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# The UN System and the Non-Governmental Organisations

Pradeep Pathak\*

## Introduction

The United Nations (UN) is an international organization formed with aims to maintain international peace and security, to develop friendly relations among nations and to promote social progress, better living standards and human rights respectively. The UN system is the whole network of international organizations, treaties and conventions that are created by the UN; and it includes specialized agencies, funds and programs.<sup>1</sup> The UN system works through its main bodies: the General Assembly, the Security Council, the Economic and Social Council, International Court of Justice and the Secretariat. Role of non-governmental organization (NGO) in the UN system is widely discussed in relation of accomplishing the aims of the UN. This article advances the growing role of NGOs in helping the UN to reach its goals through analyzing the space and role of NGOs in the UN system together with the perspectives of their criticism.

## Space of NGOs in the UN System

The UN has formalized the term NGO within its system with its inclusion in Article 71 of the UN Charter, which provides the Economic and Social Council (ECOSOC) with the power to "make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence". The relationship between ECOSOC and NGOs was further formalized in ECOSOC Resolution 1296<sup>2</sup> and ECOSOC Resolution 1996<sup>3</sup>, which outline criteria for NGO's consultative status with ECOSOC. Therefore, NGOs play a key role at major UN conferences and function as indispensable partners

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<sup>1</sup> United Nations, 'UN at a Glance', n.d, United Nations Official Website available at <http://www.un.org/en/aboutun/index.shtml>, accessed on 17 February 2017.

<sup>2</sup> Global Policy Forum, '*ECOSOC Resolution 1296 (XLIV)*', 1968, Global Policy Forum Official Website available at <https://www.globalpolicy.org/component/content/article/177/31832.html>, accessed on 15 February 2017.

<sup>3</sup> *United Nations, 'ECOSOC Resolution 1996/31'*, n.d, United Nations Official Website available at [http://www.un.org/esa/coordination/ngo/Resolution\\_1996\\_31/](http://www.un.org/esa/coordination/ngo/Resolution_1996_31/), accessed on 16 February 2017.

for UN efforts at the country level. As of 22 August 2016, 4,507 NGOs enjoy active consultative status with ECOSOC<sup>4</sup> and over 13,000 NGOs are associated with the UN. More and more, NGOs are the UN system partners and valuable UN links to civil society. They are consulted on UN policy and program matters<sup>5</sup>.

Similarly, UN treaty bodies<sup>6</sup> have recognized the role of NGOs in formulating and adopting General Comments. They not only hold dialogue with NGOs but also encourage them to submit informal background papers to the Committee<sup>7</sup>. They have been "legitimized by international law"<sup>8</sup> and some NGOs have formal consultative status at inter-governmental organizations, which as Nigel Rodley, who served as an independent expert of the UN, puts permit them to "observe the public business of the UN, distribute reports, submit written statements on UN agenda items, make oral statements or 'interventions', receive UN documents, use UN library facilities, and become involved in work on international legal instruments"<sup>9</sup>. In this way, NGOs can even participate in certain activities without voting while others can frequently engage in providing counsel to national governments and can directly influence the form and substance of international law. Thakur views this relationship as "symbiotic"<sup>10</sup>. Hence, NGOs are widely viewed as legitimate actors and are now generally welcomed as active participants in the UN system, which has been reflected in former UN Secretary-General Kofi Annan's much talked report to the General Assembly in which he has urged for the full engagement of active civil society to achieve UN goals<sup>11</sup>.

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<sup>4</sup> NGO Branch Department of Economic and Social Affairs, 'Basic Facts about ECOSOC Status', n.d, United Nations Official Website available at <http://csonet.org/index.php?menu=17>, accessed on 3 February 2017.

<sup>5</sup> United Nations, 'Civil Society', n.d, United Nations Official Website available at <http://www.un.org/en/sections/resources/civil-society/index.html>, accessed on 17 February 2017.

<sup>6</sup> Treaty bodies are independent specialist committees formed under the Articles of the Conventions. ICCPR, Article 28 (Human Rights Committee); ICESCR (Committee on Economic, Social and Cultural Rights established by ECOSOC Resolution in 1987); ICERD, Article 8 (Committee on the Elimination of Race Discrimination); CEDAW, Article 17 (Committee on the Elimination of Discrimination Against Women); UNCAT, Article 17 (Committee Against Torture); UNCRC, Article 43 (Committee on the Rights of the Child), for example, provides mandate for the treaty bodies.

