sup>) More commonly, however, such measures, which are far from uncommon, are the product of panic and ignorance rather than rational choice. The role of non-governmental organisations is sometimes ambivalent; in certain cases their positions are inimical to AIDS control, as in religious objections to the provision of condoms or clean needles. Cardinal Sin, one of the leaders of the popular movement which helped bring down the Marcos regime in the Philippines has also strongly opposed the distribution of condoms, intended to help strengthen AIDS prevention.

But when it comes to affecting intimate behaviour, governments cannot do much through pre/proscription. Because HIV/AIDS impinges on areas of life often regarded as private it is unlikely that any government can be particularly effective in the absence of organisation amongst those most in/affected. Nonetheless, the case of Vietnam, where the government is more willing to confront the causes of HIV transmission than are many more democratic regimes, suggests that authoritarian governments can be quite effective, at least in the short run, in mobilizing prevention campaigns. (This is not to deny that Vietnam has adopted punitive attitudes towards prostitution, drug-use and homosexuality. There is ongoing tension between the official rhetoric of “social evils” and a pragmatism that has allowed small-scale needle exchanges in Ho Chi Minh and Hanoi.)

The experience of both rich and poor countries is that HIV work, whether prevention or support, requires the direct participation of those whose health, sexuality, livelihood and cultural practices are at stake, in particular those who are seropositive. Despite the rhetoric, the principle that PLWHAs should be represented in decision-making bodies is by no means universally accepted. Again, formally democratic countries are not necessarily more progressive on these issues than authoritarian ones.

## NGOs and Representation

There is a proliferation of typologies covering the “apparatus” or associations which constitute civil society, and which are often lumped together as “non-governmental organisations” (NGOs).<sup>14</sup> But “non-governmental” is a broader term than “NGO”, which is increasingly used to describe international agencies, often controlled and funded in the North, which work in international relief, development and advocacy. We need to distinguish between groups made up of PLWHAS, those directly growing out of affected communities, and those supporting the latter.<sup>15</sup> Tensions surface in various ways between those who are seropositive and seronegative, between those who emphasise prevention as opposed to treatments, or between local community-based organisations and international agencies (Red Cross, OXFAM, CAREs etc.) which support them – often with their own outside consultants and programs. Ted Nierras has warned: “We’ve moved away from thinking of development assistance as ‘patronage’ and now think of it as ‘partnership’ – an admirable move, but whatever term we use we cannot avoid the very real dynamics attending financial resources flows. I think one of the worst things we can do is to pretend that structural inequalities do not exist in development assistance in AIDS, or in linking gay communities internationally.”<sup>16</sup>

From its origin in 1919 the International Labour Organisation (ILO) set a model for tripartite representation (governments–employers–unions). The Economic and Social Council of the United Nations (ECOSOC) has provisions for NGOs to be given consultative status, allowing for limited participation at meetings. The growth of large international conferences such as the Rio summit on environment (1992), the Vienna human rights meeting (1993), the Cairo population conference (1994) and the women’s conference in Beijing (1995) have all seen a growing involvement of NGOs and of their ability to influence the agendas of United Nations agencies. There has been one such major non-governmental AIDS conference in Paris, in 1990, which led to the formation of ICASO. Since then the largest gatherings of non-governmental groups come at the International AIDS Conferences, held biennially and attracting up to 16,000 people,<sup>17</sup> although GNP Plus has organised a number of global PLWHA conferences.

UNAIDS claims to go further in including the non-governmental sector in its workings, particularly through their inclusion on the PCB.<sup>18</sup> The inclusion of affected NGO “delegates” poses difficult questions about how representative such persons can be. The choice of the ten full and alternate NGO members of the PCB was made by the three official NGO observers at the GPA Management Committee. While they made huge efforts to consult significant networks across the world there has been some discontent (both within the community sector and the co-sponsoring agencies) with the process and actual choice of NGO delegates, although no one has proposed a significant alternative way of doing it. The representativeness of those selected reflects the reality that in most parts of the world there are not even effective national systems of representation in the AIDS arena, and leads to anomalies such as the choice of people (oddly most often from North America) who seem to have few contacts with any established networks or major organisations.

Following the most recent meeting of the PCB (June 1999) ACT UP Paris sent out a press release denouncing UNAIDS for its alleged failures to meet the international challenges of the epidemic, submitting to American pressure and ignoring the voices of PLWHAs. Ironically their statement totally ignored the role of the official NGO delegates at the meeting, even though some of their criticisms had been made by the delegates, albeit in more diplomatic (and accurate) language.

In the same way, the claims of networks such as ICASO and GNP to “speak for” those in/affected are challenged by those who argue that there are many significant AIDS organisations who do not articulate with the networks; that the great majority of positive people do not seek an identity or representation based on their sero status; or that the networks are the creations of small groups of privileged elite who have capitalised on the epidemic for their own benefit. Networks by definition need to be open to all those who share their goals, and in so far as they articulate positions these need to be based on some form of representative principles. As the community base continues to grow – one UNAIDS report identifies 176 PWA groups in Thailand at the beginning of 1998 – the networks established at the beginning of the 1990s are lagging behind what is happening in the field. Yet as Keck and Sikkink have pointed out, “transnational networks multiply the voices that are heard in international and domestic politics.”<sup>19</sup>

The various 'networks' that were consulted in selecting the NGO delegates are in most cases not themselves democratic; more often they are peak bodies made up of people from a wide range of organisations chosen through a range of devices. At international conferences their voices tend to be less heard than that of groups such as ACT UP, whose style of direct confrontation is very effective in the presence of television cameras, but whose claim to representativeness is limited to the immediate participants.

## The Future

Can an international effort directed by the UN system effectively meet the issues of poverty, discrimination, human rights and gender inequality without which there can be no effective policies against the epidemic? In many parts of the world resistance against effective HIV prevention is legitimised by cultural and religious values. While even effective prevention requires considerable resources, the problems are compounded in providing effective treatments for those already infected, and donors have often been reluctant to give equal weight to treatment, partly because of the costs involved. Increasingly there are two epidemics: that in the rich world, where the latest biomedical techniques are available, and that in the poor, where even basic treatments for opportunistic disease are rare.<sup>20</sup>

It is a cliché to say that effective AIDS work means the creation of partnerships between civil society, government and business. Yet while many governments are deeply suspicious of the language of civil society and governance and hostile to anything they see as legitimization of the practices that lead to HIV infection, such partnerships will be elusive.

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# NGOs and the World Bank: Lessons and Challenges

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## Introduction

**N**on-governmental organizations (NGOs) and other groups from civil society have interacted with the World Bank, and with international financial institutions (IFIs) in general for at least twenty years, trying to influence a wide range of their activities. These activities include loans for the building of large infrastructure works such as dams and highways in developing countries; their policies and financing for structural adjustment programs; their public information policies; their accountability measures; their emphasis on poverty and social programs; and their participation policies among others. Such a sustained advocacy effort, initiated by some North American groups – mostly environmentalists and ecologists – nowadays includes organizations from all over the world who work through coalitions, alliances and networks of different types and represent a wide spectrum of organizations and groups, such as women's organizations, development NGOs, indigenous groups, human rights activists and community organizations of several kinds.

The international campaigns carried out by these groups have been characterized by social mobilization activities based on values shared by heterogeneous groups, usually located in different countries, with not necessarily identical agendas, that seek to have an effect on sensitive points of the actions of these institutions.<sup>2</sup> To do so, they use the

most modern information and communication systems, sophisticated advocacy strategies aimed at achieving maximum results in the short term, and dissemination and communication policies that seek to reach people or instances that have previously been identified within the decision-making system, and systems for the constant assessing and monitoring of results.<sup>3</sup> Nevertheless, this type of description does not always coincide with reality.

There is no doubt that these almost twenty years of advocacy campaigns have achieved some important results among which are worth mentioning the suspension of the loan for the building of the Arun dam in Nepal; the approval of public information policies by some multilateral development banks (MDBs), such as the World Bank and the Interamerican Development Bank (IDB); the establishment of inspection panels to “judge” if banks are performing in accordance with their own rules and procedures; reforms to the programs and policies of the International Development Agency (IDA); and the launching of the HIPC initiative to alleviate the debt of the poorest countries. Some operational results should be added to the above, such as the appointment of liaison officers for NGOs in dozens of countries around the world; increased participation from NGOs and other organizations of civil society in the development of Country Assistance Strategies (CAS) in some countries; reforms to several operational directives, and the undertaking of joint evaluations of several World Bank programs such as structural adjustment programs, social investment funds, participation policies, etc.

It is relatively easy to find a wide variety of current literature that has attempted to analyze and evaluate these international advocacy experiences by considering some central issues among which we can point out efficacy in achieving targeted results; accountability; forms of representation and relationship of the groups participating in these transnational alliances; advantages of certain types of campaigns; comparative evaluation of campaigns to influence projects and policies and the problems they encounter, etc. The World Bank itself has undertaken several evaluations on the subject of NGOs' participation in their programs and projects.<sup>4</sup>

The objective of this work is to analyze advocacy experiences on the World Bank from a particular point of view: that of development NGOs from the South. Although this paper will focus on the study of the NGO Working Group on the World Bank, the paper will also refer to several other alliances, networks, campaigns and proposals within the NGO world. This experience is interesting for at least two reasons: at a time of transition in the Bank, and by acting as a bridge, the Working Group played an important role in making agendas for change more viable at very different levels of decision-making. This allowed for the establishment of dialogue and action channels among external coalitions of NGOs and internal groups at the Bank willing to support a reform agenda; and, at the same time, the Working Group was able to widen its membership, especially among groups from the South, thus strengthening its advocacy capacities. This experience can be used as a reference to analyze other international alliances and campaigns. However, the results achieved also present a set of challenges for the Working Group, especially concerning the need to attain a balance between global advocacy and regional action.

This paper is divided into five parts: the second part is a brief conceptual discussion on NGOs and their advocacy actions; the third part presents a short history of the Working Group, from its origins to the campaign for the refinancing and reform of the IDA; the fourth analyzes the most recent performance of the Group in relation to the transition undergone by the Bank and the Group's main objectives in terms of advocacy and change of its structure and membership base, including an evaluation on the impact it had among NGOs from the South; the fifth and last part attempts a critical evaluation of such experience, based on an analysis model.

## **An analytical framework for the study of NGOs as transnational political entities**

### *The NGOs as transnational political entities*

NGOs are groups of people with heterogeneous views regarding approaches, visions of the world, origins and relationships with other entities. The axis of their action is their sharing of guiding principles of altruistic values for the common good. Whenever they undertake advocacy activities, they act based on such values and attempt to modify power relationships. Their advocacy activities are carried out at the local, national and international levels.<sup>5</sup> In this last case their actions are part of the globalization process, the direction of which they are trying to affect. Their activities have been described as "globalization from the base", or citizens' globalization. The decision to have an impact on the IFIs and MDBs is related, in this last case, to the NGOs' intention to affect the character of globalization.

### *Non-governmental entities vis à vis the MDBs*

In the case of actions aimed to have an impact on IFIs and MDBs, it is necessary to distinguish between the different entities that participate or have participated in such activities, needing to establish, at least, the differences between community-based groups, NGO networks, transnational alliances or coalitions, and liaison and support organizations.

Community-based groups are those organizations, formal or not, formed by persons linked to the MDBs' actions and usually located within the countries that request bank loans to support concrete projects or to instrument important political or institutional reforms; they receive advice from the banks on policies or they receive some type of accreditation in relation to other economic entities, such as large corporations.<sup>6</sup> These community-based organizations can be built around a project or around a sectorial intervention, or can come together as a result of the process they undertake to modify the results of the intervention of a MDB.

NGO networks are more or less specific groups of activists and/or NGOs that share certain common values or have similar interests in specific issues such as development, environment, or human rights; they have more or less explicit agendas; they have, in general, formal mechanisms for coordination, accountability and action, through which they promote their agendas, including some type of co-financing. It is possible to make a distinction between issue-based and multiple-issue networks and between those having their base in the South, in the North, in a region or at an international level.<sup>7</sup>

A special type of NGO with important roles in campaigns is one called a support organization, whose goal is to develop the capacity of other organizations which participate in advocacy activities; to facilitate information and to establish meeting fora among different networks or groups, with different views.<sup>8</sup>

Finally, it is necessary to distinguish those noted above from transnational alliances or coalitions that regroup several heterogeneous groups such as those previously mentioned, located in different countries or regions of the world, and which come together to attain more or less similar objectives.<sup>9</sup> These alliances establish a relationship between different geographic zones and institutional deficits and they operate in diverse political arenas simultaneously. In an optimal form, they constitute forms of social representation that establish relationships among social groups from such diverse areas. Such representation is not necessarily formal and can result from fora in which different leaders and delegates agree upon a specific common action.<sup>10</sup>

There are basically two types of alliances: those organized around projects dealing with a problem e.g. the building of a dam or a highway or a project related to the indigenous people within a country; and the alliances and coalitions gathered around specific policies from the MDBs, whether these are substantive, e.g. structural adjustment programs or IDA programs; or operational, e.g. information or participation policies, or the operation of the inspection panel. Project-related alliances can be organized from within affected groups or can originate from concerns raised by international NGOs. Obviously, the limits between these two types of alliances are not well defined and tend to overlap continuously.<sup>11</sup>

Two basic criteria are normally used to evaluate NGO transnational alliances: accountability within the alliances, and efficacy. Accountability means the mechanisms and procedures used to hold the members of an alliance responsible for its performance, in a context in which said members have diverse power levels.<sup>12</sup> This implies paying attention to the fact that all members must have a voice within the alliance; to accountability being maintained throughout the process; to the availability of mechanisms that allow the circulation of information and feedback; and the existence of strategy adjustment mechanisms, in which all members can participate. On the other hand, efficacy has to do with being able to verify the outcomes of the actions that have been carried out. To do so, it is essential for the alliance to have monitoring and evaluation systems for its actions. Although the outcomes of a problem-related project might appear clear, the same cannot be said when dealing with policies. In this last case, it is not only important that the policy be established through legislation, directives, or other means, but also that the policy is put into practice.<sup>13</sup>

### *Accountability in transnational alliances*

The fact that alliances and coalitions are guided by altruistic values and have democratic forms of operation with very precise political objectives makes the issue of political responsibility and accountability very important. Political responsibility refers to: a) the need to respect the competencies of the different entities in relation to the political arenas in which they operate and their capacities and knowledge on them;<sup>14</sup> b) the need to have democratic processes that establish and review the alliances' strategies and agendas, while recognizing that the objectives from the different participants (community-based organizations, NGO networks, activists, support organizations) do not necessarily coincide, and recognizing that the different entities assume different risks; c) the need to channel regular and accessible information, back and forth, among

the different members of the alliance or coalition; and, d) the need to have accountability systems on a continuous basis.

