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# Non-Governmental Organizations and Global Activism: Legal and Informal Approaches

WENDY SCHOENER\*

Today, the world's most pressing problems are no longer largely about national security, traditionally the province of the State.<sup>1</sup> Different sorts of problems—those of environment, disease, human rights, and other “global issues”—have also become important. So, too, have non-national ties, thus leaving an opening for nonstate actors to come to the fore.<sup>2</sup> To be sure, States are not powerless.<sup>3</sup> But in these circumstances, the role and influence of nation-states are changing. They seem moved, for example, if only for their own survival, to enter into supranational alliances and agreements, such as NATO and GATT, and these alliances and agreements then constrain and enhance Member State choices.

Among nonstate actors, transnational corporations (TNCs) can strengthen or enfeeble a national economy, sometimes with a single decision. Such

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1. EVAN LUARD, *THE GLOBALIZATION OF POLITICS* 2-5 (1990); RAYMOND VERNON, *SOVEREIGNTY AT BAY: THE MULTINATIONAL SPREAD OF U.S. ENTERPRISES* (1971); Alfred C. Aman, Jr., *Indiana Journal of Global Legal Studies: An Introduction*, 1 *IND. J. GLOBAL LEGAL STUD.* 1, 2 (1993). See Kathryn Sikkink, *Human Rights, Principled Issue-Networks, and Sovereignty in Latin America*, 47 *INT'L ORGANIZATIONS* 411, 411 (1993).

2. Peter J. Spiro, *New Global Communities: Nongovernmental Organizations in International Decision-Making Institutions*, 18 *WASH. Q.* 45, 48 (1995).

3. Benjamin Barber states that there is no such thing as international law, other than the “rhetoric of ‘must,’ ‘should,’ and ‘ought to,’” which fails to translate into a “language of action.” He suggests that only where there is first democratization will something like true international law follow. He also argues that State exercise of law and power to make war are signs of sovereignty that are very much a part of the modern world, and that States have proved entirely reluctant to give up these very powers to international bodies. Benjamin R. Barber, *Global Democracy or Global Law: Which Comes First?*, 1 *IND. J. GLOBAL LEGAL STUD.* 119, 120 (1993). See also Emma Rothchild for the strongly-worded view that security is still the most basic matter in all societies and the State is necessarily the only guarantor of that security. Emma Rothchild, *What is Security? The Quest for World Order*, 124 *DAEDALUS* 53 (1995). But see generally Richard Rosecrance for a discussion of how States’ economic interdependence acts as a counter to war and territoriality. Richard Rosecrance, *The U.S.-Japan Trading Relationship and Its Effects*, 1 *IND. J. GLOBAL LEGAL STUD.* 139 (1993).

capacity constitutes a force outside State control, impinging upon State sovereignty. Still other nonstate actors have found ways to exert some influence on international dialogue and on State decisions, although in a less visible manner.

Because non-governmental organizations (NGOs) can affect international negotiations and advance interests important to their constituencies, albeit in a less overwhelming manner than TNCs, these organizations have earned increasing worldwide attention. An NGO is "a non-profit entity whose members are citizens or associations of citizens of one or more countries and whose activities are determined by the collective will of its members in response to the needs of the members or of one or more communities with which the NGO cooperates."<sup>4</sup> NGOs constitute a broad variety of groups which function with some degree of autonomy from the State. Some are representative of large groups of people; others not. Many work in the direction of what is already deemed the global public interest—for example, toward a cleaner, safer environment, or toward universal human rights norms. Others represent the economic self-interest of their constituencies. Some are accountable to their members through a democratically created constitution and membership votes on group initiatives; others are far less responsive. This paper focuses on NGOs which have already earned international recognition both for their representative character and for their ability to contribute to the global public interest as defined in multilateral agreements and programs of action. It draws primarily on the work of NGOs in the areas of human rights and women's issues.

NGOs differ in policy-setting from nation-states in many ways: nations make domestic law, and international law arises through agreements between, or consistent actions by, nations. NGOs are not recognized legislators in either arena. Their resources, too, are quite modest compared to the financial power of major TNCs or wealthy nations.<sup>5</sup> Yet, like domestic interest groups in national politics, international NGOs hope to affect law on issues where

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4. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, OPEN-ENDED WORKING GROUP ON THE REVIEW OF ARRANGEMENTS FOR CONSULTATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS; REPORT OF THE SECRETARY-GENERAL, U.N. Doc. E/AC.70/1994/5 (1994) [hereinafter REPORT OF THE SECRETARY-GENERAL].

5. For example, Amnesty International has an annual budget of \$25 million, decidedly modest in comparison with billion-dollar budgets of major TNCs and even greater budgets of wealthy nations. Michael H. Posner & Candy Whitome, *The Status of Human Rights NGOs*, 25 COLUM. HUM. RTS. L. REV. 267, 271 (1994).

nations resist change or would, if left to their own devices, put aside discussions of change.

NGOs have assets, however, which individual States lack. Typically, NGOs have a focused purpose while States must attend to multiple goals and problems. A State—in order to improve trade with another State—might subordinate an inclination to question the latter's human rights abuses. A human rights NGO can focus on the human rights issue alone; it has less to lose in alienating a State whose human rights record it deplores. NGOs may simply reflect the views of their membership—frequently international and also sometimes larger than the populations of some nation-states.<sup>6</sup> What is more, they are emerging as agents of change, in part because they have conceptualized problems and solutions without regard to national boundaries. They have come further than States in envisioning globalization and global action as “serv[ing] the common good of humankind.”<sup>7</sup> They have made substantial contributions already, according to many knowledgeable observers, to the drafting of international agreements, norm creation, and implementation of agreements.<sup>8</sup>

Not surprisingly, debate has arisen on how this influence might be enhanced. Of the two main possibilities, one is to improve NGOs' formal, or legal, standing; the other is to pursue more informal means. This review of the conditions surrounding the debate suggests that, while proposals for enhanced legal status for NGOs are laudable, their current chances for implementation are slight. In the next twenty years, we are unlikely to see Oxfam America or Save the Children wielding power comparable to that of a member nation in any international organization of States. At any rate, as observers point out, implementation of more formal status for NGOs could also carry some disadvantages.<sup>9</sup> Even where NGOs do enjoy formal status, such as

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6. Compare San Marino, member nation of the U.N., population 23,000, Spiro, *supra* note 2, at 52, with Amnesty International, which has over one million members, *id.* at 47. For a discussion of the capabilities that NGOs have as compared to States, see Ann Marie Clark, *Non-Governmental Organizations and their Influence on International Society*, 48 J. INT'L. AFF. 507, 512-13 (1994-1995).

7. Jost Delbrück, *Globalization of Law, Politics, and Markets—Implications for Domestic Law—A European Perspective*, 1 IND. J. GLOBAL LEGAL STUD. 9, 11 (1993).

8. CHARLOTTE BUNCH & NIAMH REILLY, DEMANDING ACCOUNTABILITY: THE GLOBAL CAMPAIGN AND VIENNA TRIBUNAL FOR WOMEN'S HUMAN RIGHTS 2-8 (1994). See Clark, *supra* note 6, at 508; Posner & Whitome, *supra* note 5, at 271; Sikkink, *supra* note 1, at 417; Spiro, *supra* note 2, at 46.

9. For a discussion of possible disadvantages to further formalization of NGOs status within the United Nations, and suggestions for alternative means of assuring better NGO-U.N. relations without losing their current flexibility, see TWENTY-FIFTH UNITED NATIONS ISSUES CONFERENCE, THE U.N. SYSTEM AND NGOS: NEW RELATIONSHIPS FOR A NEW ERA? 10-11, 23-28 (1994) [hereinafter ISSUES CONFERENCE 1994].

consultative status in the Economic and Social Council (ECOSOC) in the United Nations (U.N.), that status renders some of its greatest benefits in the form of informal contacts rather than in terms of the legal clout NGOs obtain thereby. Yet--this is key--NGOs' formal status in international bodies, however limited it currently may be, has helped to promote their legitimacy and thus strengthened the effectiveness of their informal tactics as well.

Informal strategies have allowed NGOs to work in several ways: to "conquer space"<sup>10</sup> within intergovernmental organizations (IGOs) where they have no formal status but where their value and influence are widely acknowledged; to choose whether to cooperate with and depend in some measure upon States or whether to work in what is termed "global civil society," (that is, to act parallel to and independently of States); and, on occasion, to seek even to embarrass a State before the international community.

This paper argues that the reciprocal benefits of formal and informal strategies currently available to NGOs account for their remarkable successes in recent years. The emergence of global issues and the necessity for global cooperation have led to the need for information-gathering and specific sorts of expertise, and to international agreements based on skilled negotiation and international consensus building, areas where NGO contributions have been valuable. It is possible that, so long as States fail to be entirely accountable to their own citizens or to the world community, global governance will enjoy a period of change by accretion, where IGOs rely on the representative character and the expertise of groups other than States and welcome, however informally, such groups' influence.

Part I assesses the limitations of three suggestions for strengthening the legal status of NGOs as a means to expand their influence. Part II cites some of the ways in which NGOs' present influence has been exercised and extended through their informal roles and functions within intergovernmental organizations such as the U.N. and their growing impact on global civil society; Part III shows, by examining NGOs working on women's issues, how one group of NGOs has drawn eclectically upon formal and informal means in various settings to achieve their goals.

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10. Theo van Boven, *The Role of Non-Governmental Organizations in International Human Rights Standard-Setting: A Prerequisite of Democracy*, 20 CAL. W. INT'L L.J. 207, 224 (1990).