<sup>7</sup> Conway Blake, 'Normative Instruments in International Human Rights Law: Locating the General Comment', Center for Human Rights and Global Justice Working Paper Number 17 (2008) available at <http://chrgj.org/wp-content/uploads/2012/07/blake.pdf>, accessed on 17 February 2017.

<sup>8</sup> Daniel C. Thomas, 'International NGOs, State Sovereignty, and Democratic Values', vol. 2, *Chicago Journal of International Law* p.389, 2001, p.391.

<sup>9</sup> Ann Marie Clark, 'Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms,' Princeton University Press, Princeton, 2001, p. 124.

<sup>10</sup> Ramesh Thakur, 'Human Rights: Amnesty International and the United Nations', vol. 31, no. 2 *Journal of Peace Research* p.143, 1994, p.157.

<sup>11</sup> Kofi Annan, 'In Larger Freedom: Towards Development, Security and Human Rights for All,' Report of the UN Secretary-General, UN Doc. A/59/2005, 21 March 2005, para 20.

## Role of NGOs in the UN System

Roles of NGOs in the UN system are widely discussed in relation to fulfilling the objectives of the UN. According to Thakur, NGOs play five distinct roles in international relations and those are: raising consciousness raising or promoting values; setting agendas; lobbying to shape the terms of the instructions given to delegates at multilateral and inter-governmental forums, and implementing international commitments; monitoring; and direct action<sup>12</sup>. Merry has mentioned four major roles of NGOs in UN meetings as developing issues, making statements (interventions), working with and lobbying governments concerning the text of document, helping to disseminate the documents at home and pressuring their governments to abide by them<sup>13</sup>. Elise Boulding, matriarch of peace studies movement, states NGOs as important elements of an "emerging global civil society" which can "shape the activities, policies and agendas" of the UN<sup>14</sup>. Thakur supports her view saying that the UN and NGOs together play "complimentary roles"<sup>15</sup>. Since NGOs are formed to work for the general welfare of the public, they may come across different cultural values and norms which create hindrance in promoting these objectives. Therefore, the task of bringing new ideas, norms and discourses to change the attitude, beliefs and perception of the people for progressive transformation of the state and society also falls under the broad objectives of the NGO<sup>16</sup>.

NGOs' involvement in drafting of General Comments has facilitated their intervention into the interpretative and norm-generating processes, by allowing them "direct influence on the conceptualization, preparation and drafting of these instruments".<sup>17</sup> Moreover, all the treaty bodies have no means to enforce or even to supervise the government's response on concluding comments or observations made by them. So they depend on national NGOs in accessing these observations and following up on them with the government. Matthew Craven, Professor of International Law, notes that many General Comments by the UN Committees were produced as a result of "extensive co-operation with NGOs"<sup>18</sup>. Therefore, NGOs have great role to play in advancing UN principles around the world principally by generating norms and setting international standards<sup>19</sup>, documenting

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<sup>12</sup> Ibid (n 10), p. 153.

<sup>13</sup> Sally Engle Merry, 'Human Rights and Gender Violence: Translating International Law into Local Justice,' University of Chicago Press, Chicago, 2006, pp. 50-52.

<sup>14</sup> John Boli & George M. Thomas, 'INGOs and the Organisation of World Culture', in *Constructing World Culture: International Nongovernmental Organisations since 1875*, Eds G Boli & GM Thomas, Stanford University Press, Stanford, 2007, p. 17, 29.

<sup>15</sup> Ramesh (n 10) p. 144.

<sup>16</sup> William F. Fisher, 'Doing Good? The Politics and Anti-politics of NGO Practices', vol. 26, *Annual Review of Anthropology* p.439, 1997, pp. 439-64.

<sup>17</sup> Conway (n 7), p. 14.

<sup>18</sup> Ibid, (n 10) p. 153.

<sup>19</sup> William Korey, *NGOs and the Universal Declaration of Human Rights: a curious grapevine*, Palgrave, New York, 2001, pp. 1-10.

human rights violations and lobbying for effective enforcement of the UN principles and declarations.