As Jordan and Tuijl, and Nelson correctly point out, these alliances are not exempt from conflict and those who represent articulated objectives in diverse political arenas, ensure a continuous flow of information, carry out a continuous review of their agenda and strategy, and have high levels of accountability, are very few. Among four types of campaigns and international alliances with differing levels of the above-mentioned criteria, these authors find that most of them are of the concurrent or dissociated type, where compatible or contradictory objectives coexist, there are reduced levels of information flow, little joint preparation and review of strategies, and medium or low levels of accountability.<sup>15</sup> This implies that in many of the international alliances, the groups at risk as a result of the programs and loans of the MDBs do not share the political guidance of the campaigns in which they participate and that, in many cases, the NGOs from the North tend to control such guidance.

Taking the above into consideration, Paul Nelson suggests that special attention should be paid to four sets of variables when establishing these international alliances:

- a) an adequate balance among the different arenas in which global campaigns are held: local, national and international, with adequate information flow among the said arenas and with shared guidance. This, Nelson states, is especially complex in alliances whose main focus is economic policy issues, since alternate economic policy proposals tend to be less developed. Similarly, too strong an emphasis on the international arena risks corroding the importance of the national political system and subordinating it to the field of global decisions.<sup>16</sup>
- b) an adequate balance between action from the masses and specialized advocacy by specialized NGO groups. Not giving adequate attention to this can lead to a dependence solely on NGOs' technical capacities, normally from those in the North. This does not mean that this type of lobbying should be discarded, but an adequate balance must be sought. Another central issue is the need to support efforts that organizations from the South undertake to strengthen their technical and analytical capacities.
- c) a balance between confrontation and negotiation perspectives with the MDBs, in which both perspectives help achieve the desired reform objectives. Experience shows that negotiation tends to be more successful when there are more radical campaigns with more inclusive agendas. At the same time, merely negotiating

advocacy activities without more confrontational actions tends to be discarded, while campaigns that use more confrontation generate defensive reactions.

- d) balance is also required between the short, medium and long term objectives, where special attention should be given to the need for creating more stable alliances; to develop the capacities of groups at other levels so that they can understand and undertake this type of action; and, above all, to build a base of social support to achieve a more democratic and inclusive vision of development. This becomes evident through the need to take care of the educational dimension of the alliances; the importance of strengthening organizations - especially those from the South - who participate in this type of activity in such a way as to modify a relationship in which groups from the North have more weight.<sup>17</sup>

### *The economic policy of advocacy on the World Bank*

Results from the interaction between the World Bank and NGOs are influenced by several internal and external entities, whose alignment with demands brought forward by society have a repercussion on the results: governments both from the North and from the South including, in the first case, parliaments, especially their finance commissions and their political logic; directive levels at the Bank, the different factions that exist within the Bank and their level of influence and, of course, other entities such as the press, companies related to the Bank's projects, etc. We will concentrate on the first group.

The World Bank, as an intergovernmental organization, has its main decision-making center at the Directory, where the richest countries have greater vote capacity than countries that receive loans from the Bank. The Bank president is part of the Directory; he/she is in charge of bringing to the Directory's attention the issues that require a decision: approval for CAS, important loans, operational policies and directives, or those matters about which the Directory has requested specific information. The countries' delegates are, in general, high level officers from the ministries of finance, development cooperation, or planning or economy. The Directory, in turn, is accountable to the Assembly of Governors, formed by the heads of the ministries in charge of the Bank. Like any political organization, the Bank's decisions are influenced by the government of each country, and the Bank's political and ideological vision is influenced by the correlation of forces between different groups. In general, the Directory tries to approve decisions by consensus, but when needed, it is accomplished by voting, keeping in mind that each country has a different weight. Even though members of the Bank's Directory depend on the executive, their actions are often

limited by the conditions imposed by the parliaments of each country.<sup>18</sup>

Decisions from the Directory reflect in many ways the weight of the different ideological currents in the individual countries, as well as the influence that NGOs and other groups have in their countries. In the case of countries from the North, the importance that social-democratic governments have nowadays, in some cases in coalition with leftist or ecologist groups, has been -in my opinion- a decisive factor in the greater openness that the Bank now has towards issues like participation, transparency, approach to poverty, debt relief, etc. This, however, does not imply the Bank is getting away from a neo-liberal vision in the economic field. The most notorious case of change might have been that of the British delegate who started voting along with the most advanced positions in the Directory, after the government in his country changed. Countries in the South, especially large Asian and American countries, normally tend to be the most restrictive in terms of participation of non-governmental entities, issues of transparency, or the use of independent evaluation mechanisms such as the inspection panel.<sup>19</sup>

Directive and technical officers from the Bank constitute another important entity in the decision-making system. Obviously, the most important of them all is the President, appointed by the Directory, who has great influence on the Bank's fundamental decisions. President Wolfensohn's mandate has meant an important opening for dialogue with NGOs at all levels and has sent a clear message to all factions within the Bank about the need for more transparency and accountability on the Bank's actions. Wolfensohn, the vice-presidents and the general directors constitute the Bank's directive group. Under their supervision is the group of technical officers and those who make decisions on concrete matters, whether they are issue-based or geographically related.<sup>20</sup>

Directive and technical officers from the Bank neither constitute homogeneous groups, nor have a homogeneous vision of the different issues presented by NGOs. Experience shows that in almost all areas and on almost all issues, there are groups of officers favorable to NGO issues and willing to work with the NGOs to advance their agendas. In the recent experience of the NGO Working Group on the World Bank, the progress obtained on participation was achieved in cooperation with favorable officers. By the same token, the Bank's unit responsible for NGOs, whose officers come -in many instances- from the same NGOs, acts as an internal supporter of NGO proposals. Moreover, during the last few years, several NGO activists have "crossed the line" and now work for the Bank. Obviously, the Bank's officers also respond to other pressure groups and economical and social points of view

and philosophies, and many of them, especially in the economic field, constitute a hard core of orthodox thinking.

Transnational alliance activities are based on their campaigns, their mobilization efforts and their advocacy and lobbying actions on governments and the units in charge of the relation with the Bank, including parliamentary committees, directive levels at the Bank and those in charge of technical matters. As much as possible, they try to present a common front along with the different reform groups that exist within these different levels, in order to constitute what Fox and Brown have called alliances in favor of sustainable development and – I would add – in favor of a more democratic and inclusive development.<sup>21</sup> Nevertheless, this model of influence has unequal characteristics for the groups in the South, who normally experience difficulties having access to the delegates from their countries in the Directory and must rely on their counterparts in the North for such purposes. In general, those who have access to the World Bank officers are those who, in many instances, yield to the lending government. This, added to the not very transparent operation of some governments, leads NGOs in the South to opt for defensive strategies once the loans have been approved and results in negative effects. In these cases, they try to use their relationships with organizations in the North to open political structures in their countries.<sup>22</sup>

### **A brief history of the NGO Working Group on the World Bank**

The NGO Committee on the World Bank was established in 1981 with the goal to facilitate dialogue and operational cooperation between the Bank and “apolitical” NGOs in the North.<sup>23</sup> During its first years, the main responsibility for the liaison with NGOs was in the hands of the Direction of External Relations of the Bank; thus, many of the most critical NGOs viewed this effort as a public relations one. Its actions were limited to the exchange of information and in seeking cooperation opportunities in the operational field. Nevertheless, an early trend for change developed when NGOs requested more in-depth discussions on issues of development policies and when the NGO Working Group on the World Bank was established in 1984, as an autonomous and parallel structure to the Committee. Since then, NGOs have a double representation mechanism: The Working Group and the Committee, the latter for formal liaison with the Bank’s personnel.<sup>24</sup>

However, it was not until the Santo Domingo Assembly in 1987 when the Committee underwent a deep restructuring which included substantial growth, especially with the

incorporation of members from the South. The dialogue on policies was identified as one of its main issues; there was a proposal to promote national and regional dialogues between the Bank and NGOs, and the Committee became dependent on the Strategic Planning Department at the Bank. In 1989, the Working Group sought to ratify its independence by publishing a position document on structural adjustment, in which it strongly criticized the Bank’s policies and called for their modification and for participation of the population in the policies that affected them. The document initiated an important debate. Finally, in 1991, during the meeting at Saly, Senegal, the Working Group defined its work plan around two substantive issues: the structural adjustment policies and the participation policy. During all this period and until 1993, the relations between the Bank and NGOs within the Committee were characterized by contrasting and often conflicting points of view, and the absence of substantive dialogue, despite the Group’s efforts to enrich the debate on structural adjustment with well-structured and well-documented national case studies. In fact, the dialogue on adjustment programs lost weight in the Committee’s works and only regained importance later, in the course of an exercise called SAPRI, outside of the Committee.<sup>25</sup>

This landscape underwent important changes towards 1993-94, within the framework of two important events: discussions on the IDA refinancing, and the campaign “50 years are enough”. By then, the Committee had changed significantly; it was formed by 26 NGOs from the most important developing regions of the world, from Europe and North America and the Pacific, as well as two international NGOs.<sup>26</sup> At that time, its membership comprised regional NGO networks, mostly in the development field, some of them with policy departments, which represented a significant number of groups.<sup>27</sup> NGOs from the South held, more than ever, leadership of the group.<sup>28</sup>

The discussion on the refinancing of IDA 10 was related to the concessional arm of the Bank for the poorest countries, which required explicit financing from the richest countries. Towards the end of 1992, several groups were pressuring the US Congress to cut financing to the Bank as part of their efforts to accomplish a radical reform in the Bank. The Working Group, under leadership from its members from the South, chose to carry out an explicit campaign in favor of refinancing and obtained the commitment of members from the North for the same purpose. They held meetings with the Bank’s executive directors, they visited the US Congress and publicized their support. However, they asked that IDA funds not be used for adjustment programs: that they have a clear focus on eradication of poverty, and to ensure that participation

became a priority for the Bank. Even though, as Jane Covey points out, many of the NGOs of the Group did not have the capacity to monitor the Bank's commitments, the discussion on IDA became a key part of their effort to reform the Bank's policies. Reports and talks on the issue, presented and discussed both in Washington and at regional meetings, have included, since then, a review of the allocation of the resources, of the participation policies, their impact, etc.

In fact, the IDA refinancing, and the pressure for such resources to be used in social development programs, was the key issue for the Group's action between 1993 and 1998 and was the main leverage to strengthen its pressure capacity within the Bank. The discussion on IDA also marked a separation of the Group from some other NGO organizations which were much more radical and were, by then, advocating for a cut in the financing to the Bank, and who were grouped under the "50 years is enough" campaign. Based on the pressure exerted by NGOs from the South and their allies in the North, the US Congress approved the financing, even though it was tied to conditions similar to the reform demands from NGOs. During a second round of discussions on IDA 11 refinancing, no important NGO group from the North contested the decision to support the financing and to promote the reform of IDA policies.<sup>29</sup>

The IDA experience allowed the NGO Working Group on the World Bank to organize itself as an important reference group in the field of activists related to the Bank, with a well-known agenda and a membership whose legitimacy could not be questioned. This led to the Working Group being able to establish common agendas with other groups in issues like participation, HIPC, information policy, inspection panel, and modifications to specific operational directives.

### **Transition in the Bank and change in the structure of the Working Group**

Immediately following the election of President Wolfensohn, the Committee was able to use its position to considerably advance its agenda and its proposals, in what could be called a cumulative strategy of increased influence on the different decision-making levels at the Bank. This was accomplished by taking advantage of the reformist opportunity created by the new presidency and of political changes in countries from the North. This allowed the Committee to deepen its proposal on participation; to foster the opening of the CAS to the participation of civil society, and to advance in terms of turning it into a public document, as well as to support reforms to IDA; and to support the efforts from other alliances such as EURODAD,

in the field of debt, and BIC (Bank Information Center), in terms of the inspection panel. Additionally, the Committee took advantage of the opportunity to promote the opening of regional vice-presidencies to dialogue with NGOs, where each regional coalition supported their particular agenda. Finally, the Committee modified the membership and structure of the Group to provide a regional base open to different regional and national organizations interested in advocacy actions on the World Bank.

Such achievements resulted from the capital and prestige accumulated during the previous phase and from teamwork among the coordinating group. To succeed, the group maintained its periodic revision of IDA; it carried out advocacy actions at the parliaments of countries from the North at a time when the Republican Congress sought to reduce the US contribution; and, at the same time, kept promoting a participation policy both at the project level and in relation to the CAS. Increased levels of consultation were promoted concerning participation and specific project monitoring in all regions in which the Bank operates. The importance of such monitoring is that it allowed NGOs from the South to discuss concrete projects and participation and dissemination issues on the CAS with the regional vice-presidencies. At the same time, the Group realized a more global discussion on the Bank's policies in this field and an improvement of its propositioning capacity based on such concrete experiences.<sup>30</sup>

These achievements were also a result of a double strategy established by the Working Group. On one hand, it took advantage of the encouragement that the Bank gave to decentralization and to the establishment of regional dialogues with the vice-presidencies, based on concrete agendas;<sup>31</sup> on the other, it opened the dialogue with the Bank's Directory and the directive levels of the institution. This allowed the Group to turn into an entity working at many different levels: global, regional, and even national, and which maintained a dialogue with the different decision-making levels within the Bank as well as with other NGO coalitions and alliances.

As a result of the regional dialogues, NGOs were able to interact with areas of the Bank that were previously not very open to relations with NGOs and to promote concrete agendas.<sup>32</sup> In the case of Latin America, this included concrete goals concerning participation in CAS; joint review of participation in concrete projects; appointment of NGO liaison officers at the Bank's offices in the countries of the region; national dialogues between NGOs and Bank representatives, in some cases with the presence of government delegates; translation of official documents to the languages of the region; proposals to advance the Bank's gender policy, etc. Of course, many of these agreements were fulfilled only partially and NGOs keep demanding the

Bank complete fulfillment of its commitments (as in the case of translations). As well, the opening of regional and national dialogues allowed the Group not only to expand its representation base, but also to get in touch with other groups and alliances that promote different agendas.<sup>33</sup>

The dialogue with the Bank's Directory allowed NGOs from the South to establish discussions with an entity with which they had previously had little contact, and even with the directors of the same countries of origin of the NGOs. Besides an evaluation of the state of the relations between the Bank and NGOs, the NGO Working Group on the World Bank also promoted its agenda on participation and reform to the IDA at these meetings, as well as initiatives from other coalitions such as BIC, EURODAD, and even the SAPRI. This, as mentioned before, increased the reputation of the Group among coalitions and alliances with which it had conflictive relations in the past. This was also a result of the Working Group leadership, which was clearly from the South, an uncommon characteristic among international alliances.

