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## Toward a Consultative Relationship between the United Nations and Non-Governmental Organizations?

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# TOWARD A CONSULTATIVE RELATIONSHIP BETWEEN THE UNITED NATIONS AND NON-GOVERNMENTAL ORGANIZATIONS?

*Michael M. Gunter\**

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### I. INTRODUCTION

Article 71 of the United Nations Charter sanctioned the institutionalization of a formal consultative relationship between the Economic and Social Council (ECOSOC) and non-governmental organizations (NGOs):

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

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The original proponents of this article hoped that it would open new channels of communication by allowing the peoples of the United Nations a voice in the *intergovernmental* organization. Such participation "would bring to the deliberations of the U.N. a cross-section of world public opinion," raise "possibilities of functional as well as geographic representation," and, thereby, offer the organization "a kind of Second Estate."<sup>1</sup> "The United Nations thus began a great experiment in relations between the governmental and the non-governmental aspects of society."<sup>2</sup>

These early hopes have been largely unfulfilled. Today most NGO observers argue that the whole consultative relationship is in a state of crisis.<sup>3</sup> They call upon the United Nations to stop dealing with the NGOs on sham terms,<sup>4</sup> decry the current lack of political will to change,<sup>5</sup> and argue that the time has come for some thorough-going reassessment.<sup>6</sup> A recent United Nations Institute for Training and Research (UNITAR) study found the consultative relationship to be "obsolete and unproductive."<sup>7</sup> Even the Secretary-General of the United Nations, in a special report on the

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1. E. BOCK, REPRESENTATION OF NON-GOVERNMENTAL ORGANIZATIONS AT THE UNITED NATIONS 15-17 (1955).

2. L. WHITE, INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS: THEIR PURPOSES, METHODS, AND ACCOMPLISHMENTS 258 (1951). This is the classical general study on international NGOs. For a concise and probably the best early analysis of the UN ECOSOC-NGO consultative relationship, see B. PICKARD, THE GREATER UNITED NATIONS: AN ESSAY CONCERNING THE PLACE AND SIGNIFICANCE OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS (1956). For another early study, see White, *Non-Governmental Organizations and Their Relations with the United Nations*, in ANNUAL REVIEW OF UNITED NATIONS AFFAIRS 165-89 (C. Eagleton & R. Swift, eds. 1951). See also, D. BLAISDELL, INTERNATIONAL ORGANIZATION 10-14, 373-89, 416-18 (1966). In recent years the subject has been largely neglected, with the exception of the periodical *International Associations*, which is published by the Union of International Associations. The United Nations Institute for Training and Research (UNITAR) is preparing a major study of the topic. Two preliminary reports have already appeared: *The Potential of NGOs in Social and Economic Development—Report of a UNITAR Conference, July 1975*, reprinted in 28 INT'L A. 95-100 (1976) [hereinafter cited as *UNITAR Conference at Schloss Hernstein*]; Andemicael, *Non-Governmental Organizations in Economic and Social Development*, (Draft Summary of a UNITAR Colloquium, New York, Oct. 6, 1975) [hereinafter cited as *UNITAR Colloquium in New York*].

3. Epps, *NGO Interventions at the ECOSOC Committee on NGOs-1*, 26 INT'L A. 456 (1974).

4. *Time for a Mini-Jackson Report?* 25 INT'L A. 429 (1973).

5. Judge, *NGO Interventions-4*, 26 INT'L A. 460 (1974).

6. Epps, *supra* note 3, at 459.

7. *UNITAR Conference at Schloss Hernstein*, *supra* note 2, at 95.

subject, admits "the need . . . to enhance and improve this consultative machinery."<sup>8</sup>

What do consultative relationships entail? What has been the impact on United Nations policies? What has gone wrong? Why has the consultative relationship failed to live up to expectations? What are the chances for ameliorating the present malaise and moving towards a new, reinvigorated consultative relationship? This article will address these questions now being raised in the current discussions about revitalizing ECOSOC.<sup>9</sup>

## II. THE DEVELOPMENT OF CONSULTATIVE RELATIONS

### A. *The League of Nations*

Early in its history, the League of Nations,<sup>10</sup> under the provisions spelled out in the Covenant, flirted with the idea of establishing official supervision over the international community of NGOs:

There shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League . . . . The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.<sup>11</sup>

Indeed the Covenant mentioned the Red Cross by name,<sup>12</sup> while the League gave the Union of International Associations a grant for its research work.<sup>13</sup>

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8. Report of the Secretary-General in Response to Recommendations of the Committee and of Economic and Social Resolution 1739 (LIV) and 1740 (LIV), U.N. Doc. E/C.2/768, at 3 (1975).

9. See generally, *A New United Nations Structure for Global Economic Cooperation: Report of the Group of Experts on the Structure of the United Nations System*, U.N. Doc. E/AC.62/9 (1975).

10. For a useful discussion of League-NGO relations, see Pickard, *Pre-U.N. Contacts Between International Non-Governmental Organizations and Inter-Governmental Organizations*, reprinted in 7 INT'L A. 575 (1955); Pickard, *Article 24 of the Covenant of the League of Nations and its Interpretation*, reprinted in 7 INT'L A. 576 (1955); Robb, *League Committee and Assessors*, reprinted in 7 INT'L A. 577 (1955).

11. LEAGUE OF NATIONS COVENANT art. 24.

12. *Id.*, art. 25.

13. Pickard, *Article 24 of the Covenant of the League of Nations and its Interpretation*, reprinted in 7 INT'L A. 576, 577 (1955).

Realizing the full implications of such a broad interpretation of article 24, however, the League soon reversed itself, arguing that "it is not desirable to risk . . . even the appearance of an official supervision . . . . Article 24 of the Covenant refers solely to international bureaux which have been actually established by general conventions . . . ." <sup>14</sup> Nevertheless, extensive informal relations did develop. Some were even more significant than those formally sanctioned later by the United Nations Charter. Through a system of assessors or experts, NGOs actually *participated* without a vote in certain League committees and conferences. Both in the Traffic of Women and in the Child Welfare Committees of the Advisory Commissions, for example, NGO assessors were permitted to propose resolutions, offer amendments, present and defend reports, and, in short, play a role analogous to that of a nonvoting member.<sup>15</sup> Although the League became more chary of NGOs near the end of its existence, it bequeathed a rather extensive experience in NGO collaboration to its successor, the United Nations, in 1945.

### B. *The United Nations*

1. *The United Nations' Early Days.*—During World War II, various NGOs, such as the Commission to Study the Organization of the Peace, offered recommendations concerning the prospective world organization. At San Francisco, 42 American NGOs actually served as consultants to the United States delegation, and numerous others were present as observers. The Communist-influenced World Federation of Trade Unions (WFTU) demanded direct representation at the Conference.<sup>16</sup>

Article 71, the result of the NGO entreaty for a formal role in the United Nations, is permissive, not mandatory; its implementation "depended on the adoption of the appropriate resolutions."<sup>17</sup> For the first few years, a series of ad hoc arrangements sufficed.<sup>18</sup>

14. 4 LEAGUE OF NATIONS O. J. 858 (1923).

15. The United Nations Charter, on the other hand, clearly distinguishes between NGO consultation and non-member participation without a vote. See, U.N. CHARTER arts. 70, 71.

16. Although its demands were denied, the WFTU's tenacious battle for special privileges led to greater concessions for all consultative NGOs.

17. *Report of the Secretary-General: Brief History of the Consultative Relationships of Non-Governmental Organizations with the Economic and Social Council*, U.N. Doc. E/C.2/661, at 2 (1968). The relevant section of Article 71 reads: "The Economic and Social Council *may* make suitable arrangements for consultation with non-governmental organizations . . . ." (Emphasis added.)

18. For a concise discussion of these early ad hoc arrangements, see Pickard,

These were formalized on February 27, 1950, by the adoption of ECOSOC Resolution 288B(X),<sup>19</sup> whose basic provisions were perpetuated in ECOSOC Resolution 1296 (XLIV) of May 23, 1968,<sup>20</sup> establishing the framework currently employed.