### Generating Norm and Setting Standard

One of the important roles NGOs could play in the UN system is by their ability of generating norm and setting the standard. Under this role, they first generate issue and employ different means to disseminate the information in order to build awareness among the people about the issue. In the second stage, they campaign for establishing networks to "generate broader support for normative change within, across, and outside government channels"<sup>20</sup>. They build new links among actors in civil societies, states, and international organizations by exchange of information and services, and thereby multiply the channels of access to the international system to form "transnational advocacy networks"<sup>21</sup> or "transnational civil society"<sup>22</sup>. They use the "boomerang" pattern of influence characteristics of these networks and put pressure on their state from outside in the work of promoting this new idea<sup>23</sup>. To a considerable extent, impetus for global action comes from transnational NGOs<sup>24</sup>. In this way, they act as "systemic modifiers of state behaviors"<sup>25</sup>, create influence at the policy level for "the promotion and 'universalization' of human rights norms"<sup>26</sup> and encourage actors to promote norm implementation by pressuring them to adopt new policies and change their procedures and behaviors through the creation and promotion of new laws.

For example, by successfully generating norm, NGOs were instrumental in achieving the passage of the Universal Declaration of Human Rights<sup>27</sup>. In addition, they have pressurized the national governments to sign and ratify the treaties that embody human rights norms and establish domestic mechanisms in line with fulfilling the objectives of the treaties. Through their strong presence and intense dialogue among governments, UN bodies, specialized agencies and other intergovernmental organizations, NGOs have continued to play critical roles in advancing the human rights agenda at subsequent UN conference. An example of

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<sup>20</sup> Richard Price, 'Reversing the Gun Sights: Transnational Civil Society Targets Land Mines', vol. 52, no. 3, *International Organization* p.613, 1998, p.617.

<sup>21</sup> Margaret E. Keck & Kathryn Sikkink, 'Transnational Advocacy Networks in International Politics: Introduction', *Activists Beyond Borders: Advocacy Networks in International Relations*, Cornell University Press, Ithaca, New York, 1998, p. 1.

<sup>22</sup> Richard (n 20), p. 615.

<sup>23</sup> Margaret & Kathryn (n 21), p. 12.

<sup>24</sup> John & Gorge (n 14), p. 48.

<sup>25</sup> Ibid (n 10), p. 153.

<sup>26</sup> Makau Mutua, 'Human Rights International NGOs: A Critical Evaluation, in *NGOs and Human Rights: Promise and Performance*, ed. CE Welch, University of Pennsylvania Press, Philadelphia, 2001, pp. 151.

<sup>27</sup> Daniel (n 8), p. 391.

an NGO forming a presence on the international state and making a stand can be seen in the establishment of the International Criminal Court (ICC) at the Rome Conference in 1998 where Amnesty International (AI) was one of the main NGOs that supported the ICC's creation<sup>28</sup>. Similarly, NGOs' united campaign against slavery and for women suffrage has proved their influence on the UN system. The comprehensive antipersonnel mine ban treaty was signed by 122 states in December 1997 because of the effort of the transnational campaign in involvement of more than one thousand NGOs from over sixty countries that focused and campaigned against land mines through a variety of ways<sup>29</sup>. As pointed out by Korey, NGOs have played a decisive role in "transforming the phrase 'human rights' from a Charter provision or a Declaration Article into a critical element of foreign policy discussions in and out of governmental or intergovernmental circles"<sup>30</sup>. In an article, 'Women's Rights: 1975-1985', Reginald J. Harrison<sup>31</sup> observes that the launching of the International Decade of Women in 1975 by the UN was the result of NGOs' pressure rather than initiatives of states. The concrete impact of NGOs' involvement on UN mechanism was described by Theo van Boven, former head of the UN administrative branch, who noted that NGOs created a climate favourable to the establishment of new sub-organs and the development of new fact-finding techniques<sup>32</sup>. Environmental NGOs played great role in "shaping state positions and conference declarations" in the UN Conference on Environment and Development, which was participated by 2,400 representatives of environmental NGOs<sup>33</sup>. The program of action of the conference has also recommended ways to strengthen the roles played by NGOs in achieving sustainable development.

### Investigation and Documentation of Human Rights Violations

NGOs are making another major impact in the UN system by supporting investigation and documentation of human rights violations. This task has been vitally important in bringing human rights abuses to the attention of the United Nations, the international community and the public at large. NGOs were also the impetus behind the creation of the UN High Commissioner for Human Rights<sup>34</sup>. Their campaigns have been viewed as the driving force behind prevention of

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<sup>28</sup> Morton E. Winston, 'Assessing the Effectiveness of International Human rights NGOs: Amnesty International', in *NGOs and Human Rights: Promise and Performance*, ed. CE Welch, University of Pennsylvania Press, Philadelphia, 2001, pp. 25-54.

<sup>29</sup> Richard (n 20), p. 615.