Truly the most important decision was for it to modify its structure and expand its membership. This led to building a new legitimacy for the Working Group insofar as its global committee would be elected by regional assemblies of NGOs and other groups interested in having an impact on the World Bank. Currently, this encompasses all regions in which the Bank operates, including those where the Bank had little presence – like the Middle East, Central Asia and Central Europe – as well as developed regions. At the same time, there was a proposal to establish relationships with other alliances and groups that work on banking issues.<sup>34</sup>

Finally, a special aspect of the Working Group was its emphasis on contributing to the development of monitoring capabilities and global advocacy among NGOs in the South. For many NGO networks and NGO support organizations, the Working Group was able to carry out training and education activities for its own members and for those from the NGOs working with them. In the case of ALOP, a network of development NGOs with little previous experience in global advocacy activities, its participation allowed the education of its members in this field, the consolidation of an internal working group with members from all over the region, the definition of their own strategy, and alliances with national groups that work in the field or support for the creation of such groups when they did not exist.<sup>35</sup> A similar process took place with NGOs in Asia and Africa. These experiences allowed, in some cases, a new type of relationship with counterparts and with other global alliances.

## A critical evaluation of the experience

The subject of this paper has been the analysis of a concrete working experience of global advocacy on the World Bank, carried out by NGOs from the South. Three central characteristics of the Working Group experience are worth mentioning: the learning process for participating NGOs; the role played as a bridging organization between NGO networks and alliances who participated, in different ways, in global campaigns; and the capacity it had to take advantage of a particular reform opportunity at the Bank to position itself at different levels of decision-making, thus increasing its impact while simultaneously expanding its membership and reorganizing its structure. Despite all these important achievements, NGOs from the South represented at the NGO Working Group on the World Bank still face important challenges that they must resolve. I would like to mention the most important ones, many of which are not different from those faced by transnational alliances and coalitions led by NGOs from the North.

1. They should substantially improve their capacity to monitor achievements and commitments obtained through dialogue. The World Bank, like many other international organizations, is characterized by serious inconsistencies between speech and real practice. Commitments on participation, consultation and dissemination of CAS, second-generation institutional reforms, and new social projects need to be followed and evaluated by NGOs from the South. This implies strengthening analytic, evaluation and discussion capacities by assigning adequate resources for such purposes. Regional and national networks can become optimum vehicles for the same purpose, as well as developing a better relationship between NGOs and academic groups committed to democratic processes.
2. NGOs from the South must not avoid participation in NGO transnational alliances. Nevertheless, they should seek to ensure that these alliances are built democratically, that they contribute to improving their capacities and strengthening their presence in the national and local arenas, and that they also strengthen their capacity to develop agendas and strategies; that they have access to adequate information systems, including mechanisms to review strategies and campaigns, as well as accountability. In order for this to function well, consensual agendas and roles for each entity need to be clearly defined, just like the arenas in which each one is to participate, and mechanisms for the evaluation of results need to be established.
3. NGOs from the South must improve their capacity to establish relationships with community-based entities that participate in the banks' projects and programs, besides improving their systems for information

dissemination, for the discussion of objectives and strategies, and for accountability. Important experiences for the creation of national coalitions that have impact on banks can be found in several countries from the South, such as REDE in Brazil, the GPC in Nicaragua, and the *Transparencia* group in Mexico. There are also similar organizations in Asian and African countries, such as the Uganda Debt Network, the Freedom from Debt group from the Philippines and others. These groups normally include NGOs, community-based organizations, academic groups, etc. These organizations are an example from which other national groups can learn and draw lessons for their own experience. This will allow a balance of specialized advocacy with social mobilization; more confrontational external pressure with more negotiating efforts.

4. In the same way, NGOs from the South must strengthen their ability to promote national fora for the discussion of development policies and projects. This will certainly lead to improvement of their relationships with parliaments and congresses, with local governments and with other mechanisms of national representation. Inclusive and democratic government systems will surely let them face globalization challenges on a more autonomous and less subordinated basis.
5. At the same time, NGOs from the South must realize that participation in such dialogues makes them vulnerable to influences from the World Bank. Nevertheless, they must ensure that such influences are processed and only accepted when they do not stray from their own mission and commitments.
6. In the case of the NGO Working Group on the World Bank, it is essential that regionalization efforts do not limit its capacity for global influence. To be considered at all times is that the Bank, like many IFIs and MDBs, is above all a globalization entity with worldwide strategies. This requires a constant double effort: on one hand, to synthesize the experiences of national and regional advocacy in favor of more global proposals for the reform of policies and procedures used by the Bank; and, on the other, more deductive efforts from global issues towards their repercussions on specific countries. An adequate understanding of such double process will allow the Group to maintain its specific character: a global alliance of NGOs, under the leadership of those from the South, and with a capacity to intervene at many different levels. In the same way, it will be necessary for the Group to assure coordination with other transnational alliances in order to fulfill its role as a bridging organization. The diversity of NGO alliances and coalitions will be a central characteristic of political action by NGOs, which connect and disconnect in

accordance with the challenges and results obtained. The fundamental issue is that NGOs from the South participate jointly in such campaigns, based on horizontal and democratic relationships. This will imply a sustained effort to modify the characteristics and the inertia, which reproduces asymmetric relationships among NGOs at the international level.

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- 2 Nelson, P. Heroism and Ambiguity: NGO Advocacy in International Policy. Paper presented at the Birmingham Conference on NGOs in a Global Future, January 1999, page 2.
- 3 Fox, J. & Brown, D. *The Struggle for Accountability*. The MIT Press; 1998, page 30.
- 4 Fox, J. & Brown, D. *The Struggle for Accountability*. The MIT Press; 1998; Jordan, L. & Van Tuijl, P. Political Responsibility in NGO advocacy: exploring emerging shapes of global democracy. Unpublished paper, June 1997. Nelson, Paul. *The World Bank and NGOs: the limits of apolitical development*. London: Macmillan; 1995. Covey, Jane. Critical Cooperation? Influencing the World Bank through Policy Dialogue and Operational Cooperation; in Fox, J. & Brown, D., op. cit. Tussie, Diana, comp. *El BID, el Banco Mundial y la sociedad civil: nuevas formas de financiamiento internacional*. FLACSO: Buenos Aires; 1997. Leroy, Jean Pierre & Couto Soares, Maria Clara. *Bancos Multilaterais e Desenvolvimento Participativo no Brasil: dilemas e desafios*. FASE/IBASE: Rio de Janeiro; 1998. OED-World Bank, *Nongovernmental Organizations in Bank Supported Projects*. The World Bank: Washington; 1998.
- 5 Jordan, Lisa & van Tuijl, Peter. *Political Responsibility in NGO Advocacy*. Unpublished document, April BIC-NOVIB, 1998. They point out that the objective of advocacy, in the case of NGOs, is to change policies or projects, to represent groups without voice and to strengthen their capacity, their self-esteem and their self-confidence.
- 6 Fátima Mello differentiates this type of IFI intervention in underdeveloped countries.
- 7 Among the issue-based, the most important have been ecology groups such as Greenpeace, Friends of the Earth, Sierra Club, all from the US; Urgewald from Germany, or Ecologist from the United Kingdom. Among the multiple-issue ones, the most prominent have been those dealing with development issues, whose motivation for action is the eradication of poverty. Such is the case of NGO groups like OXFAM at the international sphere, APRODEV and CIDSE in Europe, but also ALOP in Latin America.
- 8 The most well known cases are Bank Information Center in Washington and Bank Watchers, from Bread for the World, as well as the NGO Working Group on the World Bank. All of them publish guides and newsletters and facilitate access to information from the World Bank.
- 9 The main characteristic of the recent evolution of political action by NGOs at the international level is precisely the formation of large coalitions, with a diversity of members, more or less similar objectives, and for a certain period of time. These alliances almost always spring from the initiative of an organization that seeks to support a community group which has been affected by programs or projects from international institutions or to face a policy or institution deemed inconvenient from the point of view of the organization's values. To achieve their purpose, they get in touch with other community groups and networks, put resources to work, design a strategy, etc.
- 10 The representation issue can be understood in two ways: a) as a mandate; or delegation by communities to be represented before society or before public powers, and b) as the result of a synchronization between the forum, the wishes of society, and the problems that affect it. In the case of NGOs, we are dealing with this second type. Leroy, Jean Pierre & Couto Soares, Maria Clara. *Conclusões: Os Desafios para a Construção da Participação da Cidadã*. In Leroy, Jean Pierre & Couto Soares, Maria Clara; *Bancos Multilaterais e Desenvolvimento Participativo no Brasil: Dilemas e Desafios*. FASE/IBASE, Rio de Janeiro, 1998, page 214.
- 11 Mobilization around the Sardar Sarovar dam, also known as the Narmada Campaign, is a good example of how mobilization for a project turned into mobilization aimed at changing the World Bank central policies: public information, population participation and consultation, the right for the claimants to be heard by independent tribunals, etc.
- 12 Brown, David & Fox, Jonathan. *Accountability within Transnational Coalitions*. In Fox, J. & Brown, D. *The Struggle for Accountability*. MIT Press: Cambridge; 1998.
- 13 Fox, Jonathan. *Promoting Independent Assessment of Multilateral Development Banks*:

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- 14 This, as Jordan and Tuijl correctly point out, does not necessarily have to do with a North-South division, since organizations from the South can have good working experience with the political arena from the North. The fact that such competence is not respected causes frequent accusations of neo-colonialism. As an African NGO leader pointed out, political advocacy in his own country is his responsibility; the advocacy that NGOs from the North have is a privilege.
  - 15 They differentiate hybrid alliances that have these characteristics, the best known example being the 'Narmada Campaign' which took place from the early '80s until the mid-90s, when the Bank withdrew its financing of the project. A second type of alliance is the one called concurrent, in which members do not have the same objectives; however, these are compatible and there is a regular flow of information, periodic revision of strategies, and medium levels of accountability. Such is the case of the campaign on the Arun III dam in Nepal, where local organizations' objective was to stop the project, while international groups sought to prove the effectiveness of the recently created inspection panel. A third type of campaign is the one called dissociated, in which the entities have contradictory objectives, information flow towards the North exists without an adequate balance towards the other direction, there is little accountability, and reduced joint revision of strategies. Finally, there are competitive campaigns in which the different members of the coalition have contradictory objectives; there is neither a flow of information, joint development of strategies, or accountability. According to the authors, the second and third types are the most common in the case of international campaigns, op. cit. Page. 13-19.
  - 16 This has created a constant call of attention from organizations in the South concerning positive conditions that nevertheless alienate national political discussions. See, for example, the works of REDE, Red Brasileira sobre Banca Multilateral. For a more general vision, consult Wood, A. & Lockwood, M. The Perestroika of Aid, New Perspectives in Conditionality. Bretton Woods Project and Christian Aid: London; March 1999.
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  - 18 As a matter of fact, one of NGOs' preferred strategies, especially in the United States, is to condition the approval of resources for the Bank in decisions regarding issues requested by NGOs. This is also the case with countries in the South, when parliaments participate in the approval of loans and where NGOs seek to have access to the information or, at least, to discuss conditions. Such is the case in Brazil, where NGOs worked with friendly parliament officers to have access to the CAS, which the Government and the Bank had decided to keep undisclosed.
  - 19 Nevertheless, there are other coalitions that do work, such as those that establish a relationship between European countries and their ancient colonies; the G-24, which tends to reflect the points of view of non-aligned countries, etc.
  - 20 For updated information on who participates at the different levels in the Bank, consultation of the guides prepared by the BIC is recommended: A Citizen's Guide to the World Bank; and Bread for the World, Who's Who in the World Bank, Washington, 1999.
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  - 22 For an analysis of the Brazilian case, see REDE, A Estrategia dos Bancos Multilaterais para o Brasil, INESC, 1998. For the South African case, see Hanlon, Joseph. How should South African NGOs deal with the World Bank. South African NGO Coalition, 1998.
  - 23 Initially, it was formed by 14 NGOs from the United States, Europe and Japan and 15 officers from the Bank. It held two annual meetings, one in Washington and the other in a developing country.
  - 24 The history of the Working Group and the committee has been taken from the above-mentioned work by Jane Covey.
  - 25 This exercise continues until today, based on a joint evaluation by the Bank, NGOs and some governments of the impact of SAP (Structural Adjustment Programs). However, such an exercise originated in a context that differs from the one that characterized the previous period.
  - 26 The members of the Working Group were five NGOs from Asia, Africa, Latin America and the Caribbean, and Europe; four NGO representatives from North America and the Pacific; and two international NGOs. Each NGO remained in the group for five years and was then replaced by another elected by the remaining organizations.
  - 27 Among others and in different ways, the following groups participated: CIDSE, APRODEV, INTERACTION, OXFAM, Save the Children, FAVDO, InterAfrica Group, ANGOC, CPDC, Third World Network and ALOP.
  - 28 For a discussion on the campaign opportunities surrounding the IDA 10 and 11, see Nelson, Paul. Conflict, Legitimacy and Effectiveness: Who speaks for whom in Transnational NGO networks Lobbying the World Bank? Non Profit and Voluntary Sector Quarterly, vol. 26, No. 4, December 1997, Sage Publications. See also Udall, Lori. The World Bank Inspection Panel: A Three Year Campaign, BIC; 1997, where the different strategies used by US NGOs to influence the refinancing of IDA which ended in the implementation of the inspection panel - among other things, are discussed.
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  - 30 In November 1998, the Group co-hosted an international seminar on participation called Upscaling and Mainstreaming Participation of Primary Stakeholders: Lessons Learned and Ways Forward. This was the culmination of almost ten years of work in the field, as well as of capacity building among NGOs from the South to monitor projects, a deficiency of the Working Group that Jane Covey has pointed out. However, it cannot be denied that the monitoring of concrete cases revealed, in many instances, the weakness of NGOs from the South in relation to the work carried out by their counterparts in the North. This reflects, to a good extent, the few resources that NGOs from the South have for policy issues. In many cases, NGOs from the North obstruct the financing of systematization, monitoring and incidence activities, and give priority to direct activities. This produces a division of work in which NGOs from the North make the policy and those from the South undertake the development work. There are, however, some exceptions, as in the case of EZE, which worked with ALOP in a program to have impact on actions from IFIs within Central America, Germany and Washington.
  - 31 Since 1995, the Group has organized meetings in Ghana, the Philippines, Colombia, Ivory Coast, South Africa, Nepal, India, Peru, Nicaragua and Jamaica, in which more than 400 NGOs and community-based groups participated, and which demonstrated the Group's gathering capacity.
  - 32 Until 1995, the vice-presidency of the Bank for Latin America and the Caribbean had not had discussion meetings with NGOs of the region, with which it only held ad-hoc encounters.
  - 33 At least 200 NGOs and community-based organizations have participated in the four meetings of the Group in Latin America and the Caribbean.
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## Manuel Chiriboga