Much of the work has been done by the ECOSOC Committee on Non-Governmental Organizations (NGO Committee), which was created in 1946 as one of the Council's main committees. In one of the NGO Committee's first reports, for example, it was determined that the purpose of the NGO consultative relationship was to obtain expert advice from NGOs and to enable NGOs to serve as a conduit for public opinion.<sup>21</sup> Later, Council Resolution 1296 declared that each consultative NGO "shall be concerned with matters falling within the competence of the Economic and Social Council with respect to international economic, social, cultural, educational, health, scientific, technological and related matters and to questions of human rights."<sup>22</sup> In addition, the NGOs' "aims and purposes . . . shall be in conformity with the spirit, purposes and principles of the Charter . . ."<sup>23</sup> Furthermore, each consultative NGO "shall be of representative character and of recognized international standing . . ."<sup>24</sup> It "shall have an established headquarters, with an executive officer"<sup>25</sup> and possess "a democratically adopted constitution, a copy of which shall be deposited with the Secretary-General . . ."<sup>26</sup>

Consultative NGOs originally were divided into three classifications: Category A NGOs had broad interests which represented a significant segment of world opinion; Category B included those organizations possessing a special, but limited competence; and Category C encompassed those distributing information to the public. The rights and privileges of a consultative NGO varied according to its category.

During these early years the WFTU, the International Cooperative Alliance, and the American Federation of Labor (AFL) played

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*supra* note 2, at 82-86. See also 3 REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS, 557-58 (1955).

19. E.S.C.Res. 288B(X), 10 U.N. ESCOR, Supp. (No. 1) 24 (1950).

20. E.S.C.Res. 1296, 44 U.N. ESCOR, Supp. (No. 1) 21, U.N. Doc. E/4548 (1968).

21. 2 U.N. ESCOR (10th mtg.) 72 (1946).

22. E.S.C.Res. 1296, *supra* note 20, Part I, para. 1, at 21.

23. *Id.*, Part I, para. 2, at 21.

24. *Id.*, Part I, para. 5, at 21.

25. *Id.*

26. *Id.*

active roles in providing suggestions and guidelines.<sup>27</sup> Major battles were fought over the right of NGOs to place items on the agenda of ECOSOC and speak before it. Indeed, the antagonistic interaction of the WFTU and the AFL in some ways adumbrated the Cold War.

2. *ECOSOC Resolution 288B(X)*.—ECOSOC formalized these ad hoc arrangements by its Resolution 288B(X) of February 27, 1950.<sup>28</sup> Certain checks were placed on the privileges of Category A NGOs in order to contain the cold war possibilities inherent in their status. ECOSOC's NGO Committee was directed to screen the items proposed by NGOs for the Council's agenda, and their written statements for submission to the Council were limited to 2000 words. In addition, consultation with the Secretary-General was mandated before their written statements could be circulated. Privileges of Category B NGOs, on the other hand, were liberalized. They were allowed to have written statements of up to 500 words circulated, whereas before, their communications were simply listed and were distributed only upon the request of a Member State. Category C was dropped completely because of the belief that NGOs engaged solely in the dissemination of public information about the United Nations could work best with the Office of Public Information. In its place was substituted a "Register" of organizations with highly specialized interests that were only occasionally involved in topics of concern to ECOSOC. The Register also listed NGOs enjoying consultative relations with the specialized agencies but otherwise not connected to ECOSOC.

NGOs were defined as "[a]ny international organization which is not established by inter-governmental agreement . . ."<sup>29</sup> ECOSOC Resolution 1296 later broadened this definition to include "organizations which accept members designated by government authorities, provided that such membership does not interfere with the free expression of views of the organizations." No attempt was made to define "international," other than specifying that the "organization shall be of representative character . . . represent a substantial proportion, and express the views of major sections of the population . . . covering, where possible, a substantial number of countries in different regions of the world." This problem has proven minor in practice since article 71 also permitted national

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27. U.N. Doc. E/C.2/661, *supra* note 17, at 3.

28. E.S.C.Res. 288B, *supra* note 19.

29. *Id.*, Part I, para. 8, at 25.

NGOs to enter into consultative arrangements.<sup>30</sup>

Resolution 288<sup>31</sup> also drew a clear distinction between *non-member participation* in ECOSOC and *NGO consultation* there. Charter articles 69<sup>32</sup> and 70,<sup>33</sup> respectively, allow states that are not members of ECOSOC and specialized agencies nonvoting participation in ECOSOC. NGO consultation, however, is provided for separately in article 71.

This distinction, deliberately made in the Charter, is fundamental and the arrangements for consultation should not be such as to accord to non-governmental organizations the same rights of participation as are accorded to States not members of the Council and to the specialized agencies brought into relationship with the United Nations.<sup>34</sup>

In 1967, ECOSOC undertook a general review of the entire consultative relationship and also a case-by-case review of the status of each consultative NGO.<sup>35</sup> The reason for this action seems to have been the general problem of undue influence exercised by governments over consultative NGOs. Western states were unfavorably disposed towards granting consultative status to NGOs such as the Women's International Democratic Federation and the International Association of Democratic Lawyers, which they claimed were merely agents of Communist countries. On the other hand, disclosures by *Ramparts* magazine concerning the financing of certain NGOs by the United States C.I.A. provided ample ammunition for the Communist and certain Third World states.

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30. For a useful attempt to define the criteria that determines whether an organization is international, see 15 Y.B. INT'L ORG. 15-16 (1974).

31. E.S.C.Res. 288B, *supra* note 19.

32. U.N. CHARTER, art. 69 provides: "The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member."

33. *Id.*, art. 70 provides: "The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the Commission established by it, and for its representatives to participate in the deliberations of the specialized agencies."

34. E.S.C.Res. 288B(X), *supra* note 19, Part II, para. 12, at 26. E.S.C.Res. 1296, *supra* note 20, repeated the distinction. This principle previously had been stated in E.S.C.Res. 2/3 (1946) and reiterated in E.S.C.Res. 95(v) (1947), when the Council rejected the WFTU's request to call special sessions of ECOSOC under the same conditions as a specialized agency. See 3 REPERTORY OF PRACTICE, *supra* note 18, at 557.

35. For an analysis of these events, see Campbell, *United Nations Report: Do NGOs Have a Role?*, 11 INT'L DEV. REV. (September 1969), at 35-37.



Some found the review a "charade . . . which subjected INGOs in consultative status with ECOSOC to a degrading, inquisitorial 'grilling,' preceded by a questionnaire which effectively requested INGOs to prove their innocence of the general charge of being government front organizations."<sup>36</sup> As a result of the review, however, new stipulations were added for consultative NGOs regarding governmental interference in their affairs or vice versa. Resolution 1296, the new resolution governing the consultative relationship resulting from the review,<sup>37</sup> enumerated three specific cases in which suspension of consultative status might occur: (1) if "there exists substantiated evidence of secret governmental financial influence to induce a [non-governmental] organization to undertake acts contrary to the purposes and principles of the Charter of the United Nations;" (2) if "the organization clearly abuses its consultative status by systematically engaging in unsubstantiated or politically motivated acts against States Members of the United Nations;" (3) if "within the preceding three years, an organization had not made any positive or effective contribution to the work of the Council . . . ."<sup>38</sup>

In addition, Resolution 1296 specified that the "basic resources of the international [non-governmental] organization shall be derived in the main part from contributions of the national affiliates or other components or from individual members." When voluntary contributions were received, the amounts and donors had to be revealed. Other finances had to be explained to the satisfaction of ECOSOC's NGO Committee. Monies received from a government were required to be openly declared to the NGO Committee through the Secretary-General, fully recorded, and devoted to purposes of the United Nations. NGOs were to provide much of the required information themselves by submitting a report of their activities every four years.

As a result of the review, a few NGOs were reclassified, several were dropped because they "had not replied to questionnaires sent to them,"<sup>39</sup> and one was suspended—the Consultative Council of

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36. *The U.S. System's Ivory Tower Strategy—and the Death Knell of INGO Consultative Status*, 23 INT'L A. 46 (1971).

37. E.S.C.Res. 1296, *supra* note 20.

38. *Id.*, Part VIII, at 24.

39. Letter from Virginia Saurwein, Chief, Non-Governmental Organizations' Section, Economic and Social Council Secretariat, to the present author (October 14, 1976). Ms. Saurwein elaborated: "Since more than one notice was sent to these organizations, it was obvious that they either no longer existed or were not interested in continuing their relationships with the United Nations."