<sup>30</sup> William (n 19), p. 3.

<sup>31</sup> Ibid (n 10), p. 154.

<sup>32</sup> Theo van Boven, 'The Role of the United Nations Secretariat in the Area of Human Rights', vol. 24, issue 1, *New York University Journal of International Law and Politics* p.69, 1991, p.72.

<sup>33</sup> Margaret & Kathryn (n 21), p. 25.

<sup>34</sup> Julie Mertus, 'The Office of the High Commissioner for Human Rights', *The United Nations and Human Rights: A Guide for a New Era, Global Institutions Series*, Routledge, London & New York, 2005, pp. 8-43.

human rights violation and have played a large role in ensuring further opposition to human rights violations in countries world-wide. Negative media exposure generated through the publishing of human rights violation reports can serve as a useful shaming technique to increase government's compliance with international human rights norms<sup>35</sup>. Moreover, in light of the establishment of the International Criminal Court (ICC), NGOs' documentation can also serve as important evidence for prosecution before an international tribunal. The establishment of the ICC means that crimes that fall under the Rome Statute of the ICC definitions could become the subject of ICC investigations. The ICC Office of the Prosecutor is responsible for "receiving referrals and any substantiated information on crimes within the jurisdiction of the Court, for examining them and for conducting investigations and prosecutions before the Court"<sup>36</sup>. Human rights NGOs potentially have a vital role to play in relation to ICC investigations. They often have direct knowledge of violations and contacts with victim and witness communities. NGOs also may be able to "investigate human rights abuses"<sup>37</sup>, document violations shortly after they occur and to compile information regarding patterns of violations. Indeed, NGOs may be the main sources of information drawing the attention of the ICC Prosecutor for the situations where crimes have been committed. Thus, human rights NGOs are likely to broadly share the goals of the ICC to combat impunity for gross violations of human rights and international humanitarian law. It is now widely accepted that without NGOs, the UN human rights machinery would not be able to function<sup>38</sup>.

### Enforcement of UN Principles and Declarations

NGOs have always remained helping hand in the enforcement of the UN principles and declarations, and implementation of the UN global campaigns. As international human rights standards gained prominence, NGOs began "spurring the creation of special UN mechanisms" to enforce these standards while also "providing those [UN] instruments with the assembled documentation to make their investigations productive." Thus, NGOs create a far better informed public opinion and governments are subjected to domestic pressure to do something<sup>39</sup>. In a report of 2002 to the United Nations, the Secretary General emphasized the importance of the role played by NGOs in the United Nations system, noting that

<sup>35</sup> William (n 19) & Margaret & Kathryn (n 21).

<sup>36</sup> United Nations Doc. A/CONF.183/9\*, Rome Statute of the International Criminal Court, United Nations.

<sup>37</sup> Ibid (n 10), p. 150.

<sup>38</sup> Rachel Brett, 'The Role of NGOs- An Overview', In International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Moller, eds G Alfredsson, J Grimheden, BG Ramcharan & Ad Zayas, Martinus Nijhoff, 2<sup>nd</sup> Revised Edition, 2009, p. 673.

<sup>39</sup> Philip Alston, 'The Commission on Human Rights', in The United Nations and Human Rights: A Critical Appraisal, eds. P Alston, Oxford University Press, New York, 1992, pp. 159.

the "formal deliberations and decisions of many meetings of intergovernmental organizations are now often enriched by the debates carried out in non-governmental forums"<sup>40</sup>. The report discussed developments in the relationship between NGOs and the United Nations, such as new procedures that allow NGOs to give testimony to Security Council members on certain issues, and efforts by NGOs to present collective views. The Secretary General also noted the need for reforms such as the need for clarification of the NGO accreditation process and created a panel to review these issues<sup>41</sup>. NGOs have undertaken an enormously varied range of activities, including implementing grass-roots or sustainable development, promoting human rights and social justice, protesting environmental degradation, and pursuing many other objectives formerly ignored or left to governmental agencies<sup>42</sup> and they are also indispensable partners in delivering services to the poor at the scope required by the Millennium Development Goals.<sup>43</sup>