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*As ALOP's Executive Secretary, he was elected Chair of the NGO Working Group on the World Bank and Co-Chair of the World Bank NGO Committee. In that capacity, he and fellow members promoted improved NGO participation in Bank projects and policies, better accountability mechanisms regarding NGOs and peoples' organizations, and more transparent relations regarding the Bank's activities in developing countries. He is also a member of the Steering Committee of the Coalition against Hunger and Rural Poverty; a member of the Steering Committee of the International Forum on Capacity Building (IFCB) as well as being its regional Coordinator; and a member of the Interamerican Development Bank's (IDB) advisory committee on Women and Gender.*

# The NGO Steering Committee and Multi-Stakeholder Participation at the UN Commission on Sustainable Development



MEGAN HOWELL

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## Abstract

*NGO participation in the United Nations Commission on Sustainable Development is facilitated by the NGO Steering Committee. Working with the secretariat and other stakeholders, the Steering Committee has developed new and innovative mechanisms for non-governmental participation. The Steering Committee's structure and its relationship with other stakeholders is an interesting case of civil society action at the intergovernmental level. The experiences gained may offer insight for civil society at other intergovernmental fora.*

## Introduction

**T**he high level of civil society attendance at the Rio Earth Summit in 1992 was groundbreaking. Tens of thousands of participants sent a clear message that achieving a sustainable future requires the involvement of all society, and cannot be left to governments alone. Agenda 21,<sup>1</sup> the programme of action agreed at the Earth Summit, recognises the importance of a multi-stakeholder approach to sustainable development, and includes chapters devoted to the role of nine different stakeholders, described as 'major groups'.<sup>2</sup>

An International Facilitating Committee [IFC] was established by NGOs and other major group participants in the lead-up to the Earth Summit. It provided non-political organisational support, including organising the Global Forum. An International Non-Governmental Organisations Forum [INGOF] was established by NGOs, creating an international 'space' to develop common political positions (thereby excluding other stakeholders such as industry). INGOF organised the Alternative Treaties, which were completed at the Global Forum. The Treaties were intended as an alternative to Agenda 21 and a tool for collective NGO action. They had no influence over intergovernmental negotiations. Both bodies worked successfully before and during the Rio meeting and were dissolved once they completed their work. INGOF continued until late 1995, organising a final meeting in Manila.<sup>3</sup>

After the Earth Summit, major group participation continued at the UN Commission on Sustainable Development [CSD] which was established to monitor the implementation of Agenda 21.<sup>4</sup> In the tradition of Rio, the CSD operates in a more cooperative, participatory manner than most other intergovernmental bodies. As well as the active participation of the major groups, the CSD has a

unique level of Ministerial participation, with around 60 Ministers participating in the 1999 session.

At the CSD's first session in 1993 [CSD-1] it became clear that a facilitation mechanism was needed to assist NGOs and major groups in maximising their participation. A meeting of the NGO working groups from Rio – who had already naturally formed again – was convened to discuss how NGOs might best organise themselves. The UN Non-Governmental Liaison Service facilitated a series of follow-up regional telephone conferences and a meeting for NGOs attending the Down to Earth conference in Copenhagen. The results of these discussions were brought to CSD-2 in 1994, where NGOs and major group representatives established the NGO Steering Committee to the UN Commission on Sustainable Development.<sup>5</sup>

The Steering Committee facilitates participation by providing resources, expertise and information to enable NGOs and other major groups to present their individual policy positions from a collectively organised and therefore stronger position. Some of the Steering Committee's services are listed in Appendix One.

The Steering Committee has over 80 representatives, with two from each of the identified regional caucuses, issue-based caucuses and major groups. The representatives, two Co-Chairs and an eight-person Management Committee are elected annually and serve from the end of one CSD to the next. The Steering Committee is committed to equitable regional and gender representation. Approximately 65% of current Steering Committee representation (1999-2000) is from the South. Women hold 50% of the positions. Organisational and administrative support is provided by two Clearinghouses, accountable to the Northern and Southern Regional Caucuses respectively.

In preparation for the five-year review of Rio in 1997 (a General Assembly Special Session, commonly known as 'Earth Summit II') NGOs agreed a collective position paper, 'Towards Earth Summit II'. The document underwent consultation with over 2,000 NGOs worldwide. It is now used as the base document for developing collective NGO positions at the CSD. NGO position papers and statements are prepared in a decentralised manner by the Steering Committee's issue caucuses, with much of the preparation being carried out well in advance of the CSD meetings.

In partnership with the secretariat, member states and other stakeholders, the Steering Committee has achieved greater levels of NGO and major group access to intergovernmental sessions and has been able to introduce new and innovative mechanisms for participation. For example, the Dialogue Segment – a forum for major group discussion within the formal sessions of the CSD – was introduced after NGO lobbying at Earth Summit II.

The open and cooperative nature of the CSD and the Steering Committee are considered to be models for the future of other intergovernmental fora.<sup>6</sup> The multi-stakeholder approach addresses obstacles to sustainable development in ways perhaps not available to governments alone. It is important for NGOs and civil society to examine the possibilities and implications of this approach.

## **Overcoming the Obstacles to Success**

In order to maintain its credibility, the Steering Committee must achieve high standards of performance in terms of outcomes and open, transparent and participatory processes. Some of the obstacles to this are inherent to the UN system; others have arisen due to differences between major groups. Perhaps the most difficult challenges have come from within the Steering Committee itself.

### *Minimising Obstacles to Participation at the UN*

The UN organisational and operational system is complex. Rules of procedure can be confusing, and limitations on NGO involvement (e.g. access to meetings and speaking rights within meetings) can frustrate NGO attempts to make an impact. Simply keeping up with all the member states' policy positions can be impossible if tackled by NGOs independently.

Member states vary in their views of the role of NGOs and major groups at the CSD. While most support the informal arrangements for NGO participation, a single objection can result in participation being reduced to the formally agreed minimum.

Significant reforms to the UN rules of procedure, which would require agreement from member states, would be necessary to fully overcome the institutional obstacles to NGO participation. Arrangements for NGO participation are currently being reviewed across the entire UN, however are unlikely to change as much as NGOs might like.

Institutional obstacles were a major reason for forming the Steering Committee. Speaking for a coalition of NGOs and major groups, the Steering Committee is positioned to highlight any access difficulties and to work towards their resolution with the secretariat and bureau.<sup>7</sup> Consequently, it has been possible to achieve far greater levels of access and participation on an informal basis than would be allowed officially. NGOs are afforded access to, and have even been able to speak in 'informal' and 'informal informal' intergovernmental sessions. The informality of arrangements at the CSD allows for greater advancements in practice, but also brings the risk that these advancements may be revoked at any time.

At Earth Summit II, the General Assembly's Committee of the Whole adopted the same approach as the CSD, allowing much greater levels of access and involvement. Ten NGO and major group representatives addressed the Heads of State attending the session. This was a significant breakthrough, helped by the fact that the President of the General Assembly, Ambassador Razali of Malaysia, had been the Chair of the first CSD in 1993 and was a strong supporter of NGO participation; and that an NGO representative, Derek Osborn, chaired some of the negotiations leading up to Earth Summit II.

### *Overcoming Obstacles to the Multi-Stakeholder Approach*

While most major groups share similar objectives and work well together, some participants have found it difficult to accept the transition from adversarial to cooperative relationships with industry. They are cautious that cooperation may be construed as endorsement of industry attitudes and practices, and that collaborative projects can only lead to 'lowest common denominator' outcomes.

The development of the Dialogues has led to a greater understanding that multi-stakeholder cooperation can support diverse perspectives and still result in worthwhile outcomes. The 1998 Industry Dialogues demonstrated that multi-stakeholder approaches can effectively call industry to account, by initiating a process for multi-stakeholder review of industry's 'voluntary initiatives' for sustainability. After a year of sometimes difficult negotiations between major groups, the voluntary initiatives program has been agreed and endorsed by the member states of the CSD.

Participants in the 1999 Tourism Dialogues raised similar concerns about working with industry. However, once the Dialogues began, the benefits of continuing discussion and cooperation became more apparent. A multi-stakeholder programme of work was proposed by the major groups and endorsed by the CSD. Part of the work will examine the causes and impacts of financial leakages from tourism earnings.<sup>8</sup>

Member states are supportive of the innovative approach of the Dialogues, although some member states objected to the arrangements for the Industry Dialogues because more time was allocated for non-governmental speakers than for governmental. The scheduling of the Dialogues is an indicator of their significance – slotted between the official start of the CSD and the High Level (Ministerial) Segment, the Dialogues enjoy a far greater level of governmental attendance and participation than in other multilateral meetings, where NGO sessions are often scheduled before the start of, or in conflict with, official sessions.

The Tourism Dialogues enjoyed very high member state attendance and support.<sup>9</sup> Their success was largely due to the extensive cooperation between the CSD Chair Simon Upton, the secretariat and the major group participants (NGOs, trade unions, local authorities and industry).

### *Internal Obstacles*

#### *The Steering Committee's Role, Responsibilities and Accountability*

A number of issues have led to misunderstandings about the role and responsibility of the Steering Committee:

- a) Steering Committee members, who facilitate participation, are also participants in their own right, lobbying on behalf of their NGOs. This is sometimes misunderstood as meaning the Steering Committee influences NGO positions more than it really does.
- b) The language developed around the Steering Committee may create confusion. There is very little reference to an NGO coalition or community, and often the Steering Committee is referred to as though it were the coalition, rather than a facilitating body. For example, the issue caucuses, where NGOs prepare position papers and pool their lobbying efforts, are referred to as caucuses of the Steering Committee, rather than of the coalition.
- c) The terms of reference developed in 1994 did not clearly define Steering Committee members' responsibilities. With only vague written requirements, the Steering Committee has not held its members accountable for ensuring widespread participation of NGOs and major groups on a regional and issue-focused basis. Consequently, the involvement and effectiveness of caucuses has varied widely.
- d) Steering Committee responsibilities have not been evenly allocated across the membership. A number of very committed people have carried the work, but this has perhaps allowed for a perception that the Steering Committee is controlled by a small number of interests.

As a self-organised body which has evolved in response to the needs of its members, it is not surprising that some aspects of the Steering Committee's role have developed more effectively than others. After Earth Summit II, the Steering Committee spent time reflecting on improvements, and has begun to address internal obstacles, primarily through improving information, communications and transparency.<sup>10</sup>

A series of Guidelines was agreed in 1998, covering such issues as the function of the Co-Chairs and the Management Committee, and communication procedures.<sup>11</sup> The Guidelines have been published and widely distributed to ensure better understanding of the Steering Committee's commitments and responsibilities, and have improved the flow and efficiency of Steering Committee meetings and activities.

After considerable consultation with members, the Steering Committee agreed a guideline making issue caucuses more accountable. Caucuses must now provide a brief statement of purpose and a membership list. To ensure caucuses have a voice at the CSD, at least ten member organisations must have UN accreditation. This information, published in a directory, demonstrates the legitimacy and range of membership in the caucuses and allows NGOs to identify caucuses of interest.<sup>12</sup> Some caucuses, such as the Sustainable Agriculture and Food Systems Caucus, are now creating their own sub-structure based on regional and issue-based focal points.

Provision of sufficient administrative and organisational support by the Clearinghouses has been a critical success factor in overcoming the Steering Committee's internal obstacles. The Guidelines and the Issue Caucus Directory begin to provide a written record of institutional history.

### *Celebrating Diversity*

The diversity of NGO perspectives can be challenging. The Steering Committee has often found it difficult to manage discussion in a way that recognises and accepts differences constructively. In some instances, a small number of NGOs have used conflict as a strategy to promote their own interests. For example, attempts were made by some participants to create a division between the Southern and Northern NGOs (replicating the lamentable example of Southern and Northern states), to the cost of the whole group.

Often, the conflicts between NGOs are related to perceptions of power and position. The most commonly cited (if oversimplified) example is between Northern and Southern NGOs. Equally relevant was the conflict between international NGOs, with their long-standing consultative status, and regional and national NGOs, who were newly accredited to the UN via the Rio process. Both of these situations arose early in the Rio process, and, while not necessarily resolved, have been addressed sufficiently to avoid significant fracturing within the NGO community.

Conflicts arising out of substantive issue-based differences have been resolved by allowing for NGO position papers to reflect majority and minority positions, an approach that was adopted by the intergovernmental negotiations in 1998.

Development of the Guidelines allowed participants to identify how Steering Committee processes could best meet their diverse needs. With the Guidelines now in place, the Steering Committee is able to respond to potential conflicts more confidently. This could be enhanced by further developing the Steering Committee's conflict resolution skills.

### *Increasing Issue Expertise*

A core group of NGOs and major group representatives participate in the CSD, many of whom were involved at the Earth Summit. The group has substantial expertise on sustainability issues and extensive procedural knowledge. However, the range of expertise could be increased to reflect the wide variation in issues being negotiated each year.

After lobbying at Earth Summit II, Tourism was considered for the first time at CSD-7 in 1999. In order to ensure an expert non-governmental presence, the Steering Committee undertook wide outreach to tourism-focused NGOs – many of whom had not heard of the CSD, let alone known that Tourism was on the agenda. This outreach contributed to the record attendance levels at CSD-7, with over 600 NGO and major group participants.