Jewish Organizations.<sup>40</sup> The entire review, however, "seem[s] to have produced minimal results, hardly justifying the enormous expense to governments (and NGOs) of the extended proceedings."<sup>41</sup> The provision concerning periodic NGO reports has never been enforced.

3. *ECOSOC Resolution 1296*.—With the exceptions noted above, ECOSOC Resolution 1296 (XLIV) of May 23, 1968, reaffirmed the basic principles governing the ECOSOC-NGO consultative relationship established in 1950 by Resolution 288. The three categories of consultative NGOs remained with but a minor change in name from A, B, and Register to I, II, and Roster. Category I was reserved for organizations in general consultative status; that is, those NGOs concerned with most of the activities of the Economic and Social Council, and having "marked and sustained contributions to make to the achievement of the objectives of the United Nations . . . ."<sup>42</sup> Such NGOs should be "closely involved with the economic and social life of the peoples of the areas they represent" and their "membership . . . should be . . . broadly representative of major segments of population in a large number of countries."<sup>43</sup> Category II embraced organizations in special consultative status. These were NGOs which have a special competence in, and are concerned specifically with, only a few of the fields of activity covered by the Council.<sup>44</sup> Finally, the Roster included other organizations which can make occasional and useful contributions to the work of the Council. An NGO could be placed on the Roster in any of three ways: (1) by action of the Council; (2) by action of the Secretary-General; and (3) by virtue of its consultative relationship with a specialized agency or some other United Nations body.<sup>45</sup>

As of July 1976, 688 NGOs maintained a consultative relationship with ECOSOC. Of these, 24 were listed in Category I, 196 in Category II, and 468 were on the Roster. Of those on the Roster, 96 were there by action of the Council, 27 had been placed there by the Secretary-General, and the remaining 345 were there by

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40. The Consultative Council of Jewish Organizations has since been returned to its former status.

41. Ascher, *Consultative Status with ECOSOC after the 11th General Conference of NGOs in Consultative Status with ECOSOC (Geneva, 9-11, July 1969)*, 21 INT'L A. 472 (1969).

42. E.S.C. Res. 1296, *supra* note 19, Part III, para. 16(a), at 22.

43. *Id.*

44. *Id.*, para. 16(b).

45. *Id.*, para. 19.

virtue of their consultative status with a specialized agency.<sup>46</sup> By no means, of course, did these figures include all NGOs. As of 1972, there were some 2470 international NGOs in existence,<sup>47</sup> and countless other national ones.<sup>48</sup>

ECOSOC Resolution 1296 required that the provisional agenda of the Council and various commissions and other subsidiary organs of the Council be communicated to all of the consultative NGOs.<sup>49</sup> With the approval of ECOSOC's NGO Committee and the Secretary-General, Category I NGOs may place items of special interest on the provisional agenda of the Council.<sup>50</sup> With the approval of a two-thirds majority of those present and voting, Category I NGOs also may propose items for the provisional agenda of Council commissions.<sup>51</sup>

"Organizations in categories I and II may designate authorized representatives to sit as observers at public meetings of the Council and its subsidiary bodies."<sup>52</sup> NGOs on the Roster may do so only when the meetings concern matters within their field of competence.<sup>53</sup> Category I and II NGOs also have the right to submit written statements relevant to the work of the Council to the Secretary-General for circulation to the members of ECOSOC. Category I NGOs' written statements must not exceed 2,000 words, and those of Category II organizations may not exceed 500 words (1,500 for commissions and subsidiary organs of ECOSOC). NGOs on the Roster may submit written statements under the guidelines for Category II NGOs if invited to do so by the Secretary-General, in consultation with the President of the Council, or the Council, or its Committee on Non-Governmental Organizations.

Upon recommendation of the NGO Committee and approval of the organ in question, Category I NGOs are permitted to make oral statements ("interventions") to the Council itself or its subsidiary bodies. In certain cases, Category II NGOs may also be heard by

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46. See U.N. Doc. E/INF/154 (1976) for these figures and also a catalog of the 688 NGOs that enjoy consultative relations with ECOSOC.

47. 15 Y.B. INT'L ORG. S33.

48. National NGOs could also be granted consultative status. Several national NGOs presently enjoy this distinction. During the late 1940s, the American Federation of Labor possessed Category I status. See text accompanying note 42 *supra*.

49. E.S.C. Res. 1296, *supra* note 19, Part IV, para. 20 at 22.

50. *Id.*, para. 21.

51. *Id.*, Part V, para. 27, at 23.

52. *Id.*, Part IV, para. 22, at 22.

53. *Id.*

the Council. The regulations are more relaxed when commissions or other subsidiary bodies are to be addressed. In addition, Category I NGOs are entitled to present orally to the Council or a sessional committee an introductory statement of an expository nature when the organ in question discusses an agenda item originally submitted by a particular NGO.<sup>54</sup> During the course of the discussion, the NGO also is allowed to make an additional clarifying statement.

Channels of communication are also sanctioned between consultative NGOs and the "officers of the appropriate sections of the Secretariat on matters in which there is a mutual interest."<sup>55</sup> An NGO section of the Secretariat's Department of Economic and Social Affairs bears the primary responsibility for maintaining liaison with NGOs and also serves as the secretariat of the ECOSOC NGO Committee. The Secretary-General is authorized to provide consultative NGOs with (1) "prompt and efficient distribution of . . . documents of the Council and its subsidiary bodies," (2) "access to press documentation services provided by the United Nations," (3) "use of the libraries of the United Nations," and (4) "accommodation for conferences . . . of consultative organizations . . . ."<sup>56</sup>

4. *The ECOSOC NGO Committee.*—ECOSOC's NGO Committee is "the main intergovernmental body, with sole responsibility for developing relations with non-governmental organizations . . . ."<sup>57</sup> Since 1966, the Committee has consisted of thirteen members chosen on the basis of equitable geographical representation. Formerly serving for only one year, Committee members, as of 1975, are now elected for four-year terms. Through 1975, the Committee met on an annual basis. This has now been changed, however, to biennial sessions. The Committee spends most of its meeting time discussing NGO applications for initial consultative status or reclassification to a higher category.<sup>58</sup> East-West and

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54. *Id.*, para. 25, at 23.

55. *Id.*, Part X, para. 44, at 25.

56. *Id.*, para. 46.

57. Statement by Bradford Morse, the Under-Secretary-General for Political and General Assembly Affairs, U.N. Doc. E/5452/Add.1, at 1 (1974).

58. For a description of a recent meeting, see: Ascher, *The New York Meeting of the ECOSOC NGO Committee*, 26 INT'L A. 241 (1974). See also *Report of the Committee on Non-Governmental Organizations*, U.N. Doc. E/5257 (1973); *Report of the Committee on Non-Governmental Organizations*, U.N. Doc. E/5452 (1974); *Report of the Committee on Non-Governmental Organizations*, U.N. Doc. E/5631 (1975).

North-South dichotomies develop, but the beleaguered NGO, in most instances, finally achieves status. Sometimes, however, an NGO is given a status lower than the one applied for. It may attempt to later obtain a "promotion." Initially, applications by NGOs for consultative status were considered in closed sessions. For the past decade, however, these sessions have been opened and the NGOs allowed to present written or oral statements.<sup>59</sup> Additional Committee functions include helping to decide which consultative NGOs should be permitted to make oral presentations to the plenary Council or its subsidiary bodies and which NGO-proposed items for the provisional agenda of the Council should be accepted. In addition, the Committee coordinates the activities of consultative NGOs pursuing certain United Nations objectives, such as development and decolonization.<sup>60</sup>

5. *The NGO Conference.*—All consultative NGOs are eligible to join the Conference of Non-Governmental Organizations in Consultative Status with the United Nations Economic and Social Council, commonly referred to as the NGO Conference or simply CONGO. This is a rather loosely structured organization which meets in plenary session triennially; the Thirteenth Assembly or General Conference was held at Geneva in 1975. The triennial Assembly of CONGO elects a president and vice-president and an executive bureau consisting of fifteen consultative NGOs. These organizations in turn each designate two representatives to serve in either the Geneva or New York section of the Bureau. The presidency and vice-presidency is usually rotated between the chairmen of the Geneva and New York sections.