PART I: IMPROVING THE LEGAL STATUS OF NGOS WITHIN INTERNATIONAL ORGANIZATIONS

There is a great diversity of views on what constitutes the public interest at the global level and whether voices, other than those of States joined in international organizations, might advance it. Whose voices might count, besides those of nation-states as represented in international organizations? Even within a single State, all interests are not represented; the public interest remains a "texture of multiple strands,"<sup>11</sup> some strands far more influential than others. How, then, determine who should be heard on a global level? Those who favor enhanced legal status or rights to participation for NGOs within IGOs see in such possibilities a welcome advance toward global pluralism. They think that NGOs, which have significant memberships and goals compatible with those of intergovernmental organizations, deserve a voice. As examples, consider three suggestions for improving the legal status of NGOs: enhancing their status within the U.N.; recognizing them as creators of customary law; and allowing their participation in international judicial proceedings as *amici curiae*.

*A. Enhancing Consultative Status*

There currently is a debate within the U.N. about improving the status of NGOs in ECOSOC.<sup>12</sup> This debate demonstrates real official inclination to enhance NGOs' legal status, an inclination not so visible regarding the other two proposals discussed below. The fact is, at this time, selected NGOs currently enjoy official consultative status in ECOSOC,<sup>13</sup> even though NGOs have never been accorded the status within the U.N. to address political questions as they would have wished. Nevertheless, Article 71 of the U.N. Charter created unprecedented formal relations between "interest groups" and an intergovernmental body (ECOSOC).<sup>14</sup>

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11. Richard B. Stewart, *The Reformation of American Administrative Law*, 88 HARV. L. REV. 1667, 1683 (1975).

12. See REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at 3.

13. Article 71 states: "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." U.N. CHARTER art. 71.

14. See REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at 11.

ECOSOC Resolution 1296 spells out the process for NGOs to obtain such status. An international NGO must be “of representative character and of recognized international standing; it shall represent a substantial proportion, and express the views of major sections of the population or of the organized persons within the particular field of competence, covering, where possible, a substantial number of countries in different regions of the world.”<sup>15</sup> A national NGO has the additional hurdle of being admitted only “after consultations with the Member State” where it is based.<sup>16</sup>

Once an organization passes these tests, set and judged by the ECOSOC Committee on NGOs (CONGO), it is assigned to one of three different levels of consultative status, each carrying different privileges. Those in Categories I and II may attend public meetings of the Commissions and other groups within ECOSOC as observers. Those on the third-rung Roster group may attend only “meetings concerned with matters within their field of competence.”<sup>17</sup> NGOs in Category I may also submit written statements of up to 2,000 words (while those in Category II are limited to 1,500 words); these statements may then be circulated by the Secretariat. NGOs on the Roster must wait to be invited before submitting written statements.<sup>18</sup> Also, Category I groups can propose items for the Council agenda and have the right to speak on such items, while Category II groups may speak only in some committees and only with the committee’s permission.<sup>19</sup> NGOs, in brief, are very limited as consultants to ECOSOC. They have no voting rights and are subordinate to States in terms of procedural power as well.<sup>20</sup>

The “General Review of Arrangements for Consultation with Non-governmental Organizations,” a report by the U.N. Secretary General, summarizes the current debate on consultative status and reports suggestions for improving NGO-U.N. relations.<sup>21</sup> It states that the participation of nonstate actors has created a vibrant “civil society” which influences public life, and that “the globalization of life on Earth” has increased people’s awareness of connections between faraway communities and their own.<sup>22</sup> The Report

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15. E.S.C. Res. 1296 (XLIV) on Consultative Agreements, U.N. ESCOR, 44th Sess., 1520th meeting., U.N. Doc. E/4548/Supp. 1 (1968).

16. *Id.*

17. *Id.*

18. See Posner & Whittome, *supra* note 5, at 285-286.

19. LUARD, *supra* note 1, at 92.

20. See Clark, *supra* note 6, at 516.

21. See REPORT OF THE SECRETARY-GENERAL, *supra* note 4.

22. See *id.* at 3-4.

reflects both a desire to have NGOs play an increasing role in U.N. decisionmaking and a concern for the practical problems of increased participation. The change of scale is impressive and worth noting: there were forty-one NGOs in consultative status with ECOSOC in 1948; in 1993, the number had risen to 978.<sup>23</sup> The workload has vastly increased; so, too, the financial and administrative support needed from the Secretariat to improve NGO-U.N. relations.<sup>24</sup>

Not surprisingly, the current implementation of Resolution 1296 has its critics. The Secretary General notes that the application of Resolution 1296 criteria to NGO applications for consultative status requires "greater transparency";<sup>25</sup> likewise, the assignment of the successful applicant to a category.<sup>26</sup> Independent reports, too, have noted that Resolution 1296 criteria tend to keep out grassroots and national NGOs, particularly from the South. These organizations are important to the U.N., however, because of their contacts in the field and the information they could bring to U.N. policymaking.<sup>27</sup>

Questions of consultative status also divide those with and without it. The former, in the main, find Resolution 1296 a viable guideline and oppose any revision which might curtail or dilute their participatory rights.<sup>28</sup> They want each NGO to represent its own views and feel their rights are endangered by requests to "form coalitions" and "speak through a spokesperson."<sup>29</sup> Ambivalence within the U.N. also creates practical and political problems. Thus, one report notes limited financial and administrative support available for NGO activity in ECOSOC, while another suggests formalizing the informal ties which NGOs have with other U.N. bodies, thus expanding NGO activity

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23. *See id.* at 17.

24. The overload falls primarily on the Committee on Non-Governmental Organizations [CONGO], which is generally responsible for relations between NGOs in consultative status and the U.N. CONGO considers all applications for consultative status as well as requests for reclassification. It reviews quadrennial reports submitted by NGOs in categories I and II on their activities, implements the provisions of Council Resolution 1296 (XLIV), and monitors consultative relationships. *Id.* at 22. For a discussion of the need for greater support for CONGO, see *id.* at 39.

25. *Id.* at 45.

26. *See id.* at 45.

27. ISSUES CONFERENCE 1994, *supra* note 9, at 23.

28. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, OPEN-ENDED WORKING GROUP ON THE REVIEW OF ARRANGEMENTS FOR CONSULTATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS; ADOPTION OF THE REPORT OF THE WORKING GROUP ON ITS FIRST SESSION at 5, U.N. Doc. E/AC.70/1994/L.2/Add.1 (1994).

29. *Id.*



despite the lack of support.<sup>30</sup> But the outcome of this debate hinges less on such conflicts and more on the fact that an array of U.N. Member Nations, notably China and the so-called Group of 77, solidly oppose any enhanced participation for NGOs.<sup>31</sup> These nations are known for “tangling with human rights NGOs,” in particular, and for standing behind the doctrine of sovereignty which would deny any outside nation or organization the option of criticizing a nation’s human rights record.<sup>32</sup> Some writers surmise that those nations which have opposed enhanced NGO status within the U.N. are better organized than those supporting it, and are thus likely to prevail for the time being.<sup>33</sup>

### *B. Recognizing NGOs As Creators of Customary Law*

Still another issue is the future role of NGOs in relation to customary law, i.e., that portion of international law not formalized in treaties, but brought about by nations acting over time, uniformly and consistently, and with the belief they are obligated to do so.<sup>34</sup> Isabelle R. Gunning argues that NGOs should be formally included among those who can create international law. States, IGO agencies (such as the U.N. High Commissioner for Refugees), and NGOs, she observes, have consistently treated as refugees those who have fled their home countries—though not all such persons fit the formal U.N. definition of a refugee as one fleeing persecution.<sup>35</sup> All these international actors have

30. REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at 42 & n.1.

31. The Group of 77 presently consists of 120 developing nations which have joined together to plan concerted positions on economic issues before the U.N. LUARD, *supra* note 1, at 15-16.

32. *See* Spiro, *supra* note 2, at 54.

33. *See id.* at 54; Posner & Whittome, *supra* note 5, at 288.

34. Isabelle R. Gunning, *Modernizing Customary International Law: The Challenge of Human Rights*, 31 VA. J. INT’L. LAW 211, 214 (1990-1991).

35. *Id.* at 238, 246. A refugee, according to the Convention Relating to the Status of Refugees, was one who

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Convention Relating to the Status of Refugees, *opened for signature* July 28, 1951, art. 1(A)(2), 189 U.N.T.S. 137, 152, 19 U.S.T. 6259, 6261.

helped victims of civil strife, starvation, and wars for many years.<sup>36</sup> This behavior should help redefine "refugee," in Gunning's view, and thus shape customary law.

Gunning suggests two ways in which nations could recognize nonstate actors as creators of customary law: through expanding the role of IGOs (such as the U.N. and its agencies) so that their actions would be considered "part of the process of custom creation," or through recognizing that some NGOs themselves have a "distinct, measurable impact on international affairs,"<sup>37</sup> so that once NGOs are deemed representative of a large group, they would have a legal role in custom creation. Neither option is particularly clear cut. States, for example, could be more reluctant to belong to or participate in IGO agencies if these agencies' actions might become legally binding, even though nations can ill afford to withdraw from IGOs.<sup>38</sup> Gunning's second suggestion, recognizing NGOs themselves as creators of customary law, also leads to difficulties. The first is identification of NGOs that would qualify. The second is how to induce nations that are strongly opposed even to lower levels of NGO participation to accept some NGOs as creators of international law on an equal footing (though in lesser numbers) with nations.