## **Looking Ahead: Challenges and Opportunities**

### *Earth Summit III, 2002*

An immediate focus is on preparing for the ten-year review of progress and implementation of Agenda 21. Earth Summit III offers the opportunity to re-energise the sustainable development agenda, both at the intergovernmental level and within civil society. Following the limited progress of Earth Summit II,<sup>13</sup> NGOs are concentrating on ensuring success in 2002, especially in securing greater commitments to specific targets, including financial commitments. The Steering Committee has an important role to play, disseminating information, mobilising efforts globally, and advocating NGO perspectives with the secretariat and member states.

### *Confronting the Difficult Issues*

The CSD is sometimes criticised as failing to address the core issues of sustainability, such as financial resourcing. This is partly because the CSD is a 'soft' forum where member states can initiate discussion on issues, and partly because such issues are dealt with by other bodies like the World Trade Organisation and World Bank. The criticism extends to the role of NGOs and major groups at the CSD: because the potential for creating change is limited, their efforts could perhaps be better focused elsewhere.

Discussion at the CSD may not resolve issues immediately, but it can create the mechanisms to find resolution (e.g. the creation of the Intergovernmental Panel

on Forests in 1995). NGOs and major groups need to be lobbying for mechanisms to address the difficult issues, improved coordination between the CSD and other bodies and increased multi-stakeholder involvement in these fora.

### *Enhancing NGO and major group participation*

NGO and major group participation is likely to continue growing, but does not necessarily require a greatly increased physical presence at the meetings. Participants could contribute at national and regional levels by lobbying their governments, monitoring implementation, and developing local partnerships for sustainable development. For such an expansion to be effective, the Steering Committee would need to undertake considerable outreach and provide ongoing information and support. This could be coordinated through the regional representatives and regional NGO networks.

The Steering Committee will continue its efforts to ensure broad-based participation at the CSD and should place emphasis on those regions and major groups that are currently under-represented, especially indigenous peoples. The range of issue expertise should also continue to be improved via outreach from the issue caucuses.

### *Continuing Development of the Multi-Stakeholder Approach*

There have now been two successful Dialogues, both creating ongoing multi-stakeholder work programmes. Future Dialogues, beginning with Sustainable Agriculture in 2000, should continue to advance this approach. Other mechanisms for multi-stakeholder approaches to sustainability should be explored. One possibility in the lead-up to Earth Summit III could be developing multi-stakeholder communication strategies to encourage local level implementation.

### *Refining the Steering Committee's Structure and Performance*

Significant areas of focus for the Steering Committee's continued development include creating a broader sense of responsibility and more collective leadership. Work with the issue caucuses should continue. The role of the regional networks should be similarly examined. Continuing development of the Clearinghouses will aid communications and information distribution throughout the year and assist smooth facilitation at CSD meetings.

### *UN Arrangements for NGO Participation*

Continued formalisation of "best practice" arrangements for NGO participation at the CSD should be sought,

without compromising the advances that can be made through informality.

The current review of arrangements and practices for the interaction of NGOs in all activities of the UN system<sup>14</sup> may have a significant impact on the shape of NGO involvement at the CSD and needs to be monitored closely.

### **Lessons and Conclusions**

The CSD is particularly supportive of NGO and major group participation. This has made it easier for the Steering Committee to lobby for increased access and to develop innovative mechanisms for participation. Multi-stakeholder approaches such as the Dialogues ensure that different perspectives are presented and can result in more robust outcomes for the CSD. They increase the 'buy-in' by major groups and improve the chances of implementation. The widespread recognition of the possibilities and benefits of the CSD's multi-stakeholder approach may now make it easier to develop similar models elsewhere.

The Steering Committee has proven to be an effective mechanism for facilitating NGO and major group participation at the CSD. Despite the various obstacles that it has encountered, the Steering Committee has enabled non-governmental participants to significantly influence the intergovernmental proceedings. In particular, the Steering Committee has ensured:

- more broad-based participation from all regions and sectors of society;
- coordination of lobbying, making it more efficient and effective, especially for smaller organisations;
- procedural and institutional guidance to improve issue experts' effectiveness;
- a collective and therefore stronger voice with the secretariat and bureau; and
- an on-going NGO presence, monitoring developments and disseminating information throughout the year.

The Steering Committee's experience has highlighted a number of critical factors for success. The form any NGO coordination structure takes must reflect the issues and institutions involved, but it would be important to ensure:

- clarity of function and purpose;
- collective leadership and transparent decision-making;
- guidelines for responsibilities and accountability measures;
- clear and open communications;
- recognition of diversity;
- establishment of good relationships with other stakeholders, including member states and the secretariat;

- creation of an institutional history and information base; and
- adequate administrative and organisational resources.

Agenda 21 recognised that achieving the goals of environmental, social and economic sustainability requires the involvement of all major groups as well as governments. The CSD and Steering Committee have proven that multi-stakeholder approaches can be successful. As well as consolidating the Steering Committee's role in the CSD, the challenge now is to extend the model to other intergovernmental fora and to create multi-stakeholder mechanisms for implementation, in order to ensure a more successful and sustainable future.

### Appendix One: Steering Committee Activities and Services

The Steering Committee, with administrative and organisational support from the Clearinghouses, facilitates NGO and major group participation in the CSD by providing a range of services. Throughout the year, Steering Committee activities and services include:

- coordinating preparation of collective position papers and lobbying efforts, including NGO preparations for the Dialogue Segments;
- acting as a channel of communication and advocacy with the secretariat, the bureau, member states and other stakeholders;
- obtaining and disseminating CSD-related information including official papers, draft texts, announcements on procedural arrangements, and training materials for new participants;
- providing a communication network for NGO and major group coordination using e-mail listservs, a website, fax and post; and
- fundraising to ensure the participation of NGOs from Central and Eastern Europe and the South.

During the CSD and any intersessional meetings the Steering Committee:

- organises weekend pre-meetings and daily NGO/major group strategy sessions;
- coordinates the development and distribution of any collective position papers and lobbying efforts;
- ensures a coordinated NGO presence in all sessions of the CSD (formal and informal) by appointing 'floor managers' who put forward requests for NGO speaking slots, and report on proceedings to the daily strategy sessions;
- provides training and support to NGOs new to the CSD; and

- provides facilities and resources for NGOs and major groups, including documents, meeting space and computers.

### References

- 1 Agenda 21: Programme of Action for Sustainable Development. United Nations Conference on Environment and Development, 3-14 June 1992.
- 2 The nine major groups are women, children and youth, indigenous people, NGOs, local authorities, workers and trade unions, business and industry, the scientific and technological community, and farmers. For an exploration of the 'intellectual and political history' behind the multi-stakeholder major group approach, see Jacqueline Roddick and Felix Dodds, 'Agenda 21's Political Strategy', *Environmental Politics*, Vol. 2, No. 4 (Winter 1993): 242 – 249.
- 3 For a further description of the arrangements for NGOs at Rio, see Matthias Finger, 'The UNCED Process' in Princen and Finger, *Environmental NGOs in World Politics* London: Routledge; 1994.
- 4 The CSD was established by ECOSOC resolution 1993/207, in accordance with the General Assembly resolution 47/191 (1991). (Documents available at [www.un.org/esa/sustdev/](http://www.un.org/esa/sustdev/)) It is interesting to note that there was a great deal of uncertainty regarding the nature, or even existence, of the follow-up mechanism from Rio. The International NGO Task Group on Legal and Institutional Matters (INTGLIM) worked with progressive governments to ensure the establishment of the CSD as a functional commission of ECOSOC. See Maria Verheij and William R. Pace, *Renewing the Spirit of Rio*. New York, INTGLIM, March 1997.
- 5 Bigg, T. and Dodds, F. 'NGOs and the UN System since the Earth Summit: The NGO Steering Committee for the Commission on Sustainable Development' in *Implementing Agenda 21: NGO Experiences from Around the World*. Geneva, UN Non-Governmental Liaison Service, 1997.
- 6 The Report of the Secretary-General on Environment and Human Settlements (6 October 1998, A/53/463) recognises that 'the CSD... has been a leader in its relations with major groups. CSD meetings are attended by representatives of a wide variety of interests. Non-governmental organisation participation is facilitated by a broad-based Non-Governmental Organizations Steering Committee... The practice at CSD meetings has been that representatives of major groups are allowed to speak virtually on an equal basis with representatives of Governments... The extensive involvement of major groups ... in the work of the CSD has enlivened and enriched deliberations that are important to the world's future. Further steps are needed to ensure that this kind of involvement is the rule in the United Nations.' The report goes on to recommend that the United Nations Environment Program Governing Council and the Commission on Human Settlements should 'be reformed, as an initial step, to come up to the standard of the CSD with respect to the involvement of major groups'.
- 7 The secretariat is housed within the UN Division for Sustainable Development and provides institutional support for the CSD. The bureau is composed of the CSD Chair and four Vice-Chairs, one from each of the five regional groupings of the UN. The bureau is elected annually and operates from the end of one CSD to the end of the next. For further description and critique of the elements of the CSD, see Felix Dodds [ed.] *The Way Forward: Beyond Agenda 21*. London: Earthscan; 1997.
- 8 The income from tourism that 'leaks' straight back out to cover the cost of imports, promotion, etc.
- 9 This is evidenced by the frequent reference to stakeholder participation in the Decisions and Resolutions from CSD-7.
- 10 NGO Steering Committee to the UN Commission on Sustainable Development Annual Report, 1998-99. New York: Northern Clearinghouse; April 1999.
- 11 NGO Steering Committee to the UN Commission on Sustainable Development Guidelines. New York: Northern Clearinghouse; December 1998. Electronic version available at [www.csdngo.org/csdngo](http://www.csdngo.org/csdngo)
- 12 NGO Steering Committee to the UN Commission on Sustainable Development Issue Caucus Directory. New York: Northern Clearinghouse; April 1999.
- 13 For outcomes of the five-year review, see Programme for the Further Implementation of Agenda 21, Special Session of the United Nations General Assembly, 23-28 June 1997.
- 14 Report of the Secretary-General, A/53/170.

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# CIVIL SOCIETY'S INTERACTION WITH THE WTO

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## INTRODUCTION

**T**his paper reviews the state of interaction between civil society organisations with the World Trade Organisation. It first outlines the lack of transparency and participation in the WTO system to set the background to the discussion. The paper then traces the development of NGO involvement in the WTO, from earlier days when there was hardly any information about the happenings in the GATT system, to recent years when greater awareness led civil society to criticise the WTO for a range of social and environmental ills. An account is then given on the response of the WTO system to the demands of civil society for greater information and transparency. This includes the efforts of the WTO, in the form of greater information flow, organisation of symposia to facilitate NGO-WTO dialogue, limited participation in the WTO Ministerial Conferences, and the establishment of a NGO liaison staff position. The concluding section makes an assessment of the state of WTO-civil society interaction and provides some proposals for greater transparency and participation in the WTO.

## LACK OF TRANSPARENCY AND PARTICIPATION IN THE WTO SYSTEM

The WTO has been and remains one of the most untransparent of international organisations, and also an agency in which NGOs have little effective participation.

This is despite moves by the WTO Secretariat in recent years to increase the WTO's interaction with NGOs and the recent pronouncements by some WTO Member States about the importance of involving NGOs in the WTO.

The main reasons for this lack of transparency are the working methods and the system of decision-making of the WTO system.

In terms of formal arrangements, decisions are made on the basis of "one country, one vote" and by consensus, thus giving the WTO the appearance of an organisation in which

decision-making is democratic. Decisions are taken by the General Council (comprising WTO Ambassadors of Member states based in Geneva), or representatives in subsidiary bodies (such as the TRIPS Council or the Agriculture Committee). Major decisions are also made or endorsed by the WTO Ministers meeting at a Ministerial Conference, normally once every two years.

In practice, the GATT (the WTO's predecessor) and WTO have been dominated by a few major industrial countries. Often, these countries negotiate and decide among themselves, and embark on an exercise of winning over (sometimes through intense pressure) a selected number of the more important or influential developing countries, in "informal meetings". Most WTO Members may not be invited to these informal meetings and may not even know that these meetings take place, or what happened there. When agreement is reached among a relatively small grouping, the decisions are rather easy to pass through the Committees or the General Council.

The system of decisions by consensus is also odd in its implementation. On issues where a majority of developing countries which form the vast majority of overall WTO membership may agree, it is said that "there is no consensus" should even a few developed countries disagree with the majority, and the issue concerned is practically killed or there is no chance of successfully dealing with it. However, should the major powers (especially the US, EU and Japan) agree on a particular issue, whilst a sizable number of developing countries disagree with them, and a large number remain silent, the major powers are likely to embark on a process which they call "building a consensus". In reality this means a process (sometimes prolonged) of wearing down the resistance of the outspoken developing countries until only a few, or even one or two, remain "outside the consensus." It is then relatively easy to pressurise these few remaining countries to also agree to "join the consensus."

The WTO has many Committees and Councils and there are often many meetings in a single day. Decisions and negotiations go on at these formal meetings. However, a significant part of the important bargaining and negotiation goes on in private, and even in the Committees and Councils.

Countries that are not considered significant are often not invited to the private negotiations. And even in many of the formal meetings (which are scheduled and which every Member is entitled to attend), the developing countries are poorly represented. Several do not have a Mission or presence in Geneva or else the Mission is understaffed and the few officials (who also cover meetings in the United Nations agencies) are unable to be present at the several meetings taking place in the WTO. Even if

present, many officials from developing countries are unable to adequately keep up with the often complex issues involved in the negotiations, and thus are unable to effectively make an impact.

Recently, in the selection of the new Director-General of WTO, there was a lack of transparency in the entire process. One of the candidates (Mr. Supachai of Thailand) was in the lead by a significant margin for much of the period but there was no attempt by the General Council Chairman to "form a consensus" around him. The United States campaigned strongly for the other candidate (Mr. Moore of New Zealand). When support was mustered so that it was claimed he had one or two more supporters than Mr. Supachai, the Chairman announced that a consensus should be formed around Mr. Moore. Many developing countries among the Supachai supporters (there were also some developed country supporters for him) cried foul, decried the untransparent process and demanded that a vote be taken. The US and other developed countries did not want voting, since this would set a precedent (there has not been a vote taken in the WTO) and damage the "decision by consensus" system. In the end, a compromise was made, with Moore taking a three-year term to be followed by a three-year term for Supachai. The whole process, lasting several months, was most bitter, unsatisfactory and untransparent. In a more transparent exercise, voting at a predetermined date would have resolved the issue.