CONGO's "primary purpose . . . is to serve as a watch-dog regarding United Nations relations with non-governmental organizations."<sup>61</sup> It organizes periodical meetings to study the consultative process and makes recommendations for its improvement. Because of its diverse membership, CONGO usually attempts to avoid specific stands on substantive issues. Nevertheless, it does

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59. E.S.C. Res. 1099, 40 U.N. ESCOR, Supp. (No. 1) 7, U.N. Doc. E/4176 (1966). This Resolution also increased the size of the NGO Committee from seven to thirteen. See also 2 REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS 455 (Supp. 3 1971).

60. E.S.C. Res. 1580(L), 50 U.N. ESCOR, Supp. (No. 1) 24, U.N. Doc. E/5044 (1971); E.S.C. Res. 1739 (LIV), 54 U.N. ESCOR, Supp. (No. 1) 35, U.N. Doc. E/5367 (1973); E.S.C. Res. 1740 (LIV), 54 U.N. ESCOR, Supp. (No. 1) 36, U.N. Doc. E/5367 (1973); E.S.C. Res. 1651 (LI), 51 U.N. ESCOR, Supp. (No. 1A) 1, U.N. Doc. E/5073/Add.1.

61. Saurwein letter to author, *supra* note 39.

have committees on such topics as disarmament, human rights, women, and development<sup>62</sup> and also holds ad hoc conferences on relevant subjects such as racism, apartheid, and decolonization. A former vice-president of the organization has claimed that "without the work of the NGO Conference, much of the present liaison between the nongovernmental sector and the United Nations simply would not exist."<sup>63</sup> In recent years there have been complaints that the United Nations has failed to adequately support the NGO Conference's activities on its behalf. The Conference, argues one knowledgeable participant, suffers from "tight budgets and limited staffing."<sup>64</sup> A growing rift between the Geneva and New York sections of the Bureau also has presented problems.

6. *Other United Nations-NGO Connections.*—Most observers incorrectly assume that article 71 sanctions the entire United Nations-NGO relationship. As we have seen, however, it specifically provides only for the consultative relationship between the ECOSOC and NGOs. There are, however, other types and areas of United Nations-NGO cooperation.<sup>65</sup> Although the present study is concerned with the ECOSOC-NGO relationship, a brief mention of some of the others is warranted.

Often confused with the ECOSOC-NGO arrangements is the distinct association that exists between the United Nations Office of Public Information (OPI) and NGOs. This does not constitute a consultative relationship, but is rather a cooperative endeavor for the dissemination of information. The resolution of the General Assembly establishing the OPI provides that:

The Department [OPI] and its branch offices should actively assist and encourage national information services, educational institutions and other governmental and non-governmental organizations of all kinds interested in spreading information about the United Nations. For this and other purposes it should operate a fully

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62. See *Report of NGO Committee on Development*, 28 INT'L A. 277 (1976).

63. Epps, *supra* note 3, at 455.

64. Epps, *The Role of NGO Cooperation in Establishing a New World Order*, 28 INT'L A. 259 (1976).

65. The provision which allows NGOs maintaining consultative relations with specialized agencies to be placed on ECOSOC's Roster for consultative NGOs provides a measure of unison between these different consultative relationships. In addition one might argue that Charter article 71 unofficially implies general sanction of the idea of NGO consultative relations throughout the United Nations system.

equipped reference service . . . for use by these agencies and organizations.<sup>66</sup>

To implement this mandate OPI established a Non-Governmental Organizations Section, the primary function of which is "to provide those organizations [NGOs] with information about all aspects of United Nations affairs so that they [can] disseminate this information"<sup>67</sup> to their respective constituencies. As a further aid, OPI has established an observer status for NGO representatives, permitting them to attend meetings, receive documentation, and meet with officials of the Secretariat. These OPI arrangements include NGOs in a formal consultative relationship with ECOSOC and those not so associated. Suggestions, therefore, have been made to rationalize procedures by combining the OPI-NGO and the ECOSOC-NGO connection.<sup>68</sup> Institutional preferences and jealousies, however, have prevented such a merger.

Several specialized agencies maintain formal consultative relations with NGOs.<sup>69</sup> Three of them, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Food and Agricultural Organization (FAO), and the International Labor Organization (ILO), provide for three separate NGO categories similar to those of ECOSOC. UNESCO's Category A is reserved for NGOs of "proven competence in an important field of UNESCO's work," Category B for those "able to advise in a particular field," and Category C for those "able to contribute to achievements of UNESCO's objective."<sup>70</sup> There are 35 NGOs listed in the first category, 167 in the second, and 105 in the third.<sup>71</sup> From

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66. G.A. Res. 12(3), Annex 1, (1946). See also U.N. DEP'T OF PUBLIC INFORMATION [OPI], *THE UNITED NATIONS AND THE NON-GOVERNMENTAL ORGANIZATIONS* 6 (1958).

67. U.N. Doc. E/5257/Add.1, Annex 1, at 4 (1973).

68. See, e.g., the recommendation to this effect made by Bradford Morse in U.N. Doc. E/5631, at 14 (1975).

69. For a convenient listing of these agencies and also other U.N.-related bodies possessing some type of consultative relationship with NGOs, see 15 Y.B. INT'L ORG. S10 (1974). For a more involved tabulation illustrating overlapping NGO relationships with the various specialized agencies and other U.N.-related bodies, see the table in *The Use of Multi-Meetings: Proposal for Improvement to NGO/UN Relationships*, 23 INT'L A. 358 (1971). In addition, see the report by the Secretary-General entitled *Consultative Relationships of Non-Governmental Organizations with the Specialized Agencies and other United Nations Bodies*, U.N. Doc. E/C.2/662 (1968).

70. 15 Y.B. INT'L ORG. S10 (1974).

71. 15 Y.B. INT'L ORG. S10 (1974). In most cases these figures were current as of 1973.

time to time UNESCO has granted subsidies to a limited number of NGOs in Categories A and B. In addition, the agency's Director-General has contracted with a number of qualified NGOs to undertake specific studies.<sup>72</sup> There is even a Conference of International Non-Governmental Organizations Approved for Consultative Arrangements with UNESCO, which meets annually in Paris to study and improve the consultative relationship.

FAO also has set up three categories: C for consultative status, S for specialized consultative status, and L for liaison status. There are 17 NGOs listed in the first category, 37 in the second, and 71 in the third.<sup>73</sup> The ILO has six NGOs in its first category, restricted to those possessing an important interest in a wide range of ILO activities, nine in its second category, reserved for regional consultative status, and 87 in its third, the special list of NGOs interested in some particular sector.<sup>74</sup>

The remaining specialized agencies have only single categories of consultative arrangements for NGOs. There are 105 NGOs so connected to the World Health Organization (WHO), 31 to the International Civil Aviation Organization (ICAO), 35 to the International Telecommunication Union (ITU), 17 to the World Meteorological Organization (WMO), and 25 to the Intergovernmental Maritime Consultative Organization (IMCO).<sup>75</sup> In addition a partial listing shows that 20 NGOs enjoy consultative relations with the International Atomic Energy Agency (IAEA), 88 with the United Nations Children's Fund (UNICEF), and 32 with the United Nations Industrial Development Organization (UNIDO). The United Nations Conference on Trade and Development (UNCTAD) has 25 NGOs listed in a general category, 26 in a special category, and 2 in the category for national NGOs on the Register.<sup>76</sup> The United Nations High Commissioner for Refugees (UNHCR) and the United Nations Environment Program (UNEP) also have established NGO relations. UNHCR, in fact, conducts much of its work by contracts with NGOs, and the UNEP secretariat works closely with an NGO Liaison Board which is elected by concerned NGOs.

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72. In contrast, a similar provision for consultative NGOs associated with ECOSOC (E.S.C. Res. 1296 (XLIV), *supra* note 19, Part V, para. 32) has never been used.

73. 15 Y.B. INT'L ORG. S10 (1974).