Gunning suggests that nations might accept NGOs as creators of customary law if the NGOs fulfilled requirements like those for consultative status in ECOSOC: that the NGOs work on the concerns that are the subject of the law created; that they have aims conforming to those of the U.N. Charter, to which nations have already subscribed; that they have an international character and "a democratically elected constitution and a largely democratic procedure regarding policy decisions"; and that they acquire resources from the contributions of group members.<sup>39</sup> However, ECOSOC criteria are themselves now under discussion, as described above, and are subject to certain criticisms, such as the "lack of transparency" (or, more bluntly, the arbitrary nature) of their application. These criticisms would only be more strident where participation truly coequal with States were at stake. In addition, if the current ECOSOC criteria tend to select large, less controversial NGOs--but omit smaller, grassroots NGOs--for the highest status in ECOSOC, perhaps the very NGOs working for progressive changes in

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36. See generally Gunning, *supra* note 34, at 238-47.

37. *Id.* at 221-22.

38. See *id.* at 226.

39. *Id.* at 231.

international law, such as an expanded definition of “refugee,” would not be selected as the NGOs which could affect customary law.

*C. NGOs as Amici Curiae in International Judicial Proceedings*

Another way NGOs might enjoy improved legal status is as amici in cases before international courts, such as the International Court of Justice (ICJ).<sup>40</sup> Allowing amici cases would be consonant with the Court’s interest in “ensuring that its opinions are based upon the fullest available information”<sup>41</sup> as well as with the practice of world regional courts, such as the Inter-American Court of Human Rights, in allowing NGOs to file amicus briefs and even participate in oral proceedings.<sup>42</sup>

The Court may now permit in its discretion “any international organization” to participate in hearings involving advisory opinions. But, for contentious proceedings, the Court’s statute only allows it to “request of public international organizations information relevant to [a case] . . . .”<sup>43</sup> “Public international organization” is defined in Court rules as “an international organization of States,” i.e., only those organizations composed of States.<sup>44</sup>

In practice, the Court has been consistently reluctant to allow NGOs to participate in contentious hearings, fearing perhaps a flood of requests to participate.<sup>45</sup> However, courts always have the discretion to deny permission to anyone submitting an amicus brief.<sup>46</sup> Dinah Shelton suggests that the Court could therefore safely allow NGO participation in contentious cases by changing the rule defining “public international organizations” to include NGOs, not just organizations with States as members.<sup>47</sup> Alternatively, an NGO might still, under other ICJ rules, seek court appointment to give its expert opinion on relevant matters.<sup>48</sup> However, State acceptance of such changes in court practice and their continuing acceptance of court jurisdiction are not certain. Nor is it clear that nations would welcome NGOs’ expertise, as

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40. Dinah Shelton, *The Participation of Nongovernmental Organizations in International Judicial Proceedings*, 88 AM. J. INT’L L. 611, 625 (1994).

41. *Id.*

42. *See id.* at 638-40.

43. *Id.* at 620.

44. *See id.*

45. *Id.* at 624.

46. *See id.* at 626.

47. *See id.* at 625.

48. *See id.* at 628.

Shelton suggests they might,<sup>49</sup> since that expertise would most often weigh in for one party against another.

*D. Inferences from NGO Legal Status*

For the foreseeable future, IGOs will be dominated by State government members.<sup>50</sup> Understandably, to increase the influence of NGOs, it seems plausible to seek formalization of their status within these international bodies. So long as there are NGOs that represent large segments of public opinion on global issues, or have the expertise and information that can improve international decisionmaking, there is ample reason to favor hearing NGO voices within IGOs. Enhancing the formal status of NGOs within IGOs could also benefit IGOs by further legitimating the latter in world opinion.<sup>51</sup> However, every decision to push for a change in NGO status requires a good deal of time and energy; so it is important to choose the moment and the strategy where effort will render the best results, and even to consider whether formal legal status, when available, might lead to losses as well as gains.

The debate about consultative status at ECOSOC, for all its complexities, seems a response to the “‘window of opportunity’ opened by the end of the cold war.”<sup>52</sup> Today many U.N. Member Nations are more open to “flexible relations with their country’s civil society.”<sup>53</sup> But while the debate is promising, virtually all parties recognize certain constraints. For example, if Resolution 1296 is replaced by an “open-door” policy that facilitates NGO consultative status, some NGOs—neither representative of a wide segment of public sentiment nor accountable for their actions—would have access along

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49. *See id.* at 641.

50. *See generally* Spiro, *supra* note 2, at 51.

51. *Id.* Spiro thinks international financial institutions such as the World Bank have proved difficult for NGOs to influence, and notes that some NGOs, frustrated with the deleterious effects of World Bank and IMF projects and policies on the environment and on development, greeted the fiftieth anniversary of Bretton Woods with the slogan, “Fifty years is enough.” *Id.* He also suggests that NGO presence at GATT talks in particular may help reduce popular resistance to what is perceived as an anti-democratic “GATTzilla.” *Id.* at 53.

52. REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at 12.

53. *Id.* The end of the cold war is particularly important for human rights NGOs. Since the Carter administration’s policy of inquiring into human rights in communist-block nations, human rights NGOs had little credibility with those nations and were frequently thought to be funded by the CIA. Interview with Bishwapriya Sanyal, Chair, Department of Urban Studies and Planning, M.I.T., Cambridge, MA (Dec. 28, 1995).

with legitimate NGOs. Eventually this might lead to abuse and restriction of the consultative rights of all NGOs.<sup>54</sup>

There is a perverse possibility, too, that formalization and close collaboration between the U.N. and NGOs may actually dampen rather than spark the creative ideas that come from NGOs' independent approaches, often so different from the U.N.'s.<sup>55</sup> This is why some NGO and U.N. representatives close to the debate suggest that U.N.-NGO relationships should be established only when needed, that relations should remain flexible as circumstances change,<sup>56</sup> and that NGOs should be judged for representativeness and legitimacy primarily on the basis of their performance--as, for example, in ECOSOC policy debates.<sup>57</sup> For at this stage, what is really needed are improvements in consultative status amounting not to equality with States, but to openings for member NGOs to create fruitful *informal* ties with representatives of various nations. We will return to this idea in the final section.

As for recognizing NGOs as creators of customary law, or broadening their ability to participate in the ICJ as *amici curiae*, the prospects are mixed. Amicus participation may well be possible if only because it is so limited: amici, after all, cannot control the cause of action, offer evidence or examine witnesses, or be heard at all without special leave of the court.<sup>58</sup> Recognizing NGOs as creators of customary law, on the other hand, may appear to many States an even more presumptuous challenge to their sovereignty, and therefore necessary to foil, because it means NGO actions would count as much as State actions.

We must bear in mind, also, that whenever NGOs depend on their legal status in an IGO to contribute to social progress, their clout will only be as good as that of the IGO. Where the ICJ, for example, cannot succeed in imposing a decision on an unwilling State, the formal status of NGOs within

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54. ISSUES CONFERENCE 1994, *supra* note 9, at 23. The discussion of those NGOs doing "good things" and "other" NGOs in this report comes close to admitting the normative vision which does and should underlie this debate. The "good things" NGOs can do include the following: "advancing humanitarian concerns, working toward development goals and capacity-building for disenfranchised communities or advancing universal human rights claims." The "other" NGOs "might advocate the values of a group deemed dangerous to others' conceptions of social development and human dignity"; or, they might represent the narrow, economic self-interest of their constituency. *Id.* at 16.

55. *Id.* at 21.

56. *Id.* at 21.

57. This can be a double-edged sword, of course, if NGOs press for things bureaucrats do not want. *Id.* at 25-26.

58. See Shelton, *supra* note 40, at 612.

the ICJ will not help to do so. In addition, any formalization of NGO participation may well hobble the present, informal practices of NGO contributions, for example, to U.N. working groups.<sup>59</sup> Where NGOs must be selected for membership, restrictions may be placed on the use of their own ingenuity and skills to gain informal entry into IGO bodies.

Ultimately, all changes which propel NGOs into real parity with States (such as allowing NGOs to be creators of customary law) or even somewhat improved non-parity with States (such as improved, but subordinate status within IGOs) need to be approved by some international body or set of nations. But nations resist globalization in one place when they are forced to accept it in another.<sup>60</sup> Of the many forces pulling at nation-states—IGOs, TNCs, and other market forces—NGOs are often easy to resist. Some NGOs' activities are restricted by States.<sup>61</sup> Other NGO advocates have even been threatened or injured, many times at the behest of their own governments.<sup>62</sup> United States-based NGOs, while far freer than those in many countries, still have their share of travails. Those NGOs which receive U.S. federal funds recently had to rally against a constitutionally questionable proposal that would have restricted the amount they could spend of their own, nongovernment monies to lobby Congress for funds.<sup>63</sup>

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59. van Boven, *supra* note 10, at 224-25.

60. Alfred C. Aman, Jr., *Introduction: Migration and Globalization*, 2 *IND. J. GLOBAL LEGAL STUD.* 1, 1 (1994).

61. A few examples follow: under Singapore law, independent human rights groups are forbidden; all associations of 10 or more members must register with the government. When the Singapore Law Society publicly voiced an opinion on human rights issues, the government passed a law forbidding it to comment on proposed legislation. The Mexican government has recently imposed a tax on civil associations. China deems any independent human rights reporting to "constitute counterrevolutionary propagandizing and disclosure of important state secrets," which is criminally punishable. Posner & Whittome, *supra* note 5, at 276-80.

62. *Id.* at 273-74.