### Criticisms of NGOs

Despite having influential role and contribution to the UN system, NGOs are not free from criticism. In several cases, their reputation for objectivity and independency is being questioned. In one of such cases, AI reported that Iraqi soldiers supposedly massacred Kuwaiti babies lying in their hospital incubators. The report was so critical of Iraq that the US took swift action against Iraq. But later it was revealed that the incident never happened and AI report turned out to be false<sup>44</sup>. If credible NGO like AI can make such mistake, one can criticize on the perceived impartiality of other NGOs as well. Among such critic is Steinberg<sup>45</sup>, who claims that several NGOs are distorting basic norms and at times even promoting the antithesis of their important and noble aims, and subjugating universal values to partisan interests. He has even raised issues like the absence of democratic accountability, transparency and independent external examination, and the lack of capacity of the funding organizations to monitor and evaluate the activities they support. Fisher also points out towards small, opportunistic "brief-

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<sup>40</sup> United Nations Doc. A/57/387, 'Strengthening of the United Nations: An Agenda for Further Change', n.d, United Nations Official Website available at <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan005675.pdf>, para 136, accessed on 18 February 2017.

<sup>41</sup> Global Policy Forum, 'NGOs and the United Nations', 1999, Global Policy Forum Official Website available at <http://www.globalpolicy.org/component/content/article/176/31440.html>, accessed on 18 February 2017.

<sup>42</sup> William (n 16), p. 440.

<sup>43</sup> Kofi (n 11).

<sup>44</sup> Ann Marie (n 9), p. 132.

<sup>45</sup> Gerald M. Steinberg, 'Monitoring the Political Role of NGOs', Jerusalem Letter/Viewpoints, no. 499 (2003) available at <http://www.jcpa.org /jl/vp499.htm>, accessed on 15 February 2017.



case" NGOs formed by members of an urban middle class to seek funding<sup>46</sup>. This is largely true in the case of developing countries like Nepal where issues of accountability and transparency are definitely major concerns with regard to NGOs.<sup>47</sup> In his article 'Asia's Different Standard', Bilahari Kausikan has portrayed NGOs as agents of foreign influence, who use human rights law to attack non-Western cultures<sup>48</sup>. It is also said that many NGOs use the opportunities presented by consultative status at the UN to publicize them rather than to serve the cause of human rights. Many also criticize to their nature and activities: their independence from governmental control; their role as exposers of human rights violations by governments; their constant criticisms of governments, international institutions and other bodies for their actions or inaction; and their typically anarchic character.<sup>49</sup> One can argue from the criticism made against NGOs that they are self-appointed, culturally and politically biased, non-transparent, and unaccountable, often oriented towards single issues, often have their basis in the middle class, and are not completely free of doing wrong.

### Conclusion

NGOs are seen as "indispensable partners" of the UN in generating norms and setting international standards, documenting human rights violations and advancing the UN principles and declarations. They are gradually gaining more acceptances and a stronger voice in the UN system for achieving the general welfare of the public and their role has been expanded greatly in the last two decades. Their engagement with the UN has proved to be effective and the UN and the states are also increasingly accustomed to their presence<sup>50</sup>. Therefore, if the UN is to be a useful instrument for its member states and for the world's people, it must be open to NGOs with greater institutional roles and the potential of NGOs should be effectively utilized for the full realization of its aims. However, the UN is the body of governments and it gets its legitimacy through states. Many governments are "very skeptical" about NGOs and they suspect their credibility, accountability and transparency.<sup>51</sup> This raises question as to the expanded role of NGOs to serve the best interest of the UN goals. Therefore, it is the responsibility of the NGOs to answer their critics by maintaining the highest standards of integrity and behavior and demonstrating and improving their accountability and effectiveness. They can do so by developing accountability structures and self-regulatory initiatives such as creating norms and standards; developing work ethics, code of conduct and good practices; maintaining

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<sup>46</sup> William (n 16), p. 447.

<sup>47</sup> Anand P. Shrestha, A (ed.) 'The Role of Civil Society and Democratisation in Nepal,' Nepal Foundation for Advanced Studies, Kathmandu, 1998.

<sup>48</sup> Daniel (n 8), p. 393.

<sup>49</sup> Rachel (n 38), p. 674.

<sup>50</sup> Daniel (n 8), p. 389.

<sup>51</sup> Sally (n 13), pp. 50-72.

transparency and good governance and having disclosure of information about their activities and finances. They can build public trust and legitimacy by way of being objective, impartial, non-political and independent from any partisan and economic interests, and ensuring diversity and inclusivity in their management and decision making structure. Since NGOs can bring to the global policy making and governance process a vitally important voice that compliments and widens the policy discourse resulting in the better and more legitimate decisions. It is high time for them to introspect themselves and earn full credibility so as to ensure greater institutional role in the UN system.

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