74. *Id.*

75. *Id.*

76. *Id.*



These various consultative arrangements for NGOs in the United Nations system have been condemned as "a strange form of token collaboration," representing a policy of "divide and rule."<sup>77</sup> In his special report on the problem of NGO consultative relations, the Secretary-General admitted that these "several differing requirements for obtaining consultative status with the various United Nations programmes and organizations . . . have placed a great burden on those organizations [NGOs] . . ." He also recommended a survey to develop proposals for more standardized and uniform procedures.<sup>78</sup> Although it welcomed this suggestion, the ECOSOC NGO Committee pointed out "that the criteria for classifying non-governmental organizations in the various bodies of the United Nations system should respond to the particular requirements of those bodies, and that it might not be desirable to unify the criteria."<sup>79</sup> Thus, the United Nations system continues to hang in limbo over the question of consultative NGO fragmentation.

### III. THE POLICY IMPACT OF CONSULTATIVE RELATIONS

It is difficult to ascertain the actual policy impact that consultative relations have had upon the United Nations since much of the work performed by consultative NGOs is either intangible or takes place without fanfare. Furthermore, it is impossible to prove a causal link between NGO opinions, expert advice, etc. and United Nations policy. Therefore, what follows is not a systematic analysis, but rather only a selected listing of examples.

#### A. *Positive Contributions*

1. *The Secretary-General's Report.*—The Secretary-General of the United Nations testified to the policy impact of NGOs by saying: "I have seen countless examples of the practical contribution which NGOs can and do make to our work . . . Indeed, wherever one looks at the work of the United Nations, one sees how valuable is the contribution which is being made by NGOs."<sup>80</sup> In

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77. *Death Knell of INGO Status*, *supra* note 36, at 47. "The UN exploits this situation by forcing each INGO, whatever the range of its interests, to negotiate separately with each appropriate agency. In this way the UN fragments the INGO movement . . ." *Id.* at 46-47.

78. U.N. Doc. E/C.2/768, *supra* note 8, at 6.

79. U.N. Doc. E/5631, *supra* note 68, at 16.

80. *Message from the Secretary-General to the Regional Conference of NGO's Organized by the Office of Public Information of the United Nations in Coopera-*

a short report on the subject to ECOSOC's NGO Committee he listed several consultative NGOs that "had been selected arbitrarily with the sole purpose of illustrating NGO co-operation." He stressed, however, that: "It is extremely difficult to single out . . . contributions . . . when so many [NGOs] are effectively and conscientiously co-operating with and offering their assistance to United Nations programmes in so many fields."<sup>81</sup> One of those NGOs arbitrarily selected, the International Union of Architects, had made significant contributions in the field of housing and urban development. The mobilization of savings for housing finance won praise for the International Union of Building Societies and Savings Associations. The International Confederation of Free Trade Unions earned mention for its labors on behalf of financing and training skilled manpower for the housing field.<sup>82</sup>

In the area of transport, travel, and tourism, the Secretary-General cited the International Air Transport Association, the International Association of Ports and Harbours, the International Cargo Handling Coordination Association, the International Chamber of Commerce, the International Chamber of Shipping, the International Road Transport Union, the International Union of Marine Insurance, the International Union of Railways, and the International Union of Official Travel Organizations (IUOTO)<sup>83</sup> as consultative NGOs whose actions had had a positive policy impact on United Nations programs. For its efforts in rehabilitation, the World Veterans Federation drew mention. The Anti-Slavery Society and the International Alliance of Women were complimented for their endeavors in behalf of human rights.<sup>84</sup> And finally, the

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*tion with the Economic and Social Commission for Asia and the Pacific, Bangkok, Thailand, (27 to 29 May 1975), reprinted in 28 INT'L A. 282 (1976) [hereinafter cited as Regional Conference of NGOs for Asia].*

81. U.N. Doc. E/C.2/661, *supra* note 17, at 8.

82. *Id.*

83. E.S.C. Res. 1109 (XL), 40 U.N. ESCOR, Supp. (No. 1), 2 U.N. Doc. E/4176 (1966), expressed the Council's appreciation of the past contribution of the IUOTO and invited that organization to continue its cooperation with United Nations bodies. The IUOTO's proposal that 1967 be designated by the United Nations as "International Tourism Year" was adopted by ECOSOC Res. 1108 (XL), 40 U.N. ESCOR, Supp. (No. 1) 1, U.N. Doc. E/4176 (1966), and G.A. Res. 2148 (XXI), 21 U.N. GAOR, Supp. (No. 14) 24, U.N. Doc. A6316 (1966).

84. In addition, a recent report noted: "Oral presentations, such as those by Amnesty International on human rights in Chile and by the International Commission of Jurists on human rights in Brazil, have been effective." *A Renewed NGO Relationship for the Fourth Decade: A Report by a Working Group of the New York Section of the Board/Bureau*, 28 INT'L A. 266 (1976) [hereinafter cited as *Working Group Report*].

Secretary-General also commented upon the achievements of the World YWCA and the work of the International Federation for the Rights of Man in the field of disarmament. On numerous occasions United Nations resolutions have called upon NGOs for cooperation.<sup>85</sup> As one observer explained: "It is generally recognized that one of the attractive features of NGO activity on an international basis is that it can bring much needed aid without political implications or suggestions of patronage."<sup>86</sup>

2. *The Secretary-General's Second Report.*—An ECOSOC Resolution requested, *inter alia*, that the ECOSOC NGO Committee "examine . . . the contributions to development already made or being planned by non-governmental organizations in consultative status active primarily in the field of economic and social development."<sup>87</sup> To assist the Committee in its work, the Secretary-General compiled a review<sup>88</sup> of the principal areas in which consultative NGOs had contributed to development. The study noted that the submission of written or oral statements to the deliberative bodies and the preparation of studies, reports, and technical surveys constituted the major area of contribution by NGOs.<sup>89</sup> This was an important affirmation of the policy impact of consultative NGOs in contrast to the opinion of many observers that their main function was merely to mobilize public opinion on behalf of United Nations activities. The report did recognize that

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85. For a sampling, see Excerpts from General Assembly Resolutions Concerning NGOs, (U.N. Office of Public Information, NGO Section, May 1972).

86. *The Role of Non-Governmental Organizations in the United Nations*, UN MONTHLY CHRONICLE, May 1965, at 81.

87. Contribution of the Non-governmental Organizations Towards Implementation of the International Development Strategy, E.S.C. Res. 1580 (L), *supra* note 27. The substance of this Resolution was reiterated in E.S.C. Res. 1739 (LIV), *supra* note 60, entitled, *Improvement of the Contribution of Non-governmental Organizations to the Implementation of the Goals and Objectives of the International Development Strategy for the Second United Nations Development Decade*.

88. U.N. Doc. E/C.2/744 (1971). The following United Nations bodies were included in the review: the substantive divisions of the Secretariat's Department of Economic and Social Affairs, ECOSOC's four regional economic commissions, OPI, UNCTAD, UNIDO, UNDP, and UNICEF. For a summary of this document, see *Non-Governmental Organizations and the Implementation of the International Development Strategy*, 24 INT'L A. 162, 162-63 (1972).

89. "For example . . . some NGOs concerned with such subjects as the human environment and the law of the sea were said to have contributed useful technical papers which government officials could not afford to ignore." *UNITAR Colloquium in New York*, *supra* note 2, at 8.

“the mobilization of public opinion . . . , co-operating in the organization of seminars and . . . participating in technical co-operation projects” were other areas of NGO impact.

Several consultative NGOs were specifically commended for their contributions. The Inter-American Statistical Institute and the International Statistical Institute were praised for their cooperation with ECOSOC's Statistical Commission. The International Chamber of Commerce drew favorable comment for its work with UNIDO “in the preparation of reports on . . . co-operation between those responsible for planning at the governmental level and foreign investors, regional industrialization policies, and co-operation between development banks and private industry.”<sup>90</sup> The International Institute of Administrative Sciences and the International Union of Local Authorities were mentioned for their studies on behalf of the Secretariat's Public Administration Division. The second of these two NGOs was also complimented for providing training, in cooperation with the United Nations, to citizens of developing countries. The International Union for the Scientific Study of Population and the International Planned Parenthood Federation were singled out for their efforts in the population field.<sup>91</sup> The International Federation for Housing and Planning, the International Union of Architects, and the Inter-American Planning Society were commended for providing “data and consulting services to the Centre for Housing, Building, and Planning of the Department of Economic and Social Affairs.” In addition, the International Co-operative Alliance was lauded for “co-operating closely in the preparation of the United Nations programmes of concerted practical action in the field of co-operative development . . . .”<sup>92</sup>

3. *NGO Contributions to Development.*—The succeeding years have brought mixed results in the attempt to involve NGOs in the development process. If the work of the United Nations Development Programme (UNDP), is considered, however, the positive contributions of NGO's must be recognized.