63. The constitutional issue centered on whether the proposal would violate NGOs' First Amendment rights. Sue Kirchhoff, *Congress Considers Restrictions on Non-Profits, Companies*, *PHILA. INQ.*, Sept. 29, 1995, at A1. Congressional sponsors of this proposal were ultimately unsuccessful in attaching it to any bill. Telephone Interview with Karen Barnes, Committee on Government Reform and Oversight, Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, House of Representatives, U.S. Congress, (Feb. 6, 1996). This was perhaps due to swift organizing against it and to some well-publicized missteps by sponsors. The staff of sponsoring freshman Representative McIntosh created a document on what appeared to be the letterhead of the Alliance for Justice, an umbrella group that lobbies Congress and whose members include some organizations, such as the Children's Defense Fund, which receive government funds. The document seemed so much an attempted forgery that it necessitated an apology by Rep. McIntosh. Anthony Lewis, *A Menacing Vendetta*, *N.Y. TIMES*, Oct. 2, 1995, at A17; Katharine Q. Seelye, *Forgery Jolts G.O.P. Effort to Limit Some Lobbying*, *N.Y. TIMES*, Sept. 30, 1995, at 7.

## PART II: INFORMAL TACTICS OF NGOS

All the factors described in Part I--the difficulties experienced by IGOs in influencing States, the problems brought by formalization of relationships, and many States' resistance to NGO influence--suggest that better legal rights or enhanced official status within IGOs are unlikely in the short run and may not be what is most needed. We must bear in mind, however, that the poor prognosis for such proposals may not necessarily mean loss of potential for NGOs as world actors.

A closer scrutiny of actual NGO activity underscores the effectiveness of the informal approaches which lie behind many NGO successes. To see why, we have to look at how NGOs function today, with the level of official recognition they have (or lack) in IGOs. This impression is further reinforced if we ponder another interpretation of NGOs' role in society--one parallel to State and IGO activity: the evolving model of "global civil society."

*A. NGOs and IGOs*

NGOs' current status in the U.N., of course, is subordinate to that of States. Unlike Member States, NGOs cannot vote in U.N. bodies, and their rights to participation are far inferior. How is it possible, then, that NGOs are widely recognized by U.N. committees and programs as vital to U.N. work? The answer lies in NGOs' freely offered assistance, which has made them virtually indispensable to the U.N. In particular, their "expertise . . . diplomatic skills, good relationships and contacts, and a clear vision about objectives"<sup>64</sup> have proven useful. Their informal participation in the work of the U.N. General Assembly includes making oral statements, circulating NGO documents to some of the General Assembly's main committees, and contributing to the hearings of special committees.<sup>65</sup> They frequently serve as informal contributors to U.N. working groups which, while "low in the hierarchy of the U.N. machinery," are nevertheless crucial because of the legal and technical expertise they represent.<sup>66</sup> Though no formal rules allow NGOs to offer drafting proposals in their own names, they have done so--at the

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64. van Boven, *supra* note 10, at 220.

65. REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at 42 & n.1.

66. van Boven, *supra* note 10, at 218.

working group level--on an equal footing with government representatives.<sup>67</sup> For such developments, Theo van Boven credits both the working groups that welcome NGO participation and the NGOs which have successfully built these relationships.<sup>68</sup> Some U.N. groups have frankly attributed their success to, among other things, the contribution of NGO expertise that had been lacking within the U.N.<sup>69</sup>

Moreover, NGOs' representative character earns great respect in a body where some State members are not democratically representing their populations. For example, indigenous peoples' NGOs "openly challenge the representative character" of those governments ruling them.<sup>70</sup> The most community-based of these NGOs, as well as some national NGOs of this type, do not qualify for consultative status due to their local nature. Yet they are recognized informally by the Working Group on Indigenous Populations, which welcomes them to meetings.<sup>71</sup>

Not least, NGO participation at the parallel NGO forums, which run concurrently with U.N. World Conferences, has increasingly influenced the latter. In 1990, one observer wrote that the effect of NGO forums may be marginal but predicted that this kind of activity would increase (something that we shall see has come to pass) and that, at any rate, the NGO forums generate a level of publicity that the ECOSOC debate, for example, does not.<sup>72</sup> Recently, the U.N. itself publicly recognized the importance of the NGO forum in influencing policy at a formal U.N. conference.<sup>73</sup>

NGO clout at U.N. Conferences is a striking example of how a few formal rights can mean greater room for informal tactics to prevail. For example, participation levels of NGOs at World Conferences have increased dramatically due to a recent and unprecedented extension of the rules of procedure of the Preparatory Committee for the World Conference on Human Rights held in Vienna in 1993.<sup>74</sup> The Committee recommended that human rights NGOs--national and international, those in consultative status and those

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67. *Id.*

68. *Id.* at 224.

69. *Id.* at 221.

70. *Id.* at 222.

71. *Id.* The Working Group on Indigenous Populations is part of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. *Id.* at 216.

72. LUARD, *supra* note 1, at 69.

73. Patrick E. Tyler, *Meddling by China is Seen as Marring Meeting on Women*, N.Y. TIMES, Sept. 2, 1995, at A1.

74. REPORT OF THE SECRETARY-GENERAL, *supra* note 4, at Add. 1, 2.



not--be invited to regional meetings in preparation for the World Conference. All NGOs which participated in regional meetings were also allowed to attend the Conference. Thus, 841 NGOs attended the Conference, including 593 national grassroots organizations, many from the South, and many participating for the first time at an international conference.<sup>75</sup> The Secretary-General has formally recognized the substantive contributions of NGOs to the Vienna Declaration and Program of Action and the important role of human rights NGOs at national and international levels in the promotion and protection of human rights.<sup>76</sup> None of this means that NGOs are official, voting delegates at the U.N. Conference that follows the organizing meetings. Yet their hand in preparation of the conference and in suggesting draft proposals clearly enlarges their influence. Even those who recommend official recognition of NGOs in IGO bodies concede that NGOs already have a powerful impact on decisionmaking because of the informal contacts and information-sharing they now employ<sup>77</sup>--perhaps even because IGOs work more by consensus-building than by legislation.<sup>78</sup>

*B. Global Civil Society: An Alternative Conception of the Role of NGOs*

The idea of "global civil society" refers to the effect of nonstate organizations on State and international actions. The term springs from the older notion of "civil society," which has been interpreted in many ways. John Locke believed civil society was political society, as opposed to "paternal authority and the state of nature."<sup>79</sup> For Hegel and Marx, civil society was--in contrast to political society--a social and economic order functioning

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75. *Id.* at 3.

76. *Id.* at 4. Levels of participation at NGO forums have continued. Twelve hundred NGOs attended the forum at the 1994 International Conference on Population and Development in Cairo. Susan A. Cohen & Cory L. Richards, *The Cairo Consensus: Population, Development, and Women*, FAM. PLAN. PERSP. 272, 272 (1994). In 1995, the U.N. Fourth World Conference on Women in Beijing attracted 2,000 NGOs. Tyler, *supra* note 73, at A1. Twenty-five hundred NGOs attended Habitat II, the U.N. Summit on Housing, which was the last of a series of U.N. conferences held in the 1990s. *U.N. Conference to Prevent City Deterioration to Open in Istanbul*, Deutsche Presse-Agentur, June 2, 1996, available in LEXIS, World Library, CURNWS File.

77. Spiro argues particularly that NGOs should be officially part of discussions in international bodies where they have been excluded, such as those within international financial institutions and at GATT talks. Spiro, *supra* note 2, at 53. Yet he notes other ways in which NGOs have "managed to insinuate themselves into decision-making contexts." *Id.* at 49-51.

78. *Id.* at 53.

79. Kai Nielsen, *Reconceptualizing Civil Society for Now: Some Somewhat Gramscian Turnings*, in TOWARD A GLOBAL CIVIL SOCIETY 41, 41 (Michael Walzer ed., 1995).

independently of politics and law.<sup>80</sup> For Antonio Gramsci, civil society (rather than brute force) was the means by which dominant classes maintained hegemony, or cultural leadership, as well as the means by which “subaltern classes constitute themselves politically and mount challenges to the dominant political and economic order.”<sup>81</sup> The term thus explains both the tendency for the dominant order to rigidify and people’s capacity to change that order.

Modern interpretations of “civil society” provide ample room for debate: Does the family belong or does it not? Do political associations belong? Economic associations?<sup>82</sup> Kai Nielson suggests we may locate civil society in

those organizations or practices that are not directly governmental or economic but which generate opinions and goals, in accordance with which people who partake in these practices and are a part of these organizations seek not only to influence wider opinion and policies within existing structures and rules, but sometimes also to alter the structures and rules themselves.”<sup>83</sup>

The definition of *global* civil society is likewise debatable—all the more so since “civil society,” in all its incarnations imagines citizens in physical proximity associating with one another. Ronnie Lipschutz offers one definition of global civil society: an arrangement parallel to political interaction among States which is “focused on the self-conscious constructions of networks of knowledge and action, by decentred, local actors, that cross the reified boundaries of space as though they were not there.”<sup>84</sup>

One past form of global civil society was the power of the Church over Europe’s medieval rulers, a form that gradually diminished as those rulers and national governments became the prime world actors. The reemergence of global civil society today is the product of several factors: the loss of State

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80. *Id.* at 42.

81. *Id.* at 46.

82. *Id.* at 44 (noting that the family is not part of civil society); Jean Cohen, *Interpreting the Notion of Civil Society*, in TOWARD A GLOBAL CIVIL SOCIETY, *supra* note 79, at 35, 38 (distinguishing civil society from “political society” and “economic society”); Drude Dahlerup, *Learning to Live with the State: State, Market, and Civil Society: Women’s Need for State Intervention in East and West*, 17 WOMEN’S STUD. INT’L F. 117, 117 (1994) (stating that the family does belong within civil society).