In 1996, developed countries lobbied very hard to get three topics, investment, competition, and government procurement, introduced as new issues for study (and eventual negotiation for agreements) in the WTO. They wanted the Ministerial Conference in Singapore, held in December 1996, to endorse this. During the preparatory process, a significant number of developing countries vocally objected. Thus there was clearly no consensus. Nevertheless the issues became the main topic at the Ministerial through the devices of the Director-General writing a letter to the Chairman of the Ministerial requesting the latter to consider taking up the three issues on which there was no consensus, and the establishment of a small "informal group" of 30 countries to negotiate the final text of the Ministerial Declaration. Who selected the 30 countries, on what basis, and what they were discussing, were not known to the Conference delegates as a whole. Only on the night before the Conference ended were all the delegations summoned, given the final draft that had been thrashed out in secret by the small group, and asked to endorse it without change. Although several of the Ministers protested the entire untransparent and undemocratic process, the draft was eventually adopted as the Ministerial Declaration unchanged. In it were the decisions to establish

three new working groups on investment, competition and government procurement, which had only a few days earlier been objected to by many developing countries.

The above illustrates how lacking in transparency and participation the WTO system is, even for the majority of Members of the WTO.

The situation is so serious that many of the representatives of the Member states are not given adequate information and are not able to participate meaningfully. Further, manipulative devices are used to ensure that the decisions desired by the few Members that dominate the system are achieved, whilst the policies or decisions which many or most developing countries want are ignored or deflected, or have little or no chance of success.

The above features of the WTO system are important to keep in mind when the interaction of civil society with the WTO is discussed, for the system of decision-making in the WTO places constraints and limits on the influence or impact NGOs can have on WTO policies.

## **INFORMATION ABOUT GATT AND THE WTO, AND DEVELOPMENT OF CIVIL SOCIETY INVOLVEMENT IN WTO ISSUES**

When even WTO diplomats and Ministers find the WTO untransparent and non-participatory, it is no surprise that the situation is so bad when it comes to civil society's knowledge of and participation in developments and decision-making in the WTO.

Until two or three years ago, there was hardly any public knowledge of the workings of and negotiations in the WTO.

Even today, in most countries, Parliamentarians have remained in the dark about important negotiations and even agreements in the WTO, which bind their countries to change their national policies. Often these have very serious economic, social and cultural implications that very deeply affect the present and future of shape of their economies and societies. Even bureaucrats or Ministers that are not in the lead Ministry (usually the Ministry of Trade or Commerce) are largely or wholly unaware of the developments in the WTO. The media, academics, trade unions, farmers' groups, businessmen and NGOs, are usually not consulted and have little or no knowledge of what is happening in the WTO or what is their government's position on the many issues under discussion at the WTO.

Until a few years ago the situation was even worse. About the only independent source of detailed information on what was happening in the WTO was from the SUNS (South North Development Monitor) Bulletin, edited by

Mr. Chakravarthi Raghavan, a veteran Indian journalist based in Geneva. The SUNS published almost daily reports of negotiations in the various bodies of the GATT before, during and after the Uruguay Round that took place from 1986 to 1995. Although the negotiations took place behind closed doors, the SUNS was able to piece together what happened through interviews with the WTO diplomats and through obtaining and reporting of the official and unofficial documents and negotiation processes. The SUNS reports and analyses have become the best unofficial record of the negotiating history of the Uruguay Round and of the first years of the WTO.

The SUNS catered mainly to the diplomatic community and to international agencies, but increasingly the NGO community also became subscribers and readers. Many of the articles were also republished in the Third World Economics fortnightly magazine of the Third World Network and distributed quite widely to NGOs, research institutions, diplomats and policy makers of developing countries. When the SUNS started an email edition, several NGOs also subscribed. The book "Recolonisation", authored by Mr. Raghavan and published in 1990, gives a detailed account and analysis of the various aspects of the Uruguay Round negotiations, and provided NGOs and the public (as well as policy makers) valuable information on the GATT process.

Besides the SUNS, information was also made available to NGOs by UNCTAD, which in the late 1980s began a series of annual two or three-day Dialogue Workshops between UNCTAD officials and NGOs (organised by the NGLS). UNCTAD papers, booklets and documents were also made available to NGOs and the public, and these helped to make information available to the NGOs.

Due mainly to the information base generated by the SUNS and UNCTAD, a few NGOs began to organise meetings, conferences and campaigns on the Uruguay Round. As the implications of the WTO agreements became more widely known, these meetings and campaigns gathered faster pace and momentum from the end of the 1980s to the present.

There are various civil society groups that have become involved in GATT/WTO issues. They include: (a) groups involved in development and poverty issues, in the South as well as the North, concerned about the further marginalisation of developing countries; (b) environment groups concerned about how trade liberalisation and the GATT/WTO system affect the environment; (c) labour unions that sought to use the WTO system to further the cause of labour standards; (d) consumer organisations and other citizen groups that are concerned that the WTO process undermines national sovereignty, and dictates economic and social policies of their countries, having

negative effects such as higher drug prices and economic monopolisation by TNCs; and (e) radical social movements and people's organisations, especially farmers' organisations in both the South and the North.

## **CONCERNS AND ACTIVITIES OF NGOs IN RELATION TO THE WTO AND THEIR IMPACT ON THE WTO FROM THE OUTSIDE**

The WTO has increasingly felt the influence of civil society not so much as a result of NGO activity within the WTO but rather because of the highly publicised criticisms of the WTO emanating from various public groups and social movements.

During the closing years of the Uruguay Round, Southern and Northern NGOs became increasingly aware and vocal about the adverse effects of the impending agreements. They organised meetings among themselves, including parallel NGO meetings during major official WTO meetings. The NGOs began lobbying their governments and produced pamphlets, booklets and books about the ill effects of GATT and the WTO.

Social movements in some countries also began actions to demonstrate their unhappiness over the draft agreements. In India, farmers and citizen groups held demonstrations, especially regarding the effects of the TRIPS and Agriculture Agreements, and copies of the so-called Dunkel Draft (the compilation of the draft agreements) were burnt. In 1993, in Bangalore, a rally of 500,000 farmers pledged to fight and defy the Uruguay Round agreements. Farmers' groups in France also held large-scale protests against the Agriculture Agreement.

Environmental and consumer groups in the West became increasingly critical (and then some became incensed) of the perceived blocking by WTO rules of the viability of some consumer and environmental policies and measures in their countries. In particular, environmental and animal rights groups were outraged when the WTO ruled against the unilateral measure of the US in imposing a ban on tuna imported from some Latin American countries because of the way the catching of the fish potentially harmed dolphins. The panel decision on the "tuna-dolphin" case galvanised a large part of the environmental movement against the WTO, the groups charging that free trade rules were threatening to undermine national environmental policies.

Many citizen groups in Northern and Southern countries took up the issue of how international laws in the WTO were undermining national sovereignty by determining changes to national policies and "locking in" national policies and laws for the foreseeable future. Third

World groups as well as development NGOs in the North criticised the WTO agreements as being unequal in results, bringing gains to TNCs but causing firms and farms in developing countries to be threatened by competition from giant foreign firms due to liberalisation. All the groups criticised the WTO for its secrecy, the lack of transparency, the dearth of information coming out of the WTO, and the inability of NGOs to observe the WTO's negotiations or to otherwise participate in its activities.

This wide range of groups and their criticisms have had good media coverage, and many influential newspapers have published articles criticising the WTO and its rules for destroying the environment, for causing Third World poverty, for being the tools of TNCs, and for taking away the sovereignty of countries and the independence of local communities.

This caused increasing alarm for some of the major WTO Members which feared that the credibility of the WTO system was being challenged by adverse public reaction. This led to counter-measures taken by the Secretariat and some governments to control the adverse public perception of the WTO. (See following Section).

In the last few years there has also been an increasing public reaction against globalisation and the increasing power of TNCs and their behaviour, and the abandonment by the state of its role as defender of the rights or welfare of people. Globalisation is popularly perceived by many groups as causing job losses, destruction of the environment and erosion of social rights, as well as exploitation of Third World people. The WTO is now perceived as one of the main agents of globalisation, in fact replacing the IMF and the World Bank as the premier global institution promoting the interests of TNCs and restricting the right and ability of governments to fulfill their national and social responsibilities.

Labour unions, frustrated at the lack of enforcement at the ILO of its conventions and codes on labour standards, and anxious at what they perceived to be the transfer of TNC operations to countries with lower wages and labour standards, have been pushing for the introduction of labour standards in the WTO. The unions perceive that the WTO can give a boost to the implementation of labour standards in developing countries, since the WTO has the enforcement mechanism of trade sanctions, and this can be used to press countries to adhere to the labour standards. When the Singapore Ministerial Conference of December 1996 made a decision that the WTO should not be the venue of the labour standards issue, which rightfully belonged to the ILO, many unions were further frustrated with the WTO and intensified their campaign to bring labour standards into the WTO.

The unpopularity of the WTO, and the fact that the public is putting the blame on the WTO for the ill effects of globalisation, was highlighted by the mass protest actions taken by social movements in Geneva during the WTO's second Ministerial Conference in May 1998. About 10,000 people demonstrated in the streets of Geneva; some cars and shop windows were smashed during a demonstration, and police and soldiers manned the streets, including using barbed wire barricades at the UN building (where many of the WTO functions took place). These demonstrations, expressing loathing for the WTO and its role in globalisation, had a major psychological effect on the trade diplomats and some Heads of Government who participated in the WTO Conference. The protests spurred some governments (especially the US administration) to launch public relations exercises to win back public opinion.

The increasing influence of the NGOs came not from their participation within the WTO system but from their activities and protests from outside the WTO system: through their impact in the media; through lobbying of government and Parliaments; and through street protests. In the United States, a coalition of citizen groups, consumer groups and labour unions successfully lobbied Congress for the non-granting of extension of "fast track" authority to the President, which very much weakens the capacity of the US Administration to negotiate in future.

All this flurry of activity – the street protests in Geneva, the loss of fast track authority in the US, the continuing fury of environmentalists (as they lost another case in the "shrimp-turtle" dispute) – combined to convince the US and the EU that the NGOs have to be won over in order to restore public credibility of the WTO system and to succeed in further liberalisation of markets in developing countries.

It must be noted that the impact of the NGOs and social movements on the WTO arose from their activities outside the WTO, rather than their participation in the formal structures of the WTO, which remains extremely limited.

## THE WTO SYSTEM'S RESPONSES TO NGOS

### *General*

Mainly as a response to the increasing criticisms of civil society, and particularly to a series of negative articles in the media about the environmental and social effects of the WTO, the WTO Members (especially the major powers) and Secretariat have come under pressure to improve the image of the WTO. The US administration has especially felt the need to go on a "charm offensive" towards civil society, partly because the strong pressures from labour

unions and environment groups contributed to the loss of fast track authority for the US President. The demonstrations in Geneva in May 1998 during the WTO Ministerial Conference also shocked the political leaders of the North and the WTO diplomats.

There is thus at present a concerted effort by the major WTO countries of the North and by the Secretariat to improve relations with civil society organisations, and to improve the organisations' public image. In recent years there have been some initiatives from the side of the Secretariat and some countries (mainly from the North), which include the provision of more documents to the public, the holding of NGO-government dialogue seminars, briefing sessions for NGOs based in Geneva, and limited NGO participation at the WTO Ministerial Conferences. These are examined below.

### *Documentation*

Previously it was very difficult and almost impossible for public groups to obtain WTO documents, including official documents, as they were restricted. It was of course most difficult to obtain the "non-papers" or informal papers that are often the most important negotiating texts that delegations put forward and work on. This difficulty remains today.

Not having access to the documents prevented NGOs from knowing what was going on at the WTO, and this of course greatly hindered any work to influence the process. Not only were NGOs kept in the dark, so too were the Parliamentarians and media in almost all countries.

Due to the criticisms about the lack of transparency, the WTO Members in recent years have derestricted several types of documents, which are now available to the public. The WTO Secretariat now places derestricted documents on its website, in a section called the "Document Dissemination Facility." The documents include the Reports of the WTO Secretariat and of various Committees and Working Groups, as well as some of the proposals put forward by countries during negotiations. For example, many of the proposals by WTO Members for the Seattle Ministerial Conference are made available through the website. However, many key documents (especially proposals and negotiating texts) remain restricted. Some are derestricted only after the lapse of a period, and others remain restricted. The "informal" papers and "non-papers" are of course not made public, and many or most of them may not even be on the WTO's official files or records. On the whole, however, there has been improvement in the access of the public to documents. Many NGOs and the public however are still not aware of the materials that are put out and how to access them.

## *Dialogue Seminars for NGOs with WTO*

The WTO Secretariat has also organised in recent years symposia where NGOs are invited to hold a dialogue with WTO delegations on specific issues. The first such event was a symposium on trade and environment held in 1994, to which several environmental groups from the North and some development and environment groups from the South were invited. The meeting was organised according to sessions, and NGO representatives and, in some cases, academics formed the panels of speakers. Comments from the floor came from both NGOs and delegations. The diplomats were not part of the panels, and their participation was confined to raising questions or making some comments from the floor. The symposium was held in the WTO building. It was perhaps the first time that NGO representatives were invited to a formally organised dialogue event with WTO diplomats in the WTO. The event came about in the wake of massive criticisms by environmental groups against the WTO panel ruling against the unilateral trade action of the US against the imported tuna of a few Latin American countries (the action being taken because the method for catching tuna hurt or killed dolphins). The criticisms were well publicised in the mainstream media. The symposium was a method used by the WTO Secretariat to have the environmental groups better understand the WTO's workings and to dialogue with delegations.

Since then, there have been similarly organised symposia about once yearly. The topic most discussed at such symposia has been trade and environment.

In March 1999, the WTO Secretariat organised two "high-level" symposia for two days each. The first was on Trade and Environment, followed immediately by the second on Trade and Development. The official delegations included senior officials from the capitals, including EC Trade Commissioner Leon Brittan for the environment meeting. Also present were senior officials from UN agencies, such as the Director-General of UNEP and the executive secretary of the Climate Change Convention in the first symposium, and the secretary general of UNCTAD in the second. The two symposia were chaired by WTO Director-General Renato Ruggiero.