To cite a specific case: in the Sahel drought zone, there were not enough trained doctors available to meet the great demand for medical assistance. At the same time, much of the help required did not depend upon the presence of certified physicians. The League of Red

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90. *Non-Governmental Organizations and the Implementation of the International Development Strategy*, 24 INT'L A. 162, 163. See note 88 *supra*.

91. *Id.*

92. *Id.*

Cross Societies recognized that this gap could be filled by training small paramedical teams which would provide rehabilitation, basic medical care and health education to camps for drought victims. Bringing this suggestion to the attention of the appropriate UN system and government officials resulted in a project in Niger where ten teams were fielded in cooperation with the Government, FAO and the UNDP.<sup>93</sup>

The UNDP has circulated directives to its Resident Representatives to include appropriate national NGOs in their planning, programming, and implementation processes. Parallel instructions have also been proposed by the NGO Conference Subcommittee on Field Level Relations for the national affiliates of NGOs active in developing countries. Through what has now become a "billion-dollar-a-year investment in field development, NGOs are helping to bridge what is often the mammoth gap between high-level planning and human-level execution . . . ."<sup>94</sup>

A recent report sponsored by UNITAR mentioned that the World Hunger Service Coalition, "[t]hrough its grassroots campaign and its contacts with legislators and officials, . . . was believed to have had some impact on public opinion and on the U.S. Congress." An NGO coalition of 35 or so church groups lobbied successfully in the U.S. Senate for a favorable vote to replenish the funds of the International Development Associations of the World Bank. Also cited was the Canadian Council for International Cooperation, a coalition representing about 125 Canadian NGOs concerned with development, and GATT-FLY, "an inter-church arrangement seeking an alternative Canadian trade policy favourable to the Third World." These NGOs "were able to persuade Canadian parliamentarians and delegates to the [World Food] Conference to raise the Canadian share of food aid by one-third."<sup>95</sup>

4. *NGO Contributions to United Nations Conferences.*— Numerous observers have praised the NGO contribution to special United Nations Conferences.<sup>96</sup> One major reason for

93. *Ways and Means: Programming Ideas and Resources for National and International NGOs, Part Ten*, (United Nations Development Programme).

94. *The Billion Dollar Plus Bridge*, COMMITMENT 5 (1975) (U.N. Dev't Programme Serv. Bull.).

95. *UNITAR Colloquium in New York*, *supra* note 2, at 5-6.

96. "[T]hree recent examples, the United Nations Conference on the Human Environment, the World Population Conference, and the World Food Conference, have demonstrated that positive contributions can result from the closer involvement of non-governmental organizations in the work of the United Nations."

U.N. Doc. E/C.2/768, at 3-4 (1975). The Secretary-General also praised recent

this NGO role at United Nations Conferences is that U.N. rules of procedure usually are applied flexibly. This permits greater NGO participation than is possible in the more formal and regulated proceedings of the General Assembly or ECOSOC. At the World Food Conference in Rome, for example, NGO representatives were permitted to speak in Conference committees, attend drafting sessions, and submit statements to committees. A valuable precedent recently set at these conferences was the publication of NGO-sponsored newspapers: *Echo* at Stockholm, *Planet* at Bucharest, *Pan* at Rome, *Neptune* at Geneva, and *Xilonen* at Mexico City.<sup>97</sup> "These [newspapers] were thought to have had a significant influence in pointing up key issues in a way that made an impression upon [governmental] delegates."<sup>98</sup>

5. *NGO Role in Policy Implementation.*—Many consultative NGOs are more than just suppliants before the bar of the United Nations; at times they are active partners in the implementation of policy. As the Secretary-General stated in his recent analysis: "The consultative relationship of many non-governmental organizations . . . has been especially fruitful, with the non-governmental organizations providing an effective two-way channel of communication of considerable benefit and utility."<sup>99</sup>

### B. Limitations

The recent flare-up over NGO interventions concerning human rights illustrates the inherent limitations on NGO influence. The problem involved the requirements of confidentiality that were to be observed by NGOs reporting human rights complaints to the

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conferences sponsored by NGOs on human rights, decolonization, and population. He recommended that, "where possible, arrangements be made at United Nations facilities to provide meeting rooms and interpretation for two such conferences a year." *Id.* at 13. These NGO-sponsored conferences are often held parallel to conferences sponsored by the United Nations. They are able to discuss aspects of problems which otherwise might not receive adequate attention at the official conferences. An example of this is the Non-Governmental Forum on the World Economic Order that was held in New York parallel to the Seventh Special Session of the General Assembly in September, 1975. Olle Dahlen, the Swedish Ambassador to the NGOs, concurred: "Experience has shown that the NGOs have been able to make a very constructive contribution in these [conferences]." Dahlen, *The Relationship Between the U.N. and NGOs*, 28 INT'L A. 326, 329 (1976).

97. U.N. Doc. E/5631, at 14 (1975).

98. *Working Group Report*, *supra* note 47, at 267. See also Weiss & Jordan, *The Role of NGOs in the World Food Conference*, 27 INT'L A. 270 (1975).

99. U.N. Doc. E/C.2/768, at 3 (1975).

Human Rights Commission of ECOSOC. The Soviet representative charged that certain NGOs were using their consultative position for unseemly purposes and employing scandalous wording to attack some Member States.<sup>100</sup> In arguing against sanctions, the representative of the Federal Republic of Germany replied that because of a few regrettable incidents there existed an unfavorable atmosphere that would curtail the activities of NGOs within the United Nations system.<sup>101</sup> As a result of this incident, the Commission on Human Rights adopted a draft resolution warning that any NGO that failed "to show proper discretion in an oral or written statement may render itself subject to suspension of its consultative status under paragraph 36 of Council resolution 1296 (XLIV) . . . ." <sup>102</sup>

The meaning of this affair was clear: NGO influence on United Nations policy has definite limitations. A recent UNITAR report observed that "[s]ince some NGOs were active in the political as well as the economic field, government officials were not always receptive to the idea of expanding the NGO involvement."<sup>103</sup> Consultative NGOs should follow the advice given in a handbook for their spokesmen: "Like a well-schooled diplomat, the NGO representative will, so far as possible, avoid making statements or submitting proposals that attack Member governments by name."<sup>104</sup>

A survey conducted by the International Student Movement for the United Nations (ISMUN) pointed out further limitations, concluding that formal consultative NGO interventions usually have minimal effects.<sup>105</sup> ISMUN conducted a survey at the 51st session of ECOSOC at Geneva in July 1971 to measure the degree of interest and awareness of the governmental delegates in the work of NGOs that had consultative status with the Council and had participated in its work. A personal interview was held with at least one and sometimes two randomly selected members of each delegation. The tabulated results indicated "that a majority of the governmental delegates had not read any of the NGO submissions to the 51st session of the Council." Even when a delegate was aware of certain NGO views, he did not transmit them to his

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100. U.N. Press Release ECOSOC/3754, April 24, 1975, at 5.

101. *Id.* at 6.

102. 58 U.N. ESCOR Supp. (No. 4) 1, U.N. Doc. E/5635 (1975).

103. *UNITAR Colloquium in New York*, *supra* note 2, at 11.

104. Bock, *supra* note 1, at 32.

105. *Report on a Survey Conducted at the 51st Session of ECOSOC*, 24 INT'L A. 164, 164-65 (1972).

colleagues. Based on these findings, ISMUN concluded that "the information provided by non-governmental organizations . . . seems to have very little effect upon the work of the Council."<sup>106</sup>

#### IV. THE FAILURE OF CONSULTATIVE RELATIONS

Certainly, the UN-NGO connection has had some positive results. Nevertheless, too many criticisms of the relationship have been made to be ignored.