83. Nielsen, *supra* note 79, at 45-46.

84. Ronnie D. Lipschutz, *Reconstructing World Politics: The Emergence of Global Civil Society*, 21 MILLENNIUM: J. INT’L. STUD. 389, 390 (1992).

sovereignty “upward to supranational institutions and downward to subnational ones;” the inability and unwillingness of governments to provide for the public welfare; and the propensity of elites to agree on, and at times distort the needs of the current international system.<sup>85</sup> The participants in global civil society function alongside the State and partly independently of it; for example, in relatively new systems of postsecondary education around the world. Global civil society manifests itself in the kinds of organizations that crystallize around identities that ordinary people feel as strongly as their national identity, e.g., with women, a particular religion, the gay and lesbian community, or perhaps with others who manifest a live concern for human rights or the environment.<sup>86</sup>

The networks created by these many private actors benefit from the globalization of travel and communication. The fax machine and other forms of nearly instant communication contribute a great deal when there is a social organization on the receiving end ready to utilize the information it receives.<sup>87</sup> Travel is arguably the more important influence in “cross-fertilizing” cultures. Only within the past few decades have large numbers of people who travel to another land routinely come back home, bringing new ideas about how others do things.<sup>88</sup> Today this process is widespread enough to affect global politics.<sup>89</sup> If we examine NGO successes of today—their organizing of ordinary citizens, their informing world opinion and hence influencing IGO decisionmaking, their amassing budgets to provide aid across national boundaries, and their exercising political pressure upon nations—we may see the explanatory appeal of the civil society model over that of the opposing view which sees States as the sole world actors, able to squeeze out unwanted players from the process of effecting change.

One instance of global civil society influencing State action comes from U.S.-Nicaraguan relations in the 1980s. Noam Chomsky asserts that it was the scale of organized domestic dissidence which limited U.S. intervention in Central America to what it was and even forced U.S. government attempts at subterfuge, popularly known as “Iran-Contragate,” when the public did not tolerate outright aggression.<sup>90</sup> At that same time, the United States simply

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85. *Id.* at 399.

86. *Id.* at 415.

87. *Id.* at 411-12 & n.87.

88. *Id.* at 413.

89. *Id.*

90. NOAM CHOMSKY, *THE CULTURE OF TERRORISM* 6-7 (1988). Public protest against U.S.

denied that the International Court of Justice had jurisdiction over the matter and ignored the opinion of the ICJ which condemned its intervention in Nicaragua (i.e., U.S. equipping and training the *contras*, mining harbors, and attacking oil installations, among other acts).<sup>91</sup> In this period, ordinary U.S. citizens travelled to Central America and sometimes lived there in villages which they hoped to make less vulnerable to attack by their presence.<sup>92</sup> Organizations sent children's school supplies, set up pen-pal networks between Central American and North American children, gave equipment and medicine to hospitals in the region, and even financed hospital construction.<sup>93</sup> Thus, funding, citizen education, and political pressure all had some inhibiting effect on the U.S. government, as the ICJ did not.<sup>94</sup>

Perhaps "global civil society" is a misnomer, conjuring up something parallel to the imaginary monolithic world government that some fear. Instead, global civil society might best be imagined as temporary, issue-based networks of organizations and citizens that try to influence States. As in Lipschutz's definition, what distinguishes global civil society from national civil society is its ability and willingness to forge alliances without regard to national borders, thus linking domestic, grassroots organizations—which may not have access to IGOs—with international organizations—which may have such access and the experience that allows them to influence international agreements.

### PART III: THE EXAMPLE OF WOMEN'S NGOS

Under the rubric of global civil society, we can situate many NGO tactics, whether or not they are recognized by the State or IGOs: their information

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involvement in Central America was the fruit of a vast array of grassroots organizations, churches throughout the United States, and national and international NGOs.

91. *Military and Paramilitary Activities (Nicar. v. U.S.)*, 1986 I.C.J. 14 (June 27). The ICJ has only "consensual" jurisdiction over states. Shelton, *supra* note 40, at 626.

92. Letter from Noam Chomsky, Professor of Linguistics, Massachusetts Institute of Technology 1 (Jan. 30, 1996). Witness for Peace was one of the organizations that brought North Americans to live in Central American villages. *Id.*

93. Telephone Interview with Amy Thesing, MADRE (Feb. 5, 1996). MADRE, an organization founded during the period, engaged in all these activities, along with other NGOs. Notably, MADRE contributed both supplies and construction to Bertha Calderon Hospital, a maternity hospital in Managua. *Id.*

94. To be sure, the final picture is not sunny. The ruin of El Salvador and Nicaragua after years of induced civil war has been amply documented, and the U.S. government was not fully prevented from doing what its most vocal citizens opposed. But if the government was inhibited to any extent, it was by opposition in global civil society, not by the ICJ.

gathering and dispensing; their corresponding abilities either to cooperate with or embarrass governments internationally; their grassroots contacts; and their ability to form transnational networks to further their own goals. All these were at work in the Nicaraguan example above. But since the Nicaraguan case is highly controversial in some quarters, carrying significant cold war baggage better left behind, we will next consider the current, worldwide NGO efforts on behalf of women's interests, another significant example of our burgeoning civil society.

Women's issues have been the focus of NGOs for a relatively short time. One of the most significant human rights NGOs, Amnesty International, formed in the 1960s,<sup>95</sup> but organizations centering around global women's issues only grew in number a decade later, beginning with organizations focused on women in economic development. Several factors converged: a "receptive policy environment" in which development specialists were concluding that most development projects of earlier decades had failed to raise the living standards of the poor; a growing sense that one explanation of this failure lay in the way such projects overlooked women; a new wave of western feminism; and a deeper analysis of the many roots of discrimination, which included sexism.<sup>96</sup> In the early 1970s, funds and special offices materialized—for example, in the U.S. Agency for International Development and the specialized agencies of the U.N.—to explore women's issues.<sup>97</sup>

Alongside these official forums was a growing women's movement in civil society, exemplified by the Women in Development (WID) campaign linking women's organizations across many nations,<sup>98</sup> followed by the U.N. General Assembly's naming 1975 as International Women's Year and 1976-86 as the International Decade for Women.<sup>99</sup> Some governments even revised their legal codes and launched statistical surveys to document the status and problems of women.<sup>100</sup> There were negative trends as well: cross-cultural

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95. Posner & Whittome, *supra* note 5, at 270.

96. Kathleen Newland, *From Transnational Relationships to International Relations: Women in Development and the International Decade for Women*, 17 MILLENNIUM: J. INT'L. STUD. 507, 507-508 (1988).

97. *Id.* at 508.

98. *Id.* at 507.

99. *Id.* at 511.

100. *Id.* Probably the most oft-quoted statistical finding from that effort is that "women constitute half of the world's population, fill two-thirds of its work hours, receive one-tenth of its income, and own less than one-hundredth of its property." *Id.*

tensions were exploited by some nations in the context of U.N. conferences.<sup>101</sup> As successive conferences in the Decade for Women shifted toward other priorities, questions arose whether women representatives had really had a chance to air their views or had simply acted as mouthpieces for their governments.<sup>102</sup> The fears were premature. The ability of women's groups to listen to each other and to cooperate internationally has led to later conferences accomplishing what the earlier conferences could not.<sup>103</sup>

The 1995 U.N. Fourth World Conference on Women (FWCW) is the most striking example of the immense progress made compared to previous efforts--such as the stalemated 1980 U.N. World Conference on Women, where "acrimonious debate" ensued about whether the word "sexism" should be included in the list of obstacles to equality for women. (It appeared, finally, in a footnote).<sup>104</sup> The Beijing Declaration, in contrast, takes direct aim at sexism. It states, for example: that inequalities between men and women have serious consequences; that "equal sharing of responsibilities for the family by men and women . . . [is] critical to their well-being"; and that "[t]he explicit recognition . . . of the right of all women to control . . . their own fertility, is basic to their empowerment."<sup>105</sup>

Four specific strategies used by women's NGOs over the past two decades especially merit our interest. The first, our prime example of the formal, legal type, involves consultative status in ECOSOC, though it also has an informal

101. Newland offers a compelling story of what this period of IGO work cost the WID movement. See generally *id.* at 507-15.

102. *Id.* at 513.

103. It would not be fair to imply that cross-cultural misunderstandings and divisions within women's groups have vanished, however. This thorny side of women's issues might best be summarized as embodying two opposing truths. The first is that Western women's groups have sometimes demonstrated insensitivity in their dealings with non-Western groups, so much so that they have stopped worthwhile campaigns in their tracks. See *id.* at 516 n.7 (discussing an earlier, Western-dominated campaign against clitoridectomy which failed after alienating many African women, though the latter have recently taken up such a campaign themselves). See also Aihwa Ong, *Strategic Sisterhood or Sisters in Solidarity? Questions of Communitarianism and Citizenship in Asia*, 4 IND. J. GLOBAL LEGAL STUD. 107 (1996) (discussing generally the failures of Western feminists to recognize other points of view).

The second truth is that accusations of Western hegemony in this area sometimes serve to deny other realities, such as support for women's rights among non-Western women and the almost uniquely male promotion of some cultural practices, such as polygamy, that many non-Western women may submit to, but do not support. See Fedwa Malti-Douglas, *As the World (or Dare I Say the Globe?) Turns: Feminism and Transnationalism*, 4 IND. J. GLOBAL LEGAL STUD. 137, 140 (1996).