The environment symposium had representatives of several environment groups among the speakers, together with governmental officials, officials of international agencies and academics, and it saw a lively debate on various aspects of a range of trade and environment issues.

However there was a vastly different mood at the development symposium, which did not have an NGO representative in any of the sessions, and in which the speakers were mainly from governments, academia and

even the International Chamber of Commerce. Several speakers (and even a chairperson) in the development symposium lectured to the developing countries on why they should agree to further liberalisation in a new Round to avoid a situation where the United States would be more aggressively protectionist against their products. The insulting attitude of the chairperson of one of the sessions towards developing countries – especially African countries – evoked anger from the NGOs present, a group of which delivered a joint statement denouncing the Chairperson.

It almost appeared as if the aim of the environment symposium was to win over the environment groups to understand why the WTO was not the demon it has been painted to be, whilst the development symposium was meant to win over the developing country delegations to the need for a new Round.

In any case, the high-level symposia marked another acknowledgement by the WTO Secretariat (and the major Members) that the criticisms of civil society groups had increased since 1994 (when the first symposium was held), and that the image of the WTO as a destroyer or damager of environmental, social and development standards had worsened. It can be expected that more symposia will be organised in future.

## *NGO Unit in WTO Secretariat*

Originally, dealings by the WTO Secretariat with NGOs were carried out by the Trade and Environment Division, mainly because this Division organised the first symposia that brought NGOs into dialogue with the WTO. However, in the preparation for the first WTO Ministerial Conference of December 1996, a staff was appointed in the External Affairs Division specifically to liaise with NGOs. Since then this Division has undertaken the task of general relations between the WTO and the NGOs.

## *Participation of NGOs in WTO Ministerial Conferences*

In the GATT, there was no official recognition of NGOs, nor were there facilities provided for them at Ministerial Conferences and meetings.

In the WTO, the first Ministerial Conference was held in December 1996 in Singapore.

The WTO General Council decided that a system of accreditation would be set up whereby NGOs could have limited participation in the Conference. The procedure for accreditation was as follows. Firstly, interested NGOs (the definition of which included non-profit NGOs, trade unions and other social organisations, as well as groups representing businesses, such as chambers of commerce and industry associations) would write to the Secretariat expressing their interest to participate, and describe how

their activities relate to trade and WTO issues. Those NGOs that were deemed to qualify were then sent numbered application forms, which were then filled in with the names and photographs of a few representatives who would like to attend. A list of the NGOs was then prepared for the General Council to approve.

At the Singapore Conference, the accredited NGOs were provided meeting facilities in a hotel less than a half-mile from the official Conference Centre. NGOs that booked meeting rooms organised forums and workshops at the rate of about three workshops simultaneously. However, very few delegations came to the NGO meetings, due to the fact that these meetings were held away from the Conference Centre, and also because the officials had their own programme. There was thus hardly any interaction between NGOs and the governments.

Conference documents were provided at the NGO Centre. The WTO Secretariat also gave a daily briefing to NGOs at the NGO Centre on what was happening at the official Conference. But there was little real news or “meat” in the briefings because the real negotiations were held behind closed doors and the Secretariat official could not provide information on what was happening.

Accredited NGO representatives were also allowed into the official Conference Centre, but only to the formal plenary sessions, during which Ministers presented prepared speeches. They were not allowed in the “informal meeting” where the real negotiations on the text of the Ministerial Declaration took place, but neither were most official delegations, including most Ministers, allowed into the room where the negotiations of the “informal group” met. Thus NGOs were unable to observe the actual discussions and negotiations. NGOs however were invited to observe the Opening and Closing Sessions, and to attend the official dinners on the night before the Conference ended and on the night after the Conference closed.

At the second Ministerial Conference in Geneva in May 1998, the participation of NGOs was even more limited. The same procedure for accreditation as in 1996 was followed, and meeting rooms and documents were provided for the accredited NGOs at rooms in the UN building. NGOs were also invited to the formal Opening and Closing ceremonies held at the UN building and to a night reception. However most of the meetings of the official delegates were held in a different building (the WTO), which were off limits to the NGOs, and thus there was almost no communication between the NGOs and the delegates. Once again, NGOs had no access to the meetings – formal or informal – of the delegates; they could only observe the opening and closing ceremonies.

The Third Ministerial Conference will be held in Seattle in November/December 1999. The same procedures for NGO accreditation will be followed. The accredited NGOs will be provided meeting facilities. However, this time it is expected that many thousands of representatives of civil society will be present in Seattle. Most of them are not interested in gaining access to the “official NGO centre” but will be organising their own meetings and events. It is expected that the main message from civil society will be that the WTO should stop its liberalisation drive and its promotion of corporate interests.

There is news that the US organisers are preparing a “dialogue” session between civil society and the Ministers at part of the official Conference. However, given that there will be thousands of mainly critical civil society representatives converging on Seattle, it is likely that the impact and influence of civil society will not be within the formal process but outside that process, in the NGOs’ own meetings and on the streets.

### *Attempts at Establishing a WTO-NGO “Contact Group”*

At a dialogue session with NGOs at the NGO Centre during the Ministerial Conference in Geneva in May 1998, the WTO Director-General Renato Ruggiero announced that the Secretariat was in the process of setting up a WTO-NGO “Contact Group.” It appeared from his presentation that such a Contact Group would comprise representatives of NGOs and representatives of WTO delegates that could meet regularly, so that NGOs could air their views to the WTO Members. The Contact Group would officially be part of the arrangements made by the WTO Secretariat.

Before and during the same Conference period, the International Centre on Trade and Sustainable Development (ICTSD) also floated the idea of a WTO-NGO Contact Group, in which it would play the active role. In this concept, NGO representatives would be selected or appointed to sit on various joint committees comprising NGOs and delegates for individual issues such as agriculture, services, etc.

At dialogue sessions among the NGOs to discuss this idea, held during the Geneva Ministerial Conference, several NGO representatives spoke up strongly against the concept of such a representative system and of the “Contact Group” concept. Those attending the meetings were reminded that when the ICTSD was set up, its role was meant to be the facilitation of information and access rights for NGOs, and specifically not meant to be representative of NGOs. Given the diversity of the types of NGOs and the diversity of views and perspectives amongs NGOs and other organisations of civil society, it would not be appropriate (and could be detrimental) to have representatives of NGOs sitting on formal committees with

the WTO Members or staff, especially since the whole process of who was mandated to represent the NGOs in which committee, and for which function, was not established.

Since then, the “Contact Group” proposed by Ruggiero has not been established. However it is likely that in the future the WTO Secretariat will seek ways to more formally institutionalise the links between NGOs and the WTO. NGOs should prepare ideas on whether such institutionalising is useful or not, and what the modalities could be that can reflect the diversity of NGOs.

### *Informal Briefing Sessions*

The WTO Secretariat also holds regular briefing sessions for NGOs, held in Geneva. In recent months, such briefings have focused on the preparations for the Seattle Conference. Certain documents are also handed out at such sessions and the meetings are attended by some NGOs that are based in Geneva.

### *NGO Amicus Briefs in WTO Panel Hearings*

An important development that has raised some controversy is the proposal by some NGOs, and now by some Northern governments, that NGOs should be allowed to participate in the dispute settlement hearings of the WTO. According to the present WTO rules, the dispute hearings can only be attended by official delegates and submissions are to be made by governments, especially the governments party to the dispute. NGOs are not allowed to be present or to submit documents.

Some environment groups submitted “amicus curiae briefs” to the WTO Secretariat in one of the disputes (i.e. on the shrimp turtle case), and the Secretariat passed on the briefs to the panel of experts hearing the case. When this was made known by the then WTO Director-General, it raised a controversy as some countries felt it was beyond the jurisdiction of the Secretariat to pass briefs by NGOs to members of the panel.

Some Northern delegations are now proposing that NGO representatives be allowed to observe panel hearings, and also to submit amicus briefs at the hearings.

Several Southern delegations are opposed to this, on the ground that panel disputes are disputes between parties to the WTO (which are states) and there is no mandate for NGOs to be present or participate. The delegations also feel that the WTO system is already stacked against developing countries, since they do not have the capacity or human and financial resources to match the mighty negotiating machinery of the North.

They are worried that if NGOs are allowed more participation rights, especially in dispute settlement cases, it would mainly be the Northern NGOs that will take advantage of this, as once again the Northern NGOs are more endowed than the Southern NGOs. The Northern NGOs would be added to the might of the Northern governments, and this would cause even greater imbalance against the developing countries, which would have to fight extra battles.

This concern has some merit and should be carefully considered by the NGO community.

## **ASSESSMENT OF PRESENT INTERACTION AND PROPOSALS**

From the above account, it seems that the formal interaction between the WTO and civil society has improved in terms of greater release of information, access by some NGOs to symposia organised by the WTO Secretariat, and access by accredited NGOs to the Ministerial Conferences.

However this does not detract from the fact that the WTO remains a very untransparent organisation, and one lacking in genuine participation, where most key decisions are taken in “informal” settings, where manipulative methods are used by the major powers to “build” and obtain “consensus”.

In recent years the powers of the WTO have increased, as more and more issues come under its jurisdiction: from mainly trade in goods, the issues have expanded to cover agriculture, services, investment measures, and intellectual property. More issues are waiting in the wings to enter the system, including investment policy, competition policy, government procurement, environment, and labour standards.

Given the immensely increased mandates and powers of the WTO, the gains made in terms of increased access to documents and participation in “dialogue symposia” and very limited access to observation of ceremonial functions in Ministerial Conferences are very little indeed.

In relative terms, therefore (i.e. the increased powers of the WTO relative to the not very significant improvements in NGO-WTO interaction), the situation can be said to be just the same or even worse than before. It is true that in the past, in the days of GATT, there was little access by NGOs to the system, and this was also partly due to the lack of interest of civil society in the affairs of GATT, which were then confined mainly to the more narrow issues of the conduct of trade at the border.

Today the WTO is the most intrusive international organisation, as its rules and dispute settlement system have extended to issues at the very heart of domestic and national policies, affecting sovereignty, development strategies, economic policies, and social and cultural issues. The issues being negotiated by the diplomats at the WTO in Geneva have critical significance to a wide range of national policies. Yet, there is little public knowledge of what is being discussed, how it is being discussed, what are the international rules that are being proposed, what are the options, and what are the implications if certain proposals are adopted.

In this context, it is important not only that civil society but also parliamentarians and even diplomats and policy makers (especially from the South, but also including representatives from the North) are given more rights to information and participation.

In March 1999, the Third World Network issued a Statement on Transparency, Participation and Legitimacy of the WTO. It made the following concluding observations and proposals:

The non-transparent and non-participatory systems of decision-making among WTO Members is at the heart of the undemocratic nature of the WTO system. This reality is in stark contrast to the image of equal participation by all Members through “consensus” that the WTO tries to project.

Unless this inequitable system which is so unfair to developing countries is reformed, it would be an eyewash to claim that the WTO is becoming more transparent simply by having some dialogue sessions with civil society, or Geneva-based NGOs getting briefings from the WTO officials, or making more documents available.

An improvement in transparency and participation would entail at least the following:

- (i) The processes of consultations, discussion, negotiations and decision-making in the WTO have to be made truly transparent, open, participatory and democratic.
- (ii) Any proposals for changes to the rules, or new agreements, or new commitments on countries should be made known in their draft form to the public at least six months before decisions are taken, so that in each country civil society (including groups representing labour, business, consumers, the environment, health and all other interests) have a full opportunity to study them and influence their parliaments and governments on the stand they should take.

(iii) The discussions and negotiations that are being planned and are taking place at the WTO must be made known, and all Members must be allowed to be present and participate. The practice of small informal groups making decisions on behalf of all Members must be stopped. To take into account the lack of human and financial resources of developing countries, there should not be more than one or at most two meetings taking place at the same time. The “rationale” usually put forward (for example, by the Director-General at the Singapore Ministerial) that for the “sake of efficiency” only a few countries can be invited to negotiate is unacceptable. The decisions at the WTO are too important to be “rushed through”, and instead should arise out of well-considered discussions where every Member (big or small, weak or strong) has opportunities to effectively express its opinions.

(iv) Parliaments and parliamentarians should be kept constantly informed of proposals and developments at the WTO, and they should have the right to make policy choices regarding proposals arising in the WTO that have an effect on national policies and practices.

(v) Civil society should be given genuine opportunities to know what are the issues being discussed and the status of the discussions in the various committees and on the various issues. Civil society groups and institutions must be given genuine opportunities to express their views and to influence the outcome of policies and decisions. The issues and options being discussed at the WTO and its organs must be presented to the public in all WTO Member countries and subjected to public debate and scrutiny. The views of civil society organisations (including labour unions, farmers’ organisations, groups dealing with consumer, environmental, health and social issues, professional organisations, the business community including small businesses, and the media) should be actively sought by the Member states.

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# Summary report of the discussions of the first Montreal International Forum (FIM)

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John W. Foster

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## The Forum

*Each participant had received and reviewed all papers in advance. Following dialogues with each author or his/her representative, participants then developed issues for thematic discussion.*

## The papers

**P**

Participants were very receptive of the papers in general and made ample use of findings and examples in discussion.

It was agreed that some of the highlights in the papers included:

- **“NGOs and the World Bank”**

Formalization of relationships is useful although it can have negative aspects. Alliances are essential as is shared knowledge of what makes them work.

- **“Civil Society’s Interaction with the WTO”**

Given the lack of transparency and accessibility of the WTO to most civil society (CS) organizations, the question of legitimacy was fundamental. NGOs could and should deconstruct that “legitimacy”, challenging the WTO and its anti-democratic practices. In the search for an impact on the WTO and its agenda, NGOs need to continually address linkage issues, environment and the WTO, labour rights and the WTO, human rights and the WTO, and the relationship of the WTO to regional trade and investment agreements.

- **“ECOSOC and NGOs”, “UNAIDS: NGOs on Board and on the Board”**

There is a new political climate in the United Nations. While the UN itself may be marginalized by a number of issues, there have been recent gains regarding NGO access and participation. In an increasingly complex situation, NGOs must develop the ability to engage at several levels (national, regional, global, etc.), each demanding its own approaches and strategies.

- “*Civil Society and the Establishment of the International Criminal Court*”, “*The NGO Steering Committee and the Commission on Sustainable Development*”

Both cases exhibited NGO effectiveness and success. Communication and information dissemination were instrumental in facilitating participation at all levels. Practice was frequently informal rather than formal.