##### A. NGO Classification

The fragmentation of the consultative NGO community around different United Nations agencies is one source of discontentment. There is also general dissatisfaction with the three-tier classifications for NGOs maintained by ECOSOC. This system has been termed "artificial,"<sup>107</sup> "impractical,"<sup>108</sup> "outdated and irrelevant."<sup>109</sup> Furthermore, NGOs have been frustrated by the "undue rigidity in ECOSOC's procedures for accreditation and categorization."<sup>110</sup> They feel that too much time is spent in procedural arguments about their status and prestige to the detriment of substantive NGO contributions.<sup>111</sup> Although numerous solutions to the classification impasse have been offered,<sup>112</sup> ranging from those that would establish a "classless society" to those advocating a flexible, "dynamic classification" according to the particular issues an NGO wished to pursue, no consensus has been reached. Although the great variety of NGOs would seem to require some type of classification to provide at least a modicum of order, this same diversity apparently defies any satisfactory comprehensive scheme.

Related to the problem of classification is the "development of a system for regularly and systematically reviewing the relationship between non-governmental organizations and the United Nations."<sup>113</sup> Such a review would presumably, *inter alia*, soothe and

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106. *Id.* at 165.

107. Pickard, *supra* note 2, at 93.

108. Dahlén, *supra* note 96, at 329.

109. *Working Group Report*, *supra* note 84, at 266.

110. *UNITAR Conference at Schloss Herstein*, *supra* note 2, at 97.

111. *See* Ascher, *supra* note 58, at 241.

112. *See* U.N. Doc. E/C.2/766, at 2-3 (1974); U.N. Doc. E/C.2/768, at 6-7 (1975). *See also* the analysis in *UNITAR Conference at Schloss Herstein*, *supra* note 2, at 97-98; *Working Group Report*, *supra* note 84, at 266.

113. U.N. Doc. E/C.2/768, at 7 (1975).



ameliorate specific strains caused by the NGO classificatory system. Although ECOSOC Resolution 1296<sup>114</sup> provided for a quadrennial review, it has never materialized, partially because the NGOs have seen such a review as a potential challenge to their position. One also suspects that ECOSOC is unwilling to spend the time and money.

### B. *Poor Communications*

One of the major reasons for the perceived failure of consultative relations is the lack of communication between NGOs and the United Nations. The Under Secretary-General for Political and General Assembly Affairs pointed to one of the sources of this problem when he said, "there has never been effective communication and coordination among the various elements of the United Nations, each of which has a responsibility to have meaningful communications with the nongovernmental community."<sup>115</sup> In his interim report about the NGO problem, the Secretary-General "recognized the inadequacy of the present means of communicating with the non-governmental organizations." He bemoaned the tardiness of documentary distribution and concluded that "at present there is no efficient process for communicating with the relevant group of non-governmental organizations in any particular substantive area."<sup>116</sup> The president of the NGO Conference recognized this problem, expressing hope "that some means would be found to supply the proper documents to those [non-governmental] organizations concerned with specific areas of interest."<sup>117</sup> The communications problem is aggravated by the sheer

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114. E.S.C. Res. 1296, *supra* note 20, at 25.

115. *Time for a Mini-Jackson Report?*, *supra* note 4, at 429.

116. U.N. Doc. E/C.2/766, at 7 (1975).

117. U.N. Doc. E/5452/Add. 1, Annex II, at 1 (1974). Closely affecting the communications problem is the lack of adequate U.N. secretarial services for NGOs. It is necessary for ECOSOC to strengthen its Secretariat, so that it can cope with the tasks of communication, liaison, and promotion. Likewise, the United Nations should provide services to the collective activities of non-governmental organizations, such as meeting rooms, interpretation for important conferences, and support of the Conference of Non-Governmental Organizations. Despite appeals to this effect (See Epps, *supra* note 3, at 456; U.N. Doc. E/5631, at 15 (1975)), the recent report by the New York Section of the NGO Conference's Bureau concluded that: "In general, the responsibility is placed upon the NGO to get its materials from and establish contact with ECOSOC." *Working Group Report*, *supra* note 84, at 269. It should be noted, however, that the NGO Section of the Department of Economic and Social Affairs provides facilities for the trans-Atlantic communications of NGOs.

number of consultative NGOs clogging the channels of communication. One partial solution, of course, is to encourage greater cooperation among NGOs through joint statements and committees.

One of the most glaring examples of the lack of effective communications is the degeneration of the NGO Committee. For some years not even summary records of its debates have been issued because of "the financial implications involved."<sup>118</sup> In addition, the NGO Committee suffers from a lack of continuity, which is magnified by the absence of summary records, since most of its governmental delegates are junior-level officials serving for the first and probably last time.<sup>119</sup> Now that the Committee has substituted a biennial meeting for its former annual one, it "has for all intents and purposes disappeared,"<sup>120</sup> leaving unanswered questions such as who will grant authority to Category I NGOs to address ECOSOC and what body will collect for transmittal the views of other NGOs on ECOSOC agenda items. The recent report on restructuring ECOSOC did not even mention consultative relations.<sup>121</sup>

### C. *Lack of Access to the General Assembly*

Compounding the communications difficulties, is the fact that NGOs have no formal access to the General Assembly, the organ which increasingly deals with the substantive matters concerning the NGOs. ECOSOC, their formal point of access, is clearly no longer the central economic and social organ.<sup>122</sup> Therefore, a need is developing for the establishment of relations between NGOs and

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118. U.N. Doc. E/C.2/L.32/Add. 1, at 6 (1972).

119. "Some [have] maintained that the usual junior level of Government representation in the Committee perhaps reflected a negative attitude towards NGOs and their potential contribution . . ." *UNITAR Conference at Schloss Hertenstein, supra* note 2, at 97. Others have pointed out, however, that the tedious repetitions in NGO statements (due to the unwillingness of NGOs to undertake joint statements, each feeling it has a right to be heard individually) result in the appointment of only junior members. See Ascher, *Non-Governmental Organizations in Consultative Status with the UN Economic and Social Council: The Tenth General Conference and Beyond*, 18 INT'L A. 665, 667-68 (1966).

120. Epps, *supra* note 3, at 258.

121. See U.N. Doc. E/AC.62/9 (1975). It is said in retort that the Committee of Experts did not have the time to deal with the NGO situation.

122. As the Secretary-General recognized: "A particular liaison and coordination problem arises from the concern of non-governmental organizations with substantive matters which are discussed in bodies other than the [Economic and Social] Council . . ." What is more, he added, NGOs "have been called on increasingly to provide assistance and support for programmes created by the General Assembly . . ." U.N. Doc. E/C.2/768, at 5 (1975).

the General Assembly. Of course, a modicum of NGO access to the General Assembly always has been implicit in matters submitted to it by ECOSOC.<sup>123</sup> In addition, the Secretariat issues lists describing NGO communications on matters before the General Assembly and the Security Council. The Trusteeship Council employs a special procedure under which it may hear petitions received from NGOs, or even individuals, concerning conditions in the Trust Territories. Furthermore, since 1952, the Secretary-General, upon the request of ECOSOC or its NGO Committee, has been authorized

to make arrangements to enable the representative designated by any non-governmental organization having consultative status to attend public meetings of the General Assembly whenever economic and social matters are discussed which are within the competence of the Council and of the organization concerned.<sup>124</sup>

There is little to distinguish this NGO point of access to the General Assembly, however, from the rights of any member of the public simply to be seated in the gallery at public meetings.

There is an additional problem of access created by the fact that NGOs are not geographically representative. The most recently available figures, for example, starkly testify to the overwhelming dominance of the West in terms of "location of international headquarters" and "national participation in international organizations by continent."<sup>125</sup> Although the number of NGOs in other parts of the world has increased in recent years, many Members of the United Nations remain suspicious that these organizations are inherently biased against them. This inevitably hinders NGO attempts to gain access to organs increasingly controlled by a non-Western ethos.

## V. EVIDENCE OF AMELIORATION

The strongest evidence that the crisis in consultative relations might be ameliorated was the concern manifested by the Secretary-General in his interim and completed reports to the NGO Committee.<sup>126</sup> In his completed report the Secretary-General

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123. As a former President of the NGO Conference once related, "a knowledgeable NGO will know how to get its views before delegations to the General Assembly." Ascher, *supra* note 119, at 666.