104. Newland, *supra* note 96, at 512.

105. *Beijing Declaration and Platform for Action* [unedited advance text], adopted by THE FOURTH WORLD CONFERENCE ON WOMEN: ACTION FOR EQUALITY, DEVELOPMENT, AND PEACE, paras. 5, 15, 17 (Sept. 15, 1995) [hereinafter *Beijing Declaration/Beijing Platform for Action*].

side.<sup>106</sup> The other three strategies involve more informal efforts, but are generally bolstered by the limited formal ties of NGOs to IGOs and to their home nations. These include unofficial ties with IGO committees and working groups, interaction at NGO conferences parallel to U.N. conferences, and the use of cooperation with—or international embarrassment of—nation-states. Examined together, these strategies show great potential for complementing and reinforcing one another to increase the clout of NGOs.

#### *A. Formal Recognition in ECOSOC*

MADRE, a U.S.-based NGO, was founded in 1983 to provide development funds for Central American women and children by building contacts and networks between mothers in the United States and in Central America. Since then, MADRE has funded hospitals, schools, and other projects in Central America, the Caribbean, the Middle East, and the former Yugoslavia.<sup>107</sup> The organization recently was awarded consultative status, category II, in ECOSOC and views that status as an important means to shaping a global agenda. Recall the limited status that category II implies: MADRE can attend public meetings of U.N. bodies as an observer only. It may submit written statements of limited length to the Secretariat, which *may* circulate them. MADRE may speak to a limited range of U.N. committees, and only with their permission.

But since U.N. policy pronouncements have considerable resonance, MADRE maintains that it is important to be able to influence them. Limited observer privileges serve at least to legitimize MADRE and provide the proverbial “foot in the door” which allows the organization to deploy its own skills. Perhaps most crucially, consultative status gives the NGO the means to develop relationships with key representatives from various countries, a necessary condition for carrying out their work by informal means.<sup>108</sup> MADRE has recently been working with the Japanese embassy in Nicaragua,

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106. The other two possibilities for legal status for NGOs discussed above—official status as *amici curiae* in the world court and as creators of customary law—are currently only proposals and not available to NGOs.

107. Telephone Interview with Amy Thesing, *supra* note 93.

108. Sociologists often distinguish between the manifest (formal) and latent (informal) functions of any activity. Conferences or organizations have an official, formal agenda. But the informal work may be as important or even more so. See ROBERT K. MERTON, *SOCIAL THEORY AND SOCIAL STRUCTURE* 73-138 (1968).

which will fund some of MADRE's projects in that nation.<sup>109</sup> The embassy story demonstrates that consultative status increases informal options, as would belonging to a social club; it promotes contacts in a natural, informal way. Nothing in consultative status ensures such grants, but the fact that the NGO is present at special committees of ECOSOC, for example, makes possible the contact with Japanese representatives, and ultimately the embassy.

### *B. Informal Ties with IGOs*

NGOs have built informal ties with many committees and working groups within the U.N. even where the NGOs lack any formal recognition. Coalitions of NGOs, notably the NGO Ad Hoc Group on the Rights of the Child, attribute their effectiveness in informal work to several factors, including the credibility they have built within the relevant U.N. working group, the constant consultation among themselves, and their command of pertinent information which others lacked.<sup>110</sup> In a similar fashion, women's groups contributed volumes of information to the preparatory meetings for the 1993 Vienna Conference on Human Rights and caused a transformation. The U.N. resolution to hold the conference had mentioned neither women nor human rights pertinent to them in the proposed agenda, but the final statement of the conference contained several pages on the issue of women's human rights.<sup>111</sup> It also called for recognition of "the elimination of 'violence against women in public and private life,' as a human rights obligation."<sup>112</sup>

Since the Decade for Women, NGOs have continued to grow and organize in global civil society. Their increased visibility led to their invitation to preparatory meetings for the 1993 U.N. World Conference on Human Rights. Thus, even national and local NGOs without consultative status were able to affect the Conference's final statement. In a stellar example of what informal contacts can achieve, members of human rights and women's NGOs, as well as women from U.N. agencies and universities, met in several cities in the

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109. Telephone Interview with Liliana Cortes, MADRE (Jan. 16, 1996).

110. van Boven, *supra* note 10, at 220-21.

111. "Women's human rights" refers to those human rights which affect women primarily (for example, rape as a war tactic, domestic violence, sexual abuse of female detainees, and traffic in women and girls) and which until recently have not been a focus of the human rights agenda. Though violations of women's human rights are just as detrimental to health and life as are violations of human rights as traditionally conceived, they have frequently been ignored as "private" or "individual" acts which somehow would not respond to public investigation or censure. See generally BUNCH & REILLY, *supra* note 8.

112. *Id.* at 2.



early 1990s to strategize ways to put women's human rights on the human rights agenda. They organized meetings, circulated petitions, and held hearings on violations of women's human rights from every part of the world. One petition called upon the U.N. World Conference on Human Rights to address the issue of women's human rights and to "recognize gender violence, a universal phenomenon which takes many forms across culture, race, and class . . . as a violation of human rights requiring immediate action."<sup>113</sup> It was translated into twenty-three languages and signed by half a million people from 124 countries.<sup>114</sup>

Women's NGOs also organized special regional meetings to discuss women's human rights before their delegates went to the preparatory meetings for the U.N. Conference. In some cases, participants at NGO meetings drafted papers which were presented at preparatory meetings for the U.N. conference or used by NGOs in other regions.<sup>115</sup> A coalition (The Center for Women's Global Leadership) used a Strategic Planning Institute to devise tactics that might influence the U.N. Conference.<sup>116</sup> At the final meeting of the International Preparatory Committee, women's NGOs succeeded in placing women's issues on the agenda because that coalition contained the very North-South alliances and consensus on issues that were lacking among governments and that had nearly precluded an agreement to hold the conference.<sup>117</sup>

Again in this example, the ingenuity and the representativeness of the NGOs involved explain their influence upon the Conference that followed. But here the line between their "informal ties" and their "formal recognition" (by those in the U.N. who rewrote rules to invite them to preparatory meetings and incorporated parts of their draft proposals) becomes blurred. The result is that, with formal permission to do a little, NGOs were able to accomplish much more.

### *C. NGO Activity at IGO Conferences*

NGO activity at such conferences illustrates the mix of informal and formal approaches underlying their effectiveness: in particular, their flexibility, their ability to choose between independent work within global

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113. *Id.* at 5.

114. *Id.* at 4-5.

115. *Id.* at 5.

116. *Id.* at 6.

117. *Id.* at 6-7.

civil society and negotiation with States, and their negotiating tactics. The latter includes the previously discussed extensive pre-conference organization and the ability to then maintain contact with and influence State delegates at the site of the formal U.N. conference. In Beijing, for example, a lobbying team named "Equipo" operated out of the NGO forum with the goal of monitoring individual issues of concern to NGOs, as they were discussed at the formal U.N. Conference, then gave briefings and organized lobbying activities and liaison work--in short, it served as a rapid response force to discussions taking place at the formal conference.<sup>118</sup> The professionalism of NGO representatives has impressed conference observers; one article reports that the image of the NGO worker as a "well-meaning Westerner wearing sandals" has been replaced by that of "lobbyists with cellular phones . . . academics, or maybe lawyers."<sup>119</sup>

NGOs also engage in activity more reflective of global civil society, such as the tribunals which took place at the 1993 Vienna Conference on Human Rights and also at the 1995 U.N. Fourth World Conference on Women in Beijing.<sup>120</sup> NGO tribunals generate publicity and have recently been recommended as a simple way to influence public opinion.<sup>121</sup> The Global Tribunal on Violations of Women's Rights in Vienna included the testimony of thirty-three women who had suffered abuse in their families, war crimes, violations of bodily integrity, violations of socioeconomic human rights, or political persecution and discrimination.<sup>122</sup> The tribunal was not the only means of influence NGOs held over the U.N. conference. As noted above, NGOs had succeeded in influencing the draft agenda of the U.N. Conference. They also monitored developments and lobbied at the conference itself.<sup>123</sup> But the tribunal had an appeal lacking in quieter efforts: it offered stories which were difficult to hear--or to deny--and which caused listeners to question why

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118. *NGO Participants Starts* [sic] *Lobbying Process*, Xinhua News Agency, Sept. 3, 1995, available in LEXIS, World Library, CURNWS File.

119. Victoria Brittain et al., *Official Groups in Beijing No Match for their Poorer Sisters*, GAZETTE [Montreal], Sept. 13, 1995, at B6, available in LEXIS, World Library, CURNWS File.

120. For a detailed account of the Vienna Tribunal, see BUNCH & REILLY, *supra* note 8. For an account of the tribunal at Beijing, which aimed to demonstrate governments' "complicity and responsibility" for violence against women, see Benedicte Manier, *Women's Forum Declares War on Religious Fundamentalism*, Agence France Press, Sept. 1, 1995, available in LEXIS, World Library, CURNWS File.

121. Arthur W. Blaser, *How to Advance Human Rights Without Really Trying: An Analysis of Nongovernmental Tribunals*, 14 HUM. RTS. Q. 339 (1992).

122. BUNCH & REILLY, *supra* note 8, at 18-19.

123. *Id.* at 102.

governments should not be held accountable for human rights violations against women.

Moreover, as a part of their work, NGOs brought together at conferences to serve IGO purposes also build their own contacts and networks. Participation at NGO forums helps NGOs to transcend cross-cultural differences and augments their collective credibility for future campaigns. NGO forums offer rich possibilities of exchange between far-flung organizations. Contacts once made can continue through e-mail, the Internet, and fax.<sup>124</sup>

#### *D. Cooperation with or Embarrassment of Nation-states*

Information gathering and dissemination are among NGOs' main assets in IGOs. In this area, NGOs perform better than many States. Such NGO activities sometimes take place in cooperation with government, other times to the latter's embarrassment.