### General reflections within the discussions

The six multilateral entities examined in this series of papers are not equivalent to each other; they are structurally different and the roles sought by NGOs are also different. Among the Multilateral Development Banks, for example, the regional development banks have not developed the same sort of responses and engagement with civil society as the World Bank, nor are they structurally identical.

CS needs to articulate the particular motivations and reasons for engaging with a specific institution:

- CS wants different things or orders of things in the different engagements with the various multilateral institutions.
- Appropriate initiatives in one case may not be appropriate in another.
- Cooperation in one case might be cooption in another.
- Postures of engagement may also vary, as may the relative importance of insider and outsider strategies.
- Positions vis-a-vis an institution whose legitimacy and contribution are under severe question – such as the WTO – will differ considerably from those in which collaborative engagements to common agreed ends are possible.
- CS should celebrate rather than be defensive about the diversity of these engagements.

The matter of “civil society” has not been adequately dealt with either by clarifying language or concept. Some might fear getting lost in a debate over terminology, but others would like to deepen and clarify its use by the institutions we are reviewing. The use of the term within the United Nations – in a context where “Non-Governmental Organization” has a long history and its own complexities and dilemmas – remains a sensitive and much-debated matter.

## Thematic discussion

### Leadership

The right people are key; individuals exhibiting good leadership skills can make a tremendous difference, whether inside an institution or on the NGO side of the table.

There are limits and difficulties. NGOs have suffered from founders who wouldn’t relinquish control, from personality cults and dependency, and from those who control information.

Personal transitions from NGOs to multilateral institutions can create difficulties or may, on occasion, offer opportunities. In a number of settings, multilateral institutions and development agencies, or businesses, can outbid NGOs in salary and other job-related terms, thus “poaching” key individuals. In some cases, preparing the individual for leadership in a new institutional setting and maintaining contact with the former NGO figure in that setting may offer opportunities for influence and collaboration.

Given the importance of institutional leadership, CS should pay greater attention to the nomination/appointment process and the candidates for positions. While at the highest levels, factors of geopolitics often trump either the qualities of individuals or the opinions of small states and NGOs, there may be some space for CS influence. Candidates may “use” their relations and reputations with NGOs as part of their campaign for positions; NGOs can be and have been involved in setting the stage for candidates in the press and the corridors. It was noted that positions at other levels of organizations may be easier to influence and can also be quite important to the success of CS objectives.

Gender remains an important leadership challenge. It was noted that of the first 300 networks to respond to the World Civil Society Conference (WOCSOC) invitation, 80% nominated men. This reflects sparse female leadership in the NGO sector at large. Cases of change worth noting are a national women’s network in Brazil which has focused on the need to influence nominations to bring women to positions of power; and international efforts to gain top positions for women in key organizations like WHO and UNFPA.

The need for “succession” planning for NGO leadership was underlined.

## *The challenge of working at several levels*

Linkage among NGOs is essential. Local experience and case studies can be applied at the international level - and feedback can be very useful locally. While intermediary organizations – those working with communication, undertaking advocacy, effectively translating language or context – are essential, they are usually overburdened, underfunded and too small to be effective.

The global conferences have opened up UN processes to CS around the world. Whether in Burkina Faso or South Africa, multilateral forums have become a possibility. No longer do groups in the “South” have to depend on intermediaries in the “North”; participation is first hand. In response, the nature and composition of “international” NGOs have in many cases changed considerably. In the past decade, there has been a significant growth of regional and international networks and coalitions, but the culture is new and it is still developing.

In principle, there are enough funds in the world to support the new variety and depth of activity. CS should work to enlarge the pool of funds, undertake collaborative strategies and avoid having to compete with each other. Donors have changed the way they fund and who they fund. A donor representative at the Forum indicated that donors want to fund relevant organizations, and that the definition of what is relevant evolves. Donors are trying to change as well, by funding knowledge and know-how rather than organizations.

## *Legitimacy*

The legitimacy of NGOs working internationally is often debated within multilateral institutions and other stakeholders as well as by NGOs themselves.

It was agreed that different contexts raise different demands and standards for legitimacy. There is no generic description which fits all. In some cases the atmosphere is quite competitive. Questions of credibility often originate in power politics. The core debate is often on “representivity”, but what does it mean, and under what circumstances?

NGOs need to be able to defend their claims to legitimacy, which are often based on an ethical ground or claim. They need to maintain trust, credibility and partnership. Thus questions of their legitimacy can have implications for institutional survivability: image, moral and ethical responsibility, loss of trust, partners and credibility.

There are criteria which are usually self-applied in shaping an organization and establishing its legitimacy: transparency, accountability, participation and good governance.

The first complaint of multilateral staff is often “who are these people and who do they represent?” Some elements of the response include: the type of membership of an NGO or coalition (numbers of members, payment of fees, voting membership, etc.), the membership criteria, and the process by which leadership is determined and policies are defined. Umbrella organizations have their own claims along these lines and may also simplify life for institutions by bringing certain sectors of opinion together.

There is a different and non-numerical sort of representivity: a sampling fashion in which a collection of views in various sectors is represented. There may be questions of balance within that sample, e.g. different views, gender and region. Legitimacy may arise from the particular procedure used to gather or prepare material: caucus processes, peer-group reviews, consultative mechanism, etc.

Some NGO credibility comes from particular expertise and knowledge; there is often competition in this area, sometimes between academic and experiential knowledge. NGO legitimacy can be undermined if research or experience, however valid, is not presented in a way in which the institutional listener is prepared to receive.

There are claims to legitimacy based on simple claims of right such as the right of a citizen to basic information. There are claims arising from a moral base, for example, appeal to a UN rights document, or working for dispossessed or disabled people.

It was noted that with the growth of NGOs there is an obsession at the UN with numbers. There can be a tendency to accept the lowest common denominators. It would be useful to have our own statistics on the numbers of NGOs participating in key multilaterals.

It would be beneficial to record and document best practices to protect existing privileges and rights. The presentation of the Secretary-General’s report on arrangements for NGOs in the UN system, prepared a year ago, provides examples of where this information could be effectively used. One of the key issues is access to the General Assembly for NGOs, an issue which is currently stalemated and must be kept alive. NGOs and Member States were asked to comment on the report, those responses are expected by the end of 1999. NGO input has been quite important, and the release of the report offers another opportunity for strategic use of information and best cases in response.

In Canada where the governing party's policy has an emphasis on voluntarism, a survey of volunteer organizations indicates that 175,000 non-profit organizations exist in a country of 30 million, representing billions of GNP dollars.

Who are NGOs trying to satisfy with this discussion of legitimacy? The starting place is legitimacy among themselves, and being able to place trust in others who come to work with them.

The often-confused issues of regulation, self-regulation and "codes of conduct" for CSOs and NGOs elicited considerable debate. It was noted that there is pressure from some governments and some multilateral bureaucracies regarding NGO credibility and questions about the representivity of organizations. WOCSOC will examine codes of conduct.

Different contexts demand different rules. NGOs should avoid putting themselves into a straitjacket. For example, a human rights advocacy group may be small and not representative, but may be effective and have a legitimacy based in its cause, like "Mothers of the Disappeared".

Government officials feel that some form of regulation or self-regulation will assist NGO credibility. It was noted as well that in some contexts – the UN Human Rights Commission was cited – governments can occasionally go "on the warpath" against the credibility of one or more NGOs.

Another approach, from an NGO perspective, argues on behalf of self-regulation for self-defense. If NGOs don't set standards and codes for themselves, someone else will impose them. However, it should be noted that there is a great deal of sorting and self-discipline already. Bodies like the CSD Steering Committee have their own guidelines and their own procedures of internal discipline. If NGOs indicate that they are undertaking this sort of responsibility, it strengthens the hands of UN officials defending NGOs.

Yet another approach was strongly voiced by those with experience in authoritarian or repressive states. There are a number of states that for different reasons don't want NGO voices at the UN, or who wish to limit NGO roles. Various national experiences show that governments tend to have rules for NGOs. NGOs should be watchful to avoid over-regulation on civil society. In the South there are often far too many restrictions on what can be said, what funds can be received, and on behaviour.

The World Bank put all the existing legislation in one book. Compiling restrictions actually encouraged governments to develop and apply even more restrictions. Southern NGOs don't need more codes of conduct. NGOs should rely on self-regulation, and it already exists. It should be recognized that in a repressive situation organizations may not be able to be transparent.

In south Asia, there has been debate about legal incorporation. It is by no means universal. It was felt that the NGO community needs to be sensitive to a wide variety of situations and positions in this area.

More precise and generally agreed terminology about these issues would help and requires attention. There are three or four concepts that may overlap but need to be distinguished: legitimacy, representivity, credibility and accountability. Even the words "codes of conduct" mean quite different things in different contexts.

It was agreed that there are matters internal to NGO functioning to which attention should be paid: rules of procedure, accountability to donors, and etiquette in organizations relating to each other. As for general external regulations, there is one code, Resolution 1996/31. It was suggested that that is sufficient.

### *Strategies and structures*

The formalization of multilateral institutional arrangements for NGOs is central to NGO effectiveness. Where these arrangements and procedures exist, it is essential that NGOs seeking to participate internalize them.

The current debate over access to the UN General Assembly focuses on a fairly powerful precedent which could influence other forums like the OAS. The generalization of key procedures and access throughout the UN system remains incomplete and bodies like the UN NGLS can be very helpful in assisting NGOs to make their case.

Beyond access, the need to build stronger alliances and develop practice in terms of division of labour in covering various debates and processes and in dealing with key country groups – the G-7, EU, US – is instrumental to success.

The creation of and deepening of NGO capacity for policy development at the national and international levels is essential to developing credibility with the multilaterals. NGOs can develop a shared knowledge base. There are emerging issues that need solid research and policy response – for example, the power and influence of the WTO's dispute settlement and enforcement powers.

In addition, alliances which bring together economic justice and development NGOs with human rights and environmental NGOs would be useful not only at the UN but at places like the Seattle ministerial meeting of the WTO.

The NGO community is also faced with a variety of issues related to the increasingly active presence of the private sector in multilateral institutions and the relationship of NGOs with that sector and its constituents. On the one hand there are important structural and developmental issues: the effect of financial crisis, the need for reformed financial “architecture”, etc. On the other hand, there is the question of linkage with the private sector, partnership and engagement.

What kind of strategies should NGOs put in place that would change structures of inequity within and among nations? While NGOs focus on institutional structures, there is a sense that there are others who are controlling the process. NGO analysis needs to probe this more deeply. The institutional structure is not an end in itself. Occasions like the FIM help to examine these structures. The situation is not static. The structures creating greater inequity are getting stronger, and those who push for greater equity seem to be getting weaker. This needs to be addressed by NGOs.

The current General Assembly at the United Nations is quite interesting; it is a focus, but not a panacea. The great powers don't want it to be supreme, but it can be a great tool for democratization and a useful guide for other bodies. Until very recently the cause of NGO participation at the UN has been in retreat, but NGO representatives have secured an important victory on the WSSD UNGASS.

With regard to ECOSOC consultative status and the rest of the UN system, NGLS has a programme committee. It meets with funding organizations, programmes and agencies from the UN system, with various NGO liaison, focal point or major group. The NGLS Handbook describes the different ways in which the different parts of the UN deal with NGOs. In terms of ECOSOC status, it is an inter-governmental decision and not a staff/secretariat decision. In the Secretary-General's report, to be submitted late 1999, some NGOs have indicated a desire for a standardized approach across the system. NGOs need to bear in mind that a number of bodies have significant degrees of autonomy, and not all fall under the direct purview of the ECOSOC.

NGOs need to focus on making what they do better. The ECOSOC review was very instructive. NGLS is to be praised for its role. It brought together human rights groups and environmental people, two groups seen as both enemies and friends of states.

There are advances both at the national and the international level. In the UK there is close collaboration with the British representative to the WTO. NGOs make sure that Parliamentarians attend key UN events. At the European regional WHO conference the NGOs secured four positions on the committee that is developing the agenda for the next WHO conference.

Something further that NGO people can do is inform their networks and constituencies of the possibilities. In women's organizations and AIDS NGOs, the amount of information on these processes has not permeated to the levels it should.

Sometimes because of the particular circumstances of an event or process, the most effective responses and networking happen without the people involved knowing the precise connection between their activities and the institution. For example, in Singapore in March 1999, there was a seminar on “Men who have Sex with Men”. Most people probably had no idea that UNAIDS was the sponsor/funder, but it didn't make the work less important.

There is a much richer intermediary level of capacity building and exchange going on than that around the formal institutions. It can be messy, anarchic, and not always transparent. In authoritarian countries, it's unreasonable to expect NGOs to be more transparent than their governments.

Cooperation and respect between groups “inside” and “outside” is useful to success. In some cases NGOs may not want “insider” status. In the case of the WTO, the organization may be so compromised that it does not fight for observer status. Street campaigns are more appropriate. Internal space often opens up when there is big pressure from the outside that is beyond institutional control. People have a right to expression. The system itself is often in a dilemma, a crisis of credibility. In such circumstances pressure can be effective.

More attention should be given to local governments and to parliamentarians who ought to be better allies than they are. The Mayor of Seattle wants to host mayors of different cities at the WTO meetings. These may be the only elected officials gathering there.

There has been concern expressed about NGOs clearing the way for business access to multilaterals like the UN. Business has long been present. It is not a case of NGOs making space for them but can be said to defy all logic of multilateralism: it seeks self-interest and often presses against effective multilateral regulation.

While the whole private sector is not composed of multinational corporations, the majority of it is. Its dynamics are nothing less than the marginalization of local civil society and NGOs need to understand this more seriously.

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### Concluding remarks by the author

The papers for the Forum have provided a solid foundation for discussions, and the participants owe a great deal to the authors and the organizers for producing them. There is a great diversity of networks in civil society but it must be kept in mind who was not present.

Do we have the orders of magnitude correct? This Forum has focused a good deal of attention on matters internal to NGOs. Yet there is an awareness of the great and growing obstacles to achieving a just, equitable and sustainable global society. Is organization adequate? Not long ago, in the mid-1990s, *Our Global Neighborhood*, and documents like the Childers/Urquhart report suggested significant reforms of global governance, including a democratic global assembly and an economic security council. The millennial year offers opportunities including many civil society and multilateral events. Are NGOs up to the challenge?

# FIRST FORUM

*September 9-10, 1999*

List of participants	Organization	Country
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