One example of a government welcoming NGOs' information comes from India, which has actively sought to discourage the dowry tradition, with mixed success. Though Indian law has taken a tougher stance against dowries in the Dowry Prohibition Act of 1987,<sup>125</sup> those working at the grassroots level say the law has not effectively stopped the practice of demanding dowries.<sup>126</sup> Government figures show that, in the first nine months of 1995, 7,300 women or more were killed by in-laws who had wanted the victims to bring larger dowries.<sup>127</sup> Women's rights NGOs working on the issue state the number is much higher because many deaths are not reported.<sup>128</sup> In a country where dowry is still a widely accepted social practice, prosecutions are few since

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124. For a discussion of the wealth of opportunity offered to NGOs by FWCW's NGO forum, see Estrella Gutierrez, *Women: "Bye Bye Huairou" The NGOs' Farewell Song*, Inter Press Service, Sept. 8, 1995, available in LEXIS, World Library, CURNWS File.

125. The law, which outlawed dowry in 1961 and was revised in 1987, now transfers the burden of proof from the victim's family to the husband when the bride dies in mysterious circumstances. *Women in India are Abused and Murdered Over Dowry Money* (National Public Radio Broadcast, Morning Edition, July 6, 1995), available in LEXIS, Nexis Library, CURNWS file [hereinafter *Dowry Money*].

126. *India*, U.P.I., Aug. 24, 1994, available in LEXIS, News Library, ARCNWS File. Dowry demands, and bridal deaths, occur in both upper and lower income brackets. Middle-class marriages may include as dowry expensive jewelry or even a new car, and in-law demands for additional dowry booty can continue for years into the marriage. *Dowry Money*, *supra* note 125.

127. *Two Indian Men Sentenced to Death for Dowry Murder*, Reuters World Service, Jan. 23, 1996, available in LEXIS, Nexis Library, CURNWS File [hereinafter *Dowry Murder*].

128. *Id.*

local police do not press charges, sometimes because the culpable in-laws have bribed them. These in-laws frequently stage a "cooking accident" by dousing the victim-bride in kerosene, and then burning her.<sup>129</sup>

Grassroots NGOs have organized shelters for brides who are threatened and tortured by their spouses or in-laws.<sup>130</sup> The groups have tried to help brides thus harmed, and the families of the murdered, in pressing charges.<sup>131</sup> Finally, NGO activism has prompted a larger discussion of the general status of women in India and neighboring countries: it notes that families invest more in a son's education and upbringing and plan to recover this expenditure through dowry payments.<sup>132</sup> It may also lay bare family attitudes which prefer "death to the dishonor of having the family name bandied about" in connection with dowry abuse and murder.<sup>133</sup> The publicity generated by national discussion has also strengthened the cultural resolve of some to resist dowry practices.<sup>134</sup>

But NGOs have not only acted independently of government. They have contributed enormously to the government's ability to garner statistics and to respond at the local level. The government has reacted gratefully and supported NGO efforts.<sup>135</sup> For example, local police departments have set up special units, staffed primarily by female officers, to deal with dowry harassment.<sup>136</sup> Some state governments have proposed legislation which would severely limit the amount of money which families could legally spend on weddings and "gifts."<sup>137</sup> Note that benefits run two ways: the government is helped by informal contact with NGOs, and their research and grassroots knowledge, while NGOs are further legitimized, and sometimes better funded, through government contact.

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129. *Id.*

130. Molly Moore, *India's Consumerism Fuels Sharp Rise in Dowry Deaths*, THE GUARDIAN, Apr. 13, 1995, at 15, available in LEXIS, Nexis Library, CURNWS File [hereinafter *Dowry Deaths*].

131. Molly Moore, *Dowry Killings Rise as India's Economy Grows; Wedding Bounty Offers Kin of Groom Access to Good Life*, THE HOUSTON CHRONICLE, Apr. 16, 1995, at A18, available in LEXIS, Nexis Library, CURNWS File [hereinafter *Dowry Killings*].

132. *Dowry Money*, *supra* note 125.

133. Tabibul Islam, *Bangladesh Women: Dowry Demands Disrupt Social Fabric*, Inter Press Service, Dec. 30, 1994, available in LEXIS, News Library, ARCNWS File.

134. In what is termed an "unusually bold" move in this cultural context, one bride and her family had the courage to cancel her wedding to a man whose family made last-minute additional dowry demands; what is more, the bride's family publicly announced the reason for the cancellation. *Dowry Killings*, *supra* note 131.

135. Interview with Bishwapriya Sanyal, *supra* note 53.

136. *Dowry Money*, *supra* note 125.

137. *Dowry Killings*, *supra* note 131.

An example of the successful international embarrassment of a government, on the other hand, comes from Argentina, where during the late 1970s, efforts by a small, courageous domestic movement helped to bring down a military junta. This movement consisted of civil libertarians, some religious figures, and families of the “disappeared,”<sup>138</sup> that is, those kidnapped, detained, and executed by the military regime, which denied knowledge of their fate.<sup>139</sup>

These domestic groups engaged in various political activities, from the information gathering of civil libertarian groups to the “highly symbolic and expressive forms of public political protest” of the groups of families of the regime’s victims;<sup>140</sup> the most famous of the latter is *Madres de la Plaza de Mayo* (*Madres*). The combined efforts of domestic groups catalyzed action by transnational NGOs such as Amnesty International; international bodies such as the Organization of American States Inter-American Commission on Human Rights; and foreign governments—ending in the junta’s demise.

We examine the part that the *Madres* played in this activity because, nearly twenty years later, this group is still the object of study for its uniqueness as a social movement consisting of women.<sup>141</sup> The group consisted almost entirely of middle class housewives with a high school education or less, women who had never been politically active before their children disappeared.<sup>142</sup> In the period of the worst repression under the military junta, they were virtually alone in attempting to confront the military and demand the truth about the fate of its victims.<sup>143</sup> In addition, they cultivated a political style which brought the traditional values of family life—so touted, superficially, by the junta—into direct confrontation with the junta’s actual compartment. This irony underlined all that *Madres* did: a repressive government which valorized motherhood inadvertently inspired in mothers

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138. Alison Brysk, *From Above and Below: Social Movements, the International System, and Human Rights in Argentina*, 26 *COMPARATIVE POLITICAL STUDIES* 259, 262 (1993).

139. Sikkink, *supra* note 1, at 423.

140. Brysk, *supra* note 138, at 264.

141. The accomplishments of the *Madres de la Plaza de Mayo* have prompted several books including JEAN-PIERRE BOUSQUET, *LES “FOLLES” DE LA PLACE DE MAI* (1982); MARGUERITE GUZMAN BOUVARD, *REVOLUTIONIZING MOTHERHOOD: THE MOTHERS OF THE PLAZA DE MAYO* (1994); JO FISHER, *MOTHERS OF THE DISAPPEARED* (1989).

142. BOUVARD, *supra* note 141, at 1.

143. *Id.*

political expression, and political demands, which the world would not ignore.<sup>144</sup>

*Madres* formed when women making the rounds of police stations, army bases, and hospitals to inquire about their missing children began to notice other women there on the same mission.<sup>145</sup> They began making their trips together, then meeting clandestinely to organize this work, though they encountered difficulties even in finding meeting places: several priests who learned of their activities excluded them from church pews for those purposes.<sup>146</sup> Then, in a country where fearful lawyers and judges often refused to help families write writs of habeas corpus or pursue them, *Madres* began to hold public demonstrations in the square for which they are named, directly before the presidential palace.<sup>147</sup> Their tactics were highly personal and symbolic: they carried photos of their abducted children, and they wore white scarves made from the same material used in baby shawls.<sup>148</sup> They used flowers and candles or sometimes chained themselves to public buildings to make their point.<sup>149</sup> And they persevered without much public support in the most dangerous period of repression—others rarely demonstrated with them; two nuns who did were promptly abducted and tortured.<sup>150</sup> Even their extended families frequently tried to disassociate themselves from women who dared make a political protest.<sup>151</sup>

*Madres* eventually established foreign contacts, beginning with the help of foreign journalists, some covering the World Soccer Cup.<sup>152</sup> These led to both publicity and funding. From one Dutch NGO *Madres* obtained funds to buy a building where they could meet and organize.<sup>153</sup> They were ultimately

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144. KATARINA TOMAŠEVSKI, *WOMEN AND HUMAN RIGHTS* 39 (1993). Note, however, that the junta's valorization of motherhood did not go so far as to protect the *Madres*, all of whom have been subjected to tear gas, police dogs, and other forms of violence at their demonstrations. See generally, BOUVARD, *supra* note 141, at 66-112. Three of the *Madres* were disappeared themselves in Argentina, and one died abroad in unexplained circumstances. *Id.* at 112.

145. BOUVARD, *supra* note 141, at 66-68.

146. *Id.* at 72-73. Other priests in the Church's right wing collaborated with the junta in much more active ways. Such priests withheld information from families who asked for their assistance in locating disappeared children, and some priests were even present at some torture sessions in detention centers. *Id.* at 53.

147. *Id.* at 1-2.

148. *Id.* at 75.

149. TOMAŠEVSKI, *supra* note 144, at 39.

150. BOUVARD, *supra* note 141, at 78.

151. *Id.* at 79.

152. Brysk, *supra* note 138, at 272.

153. *Id.* at 273.

invited as visiting dignitaries to foreign countries throughout the world.<sup>154</sup> The entire social movement against the junta benefitted from the solicitous attitude of U.S. President Carter's administration, which tied military aid to evidence that a recipient government supported human rights and which formed ties with Argentine human rights organizations, including *Madres*.<sup>155</sup> The movement also benefitted from U.S. aid cuts made after Congress heard highly condemnatory reports on the junta by NGOs such as Amnesty International.<sup>156</sup> Thus, by the time the Reagan administration came to power, its hope of saving the junta was already lost, the junta's last gamble at glory in the Falklands failed, and Argentina began pursuing a democratic government.<sup>157</sup>

For citizens of western democracies, it is hard to imagine either the political terror under which *Madres* operated or the possibilities of a small movement up-ending a junta bent on destroying every form of dissent. The time required and lives lost in that process are not to be forgotten. But the junta did indeed react, manifesting a "series of varying responses" to NGOs' unwelcome exposure of its deeds and the resulting pressure from other governments: First, the junta denied the legitimacy of international human rights concerns and sought to discredit the troublesome NGOs as anti-Argentine, then it acknowledged international concerns as legitimate and offered limited forms of cooperation with international inquiry, and finally it made concrete changes in repressive practices.<sup>158</sup> It is thus no exaggeration to suggest that a small organization of Argentine mothers played a role in bringing down a repressive government.

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154. BOUVARD, *supra* note 141, at 87-89.

155. *Id.* at 86.

156. Brysk, *supra* note 138, at 268.

157. See BOUVARD, *supra* note 141, at 115-126. Ironically, the post-junta period has brought the *Madres* negative publicity, as they continue to oppose the democratic government which hopes to close the book on the former junta's Dirty War, press to know the fate of their children, and condemn laws which limit the trials of military personnel involved in disappearances. *Id.* at 129-171. As Brysk points out, public legitimacy of protest groups is enhanced by their failures to remedy grievances through official channels, but it is harmed when protest groups will not "respond positively to concessions." Brysk, *supra* note 138, at 280. A recent New York Times article highlights such negative publicity, reporting that Hebe de Bonafini, leader of *Madres*, has been criticized for "sticking her militant nose where it doesn't belong" simply for having participated in a student-led demonstration against newly imposed fees for university classes. The article also reports that as *Madres* has begun to raise social and economic concerns, as well as demand justice for the disappeared, it has aroused ire in some and prompted even another human rights leader to suggest that the strategy will mean losing "efficacy." Calvin Sims, *Buenos Aires Journal: The Rock, Unyielding, of the Plaza de Mayo*, N.Y. TIMES, Mar. 2, 1996, at A4.

158. Sikkink, *supra* note 1, at 426-428.

## CONCLUSION

Particularly in an area such as women's rights, a good deal of the work to be done is slow and incremental. It involves mobilizing to create universal norms, ratifying them in international agreements, and monitoring government and private action to ensure enforcement of the norms created. It requires people to agree that what happens in another country matters to them, and that what goes wrong in their country may be related in subtle if not obvious ways to what happens elsewhere in the world. It means a need for cross-cultural sensitivity of a higher order than, say, that necessary for negotiations over the hole in the ozone layer, where all can at least agree there is a problem and that resolving it is important. Governments may contribute willingly to the progress involved in advancing women's rights; sometimes they oppose that progress. NGOs contribute to the progress made in this area in many ways. They cooperate with States where they can,<sup>159</sup> and they expose States' errors where necessary. They build ever more complex webs of communication among themselves as they try to influence governments and international bodies with a forceful collection of research and testimony to the need for change. Both their representative nature and their ability to command information make them attractive partners to U.N. committees and working groups of all kinds. Thus, NGOs move between work autonomous from the State, which gives them credibility and keeps them in touch with grassroots constituencies, and the work of international negotiation.<sup>160</sup>

Women's NGOs, like NGOs in other areas, are benefitting from a new, more tentative attitude in international governance as nations and many organizations strive to address global issues. In a world no longer defined by cold war stances, the value of flexibility has become readily apparent, and NGOs' ability to vary their tactics has been reflected in IGOs' strategies as well. We have already seen that flexibility in the rule writing which has

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159. For a compelling argument that those NGOs which have cooperated with States have had more success than those which have not, see BISHWAPRIYA SANYAL, *COOPERATIVE AUTONOMY: THE DIALECTIC OF STATE-NGOS RELATIONSHIP IN DEVELOPING COUNTRIES* (1994) (International Institute for Labour Studies, Research Series, 100). Professor Sanyal studies NGOs in development and stresses that the NGO-government relationship should be one of "cooperative autonomy," but he recounts that some NGO leaders have responded to such concern for NGO autonomy by asking, "Autonomy for what? Our goal is to get things done." Interview with Bishwapriya Sanyal, *supra* note 53.

160. Ann Marie Clark cautions, however, that the original grassroots focus of NGOs may not always be in equilibrium with NGO efforts to influence IGOs. Clark, *supra* note 6, at 523-525.



increased NGO participation in U.N. World Conferences.<sup>161</sup> In addition, the U.N. invited to Habitat II, its 1996 conference on housing, not only NGOs, but mayors of cities throughout the world.<sup>162</sup> The Conference entertained suggestions from 500 mayors, and it unanimously adopted a proposal to create a permanent position for local authorities in U.N. bodies to work on regional urban affairs and social development.<sup>163</sup>

Representatives of the private sector were also invited to Habitat II, since tax-poor cities and States, facing increasing demands for social welfare, sometimes seek solutions in private sector initiatives. In reaction, women's NGOs, less prone to decorum than some government representatives, brought out the hard facts of private sector behavior which contribute to the housing crisis, and the necessity of governments to limit the power of the private sector.<sup>164</sup> Such NGO efforts helped to yield a commitment by government representatives at Habitat II to "[curb] the bad social, environmental, and labor practices of transnational corporations."<sup>165</sup>

NGOs also remind each U.N. gathering of the related themes of its last gathering. Thus, women's NGOs at Habitat II reminded participants of the goals of the World Conference on Women at Beijing, for example, legal reform which would allow women to inherit property<sup>166</sup>—in a world where women bear the brunt of poverty.<sup>167</sup> Another FWCW goal was worldwide action on domestic violence, itself a contributing factor to women's loss of housing.<sup>168</sup>

This paper dwells largely upon the ways in which NGOs seek to influence policy setting, since legal proposals to aid NGOs concentrate largely on that goal. But NGO influence has also widened because of their role as monitors and implementers of policies and programs already in place. NGOs have become indispensable in tending to the "seeds" planted in official intergovernmental documents so they may "germinate" on the ground, at

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161. See *supra* note 74 and accompanying text.

162. *NGOs and Local Authorities Shape Goals of Habitat II*, Deutsche Presse-Agentur, June 4, 1996, available in LEXIS, World Library, DPA File.

163. *Id.*

164. Yvette Collymore, *Habitat: Women Warn Against Reliance on Private Sector*, Inter Press Service, June 5, 1996, available in LEXIS, Nexis Library, CURNWS File.

165. Yvette Collymore, *Habitat: States Face Challenge of Mega-Corporations*, Inter Press Service, June 10, 1996, available in LEXIS, Nexis Library, CURNWS File.

166. Humberto Marquez, *Habitat--Latin America: Women Bear the Brunt of Urbanization*, Inter Press Service, June 5, 1996, available in LEXIS, Nexis Library, CURNWS File.

167. *Id.*

168. *Id.*

home, and around the world.<sup>169</sup> In this stage, where words must prompt meaningful action, States are likely to falter for lack of will, organization, or appropriate grassroots contacts. So here, too, NGOs have a good deal to accomplish. The Beijing Platform for Action calls on States to work with NGOs, and for NGOs to work independently as well, under virtually every "strategic objective" that it lists.<sup>170</sup> It calls on NGOs to create "a social, economic, political and intellectual climate based on equality between women and men."<sup>171</sup> It directs governments to consult with NGOs to "begin to develop implementation strategies for the Platform."<sup>172</sup> Finally, it recommends that women's groups form networks for themselves and with other NGOs "to advocate and support the implementation of the Platform for Action by Governments and regional and international bodies."<sup>173</sup> Thus, where NGOs see a policy worth pursuing, they are likely to play a major role in making sure that the policy is implemented.

In the apt words of Madeline Albright, U.S. delegate to FWCW, "[I]f there is no one in your way it is just because you are not going anywhere."<sup>174</sup> The movement to implement "equality, development and peace"<sup>175</sup> is going somewhere, and much is still in its way. But that is why it is so crucial, for women's rights and other areas of concern, that NGOs use the many tactics that they do. It is hard to stand in the way of a movement that has so many routes it may take.

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169. *Private Groups Have Impact Beyond U.N. Conference*, Transcript #1187-4 (CNN News Program, Sept. 4, 1995) available in LEXIS, World Library, CURNWS File (quoting Wangari Maathal, Commission on Global Governance). See also comments by Secretary-General Boutros-Ghali: *Decisions Reached at FWCW Must Be Translated in Action: U.N. Secretary-General*, Xinhua News Agency, Sept. 15, 1995, available in LEXIS, World Library, CURNWS File.

170. See Beijing Platform for Action, *supra* note 105. The Platform for Action notes that "[t]he participation and contribution of all actors of civil society, particularly women's groups and networks and other non-governmental organizations and community-based organizations, with full respect for their autonomy, in cooperation with Governments, are important to the effective implementation and follow-up of the Platform for Action." *Id.* at para. 20.

171. *Id.* at para. 289.

172. *Id.* at para. 297.

173. *Id.* at para. 298.

174. *NGO Forum in China Turned the Spotlight on Women's Problems*, Deutsche Press-Agentur, Sept. 7, 1995, available in LEXIS, World Library, CURNWS File.

175. This phrase was the motto for the Fourth World Conference on Women.