124. G.A. Res. 606, 6 U.N. GAOR, Supp. (20) 87, U.N. Doc. A/1922 (1952).

125. See 15 Y.B. INT'L ORG., *supra* note 30, at S34.

126. U.N. Doc. E/C.2/768 (1975); U.N. Doc. E/C.2/766 (1974). Both reports

reaffirmed and even extended the original Charter expectations by declaring: "It is clear from Article 71 of the Charter that the work of the United Nations is to be conducted in close association with non-governmental organizations."<sup>127</sup> He added that given "new and growing global problems . . . co-operation between non-governmental organizations and the United Nations is even more vital . . ." <sup>128</sup> However, "recent developments indicate that the consultative relationship . . . can and should be improved."<sup>129</sup> The Secretary-General pointed out that his report thus included various proposals "to ensure a more clearly defined policy and more adequate machinery for liaison with non-governmental organizations . . ." <sup>130</sup>

### A. *New Classifications*

Although he offered little that was novel on the subject of consultative NGO categories, the Secretary-General reiterated the often repeated hope for more standardized and uniform procedures, and recommended that the Secretariat make a survey of the various methods of classification in the United Nations system.<sup>131</sup>

To involve more groups that had had only peripheral relations with the United Nations system, the Secretary-General suggested "the possibility of granting consultative status *pro tem* to organizations concerned with one particular item"<sup>132</sup> when that matter was being specifically discussed. He also advocated "the need to revise the application form for non-governmental organizations requesting consultative status, the development of a form for organizations requesting consultative status, the development of a

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were in response to the recommendation made by the NGO Committee that ECOSOC request that the Secretary-General "consider various ways of improving co-ordination with non-governmental organizations within the United Nations . . ." U.N. Doc. E/5257, at 12 (1973). UNITAR, too, has demonstrated interest in the topic and is currently engaged in the preparation of a book on the potential of NGOs in economic and social development. Reference has already been made to two preliminary UNITAR reports. See *UNITAR Conference at Schloss Hertenstein*, *supra* note 2; *UNITAR Colloquium in New York*, *supra* note 2.

127. U.N. Doc. E/C.2/768, at 2 (1975).

128. *Id.* at 3.

129. *Id.*

130. *Id.* at 4. The Secretary-General also suggested that proposals for ameliorating NGO relations be studied "in consultation with the non-governmental community." *Id.* at 6.

131. *Id.*

132. *Id.*

form for organizations seeking reclassification," and a process to review periodically the status of consultative NGOs.<sup>133</sup>

### B. Improved Communications

To help ameliorate the problem in communications, the Secretary-General asked each department within the Secretariat to designate an official who could serve as a contact point between the unit and relevant NGOs. Such an arrangement should broaden the current institutional relationships between NGOs and the Secretariat and add flexibility.<sup>134</sup> The Secretary-General recommended that the Secretariat give greater attention to systematically arranging meetings between its departments and selected NGOs on issues of mutual concern.<sup>135</sup> In addition, the Secretariat should regularly call to the attention of NGOs activities of the United Nations that might be of interest to them. The Secretary-General even suggested that the various United Nations programs and organizations ought to investigate the possibility of publishing a joint newsletter for NGOs. On the continent, where many of the most effective NGOs are based, the Director of the U.N. Office in Geneva should act as a liaison officer.<sup>136</sup>

Complementing these proposals is the recent innovative establishment of an Ambassador to the NGOs by Sweden.<sup>137</sup> This official facilitates communications between his government and NGOs, thus providing international and Swedish NGOs with a means for direct input to the Swedish delegation to the U.N. Commenting in general about proposals to improve communications, Swedish Ambassador to the NGOs Dahlen observed that: "This would prevent the NGOs [from] having the humiliating feeling that they are intruding when they present their views to . . . a particular member of the Secretariat."<sup>138</sup> Additional suggestions related to the concept of an NGO Ambassador include NGO representatives on national delegations to various U.N. bodies and an NGO liaison

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133. *Id.*

134. *Id.* at 11. It would also facilitate "thorough preparation on selected issues well in advance of a United Nations meeting," which a UNITAR report recommended to help eliminate "the absence of a sense of partnership, which limits the opportunities for more active NGO participation within ECOSOC." *UNITAR Conference at Schloss Herstein*, *supra* note 2, at 95.

135. U.N. Doc. E/C.2/768, at 11 (1975).

136. *Id.* at 12.

137. For a discussion of this office by its present incumbent, see Dahlen, *supra* note 96.

138. *Id.* at 329.

officer to be designated by the Permanent Missions of U.N. Members.

Another promising innovation is that the ECOSOC-NGO Committee, which now meets biennially, will be allowed to meet in the off-years, as it did in 1976, for the sole purpose of considering NGO applications for status. If this pattern becomes institutionalized, it may lead to more substantive proceedings during the biennial meetings. Furthermore, the problem of a lack of continuity in the Committee's membership may have been partially alleviated by the decision to elect its members for four-year, instead of one-year, terms. Relief from the problem of the great number of consultative NGOs clogging communication channels might be forthcoming if some of the Secretary-General's recommendations for improving communications are implemented. Certainly his call for NGOs "increasingly to develop joint committees on subjects or in areas of mutual concern," and "to work together to prepare and to submit joint statements"<sup>139</sup> offers some remedies.<sup>140</sup>

### C. Access and Geographical Balance

Many have decried the NGOs' lack of formal access to the General Assembly. In his report the Secretary-General dealt with this institutional isolation by recommending a study of the feasibility of extending the provisions of Council resolution 1296 (XLIV) to General Assembly bodies.<sup>141</sup> Both UNITAR and the New York Section of the NGO Conference's Bureau have suggested that this problem might be solved if the General Assembly would simply adopt a resolution providing for NGO relations.<sup>142</sup> Some progress also has occurred in obtaining a better geographical balance in the number of consultative NGOs. There has been a slight increase in the percentage of organizations headquartered in non-Western

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139. U.N. Doc. E/C.2/768, at 5, 10 (1975).

140. The Secretary-General spoke favorably of the NGO Conference's various committees. U.N. Doc. E/C.2/768, at 10 (1975). Knud Nielsen, the Chairman of the Council of the World Association of World Federalists, recently praised the cooperation elicited during the Bangladesh War when 21 different NGOs opted to be represented together in the United Nations by the International Association of Jurists. See Nielsen, *Presentation*, 28 INT'L A. 270 (1976). And Dwain Epps lauded "the substantial progress we have made in the past five years towards more effective cooperation among a remarkably broad range of NGOs." Epps, *supra* note 64, at 259.

141. U.N. Doc. E/C.2/768, at 6 (1975).

142. See, *UNITAR Colloquium in New York*, *supra* note 2, at 3; *Working Group Report*, *supra* note 84, at 264, 267.

countries. In 1975, ECOSOC granted Category I status to the Organization of African Trade Union Unity.<sup>143</sup> Several delegations had expressed reservations, observing that all NGOs that had previously achieved such a status were world-wide in character and usually had been established for some years. Nevertheless, in an obvious attempt to broaden its consultative-NGO geographical base, ECOSOC accepted this recently established African NGO. Increased NGO participation from yet another geographical area was fostered through a regional conference of NGOs in Asia held in Bangkok in 1973. This was the first time that Asian NGOs had met to exchange positions and to meet high U.N. officials.<sup>144</sup>

## VI. CONCLUSIONS

It is doubtful that a new or even a reinvigorated consultative relationship between the United Nations system and the NGO community can be created. The basic reason is the continuing preeminence of the nation-state in what is, after all, an inter-governmental organization. As ECOSOC Resolution 1296 asserted:

"A clear distinction is drawn in the Charter . . . between participation without vote . . . and the arrangements for consultation . . . . This distinction, deliberately made in the Charter, is fundamental and the arrangements for consultation should not be such as to accord to non-governmental organizations the same rights of participation as are accorded to States . . . ." <sup>145</sup>

As the Secretary-General put it: "It should be emphasized that the consultative relationship does not imply the intervention of non-governmental organizations in the decision-making process that is the proper domain of Governments . . . ." <sup>146</sup> Clearly, the oft-expressed hope by NGOs for more partnership and even co-participation is not going to be literally implemented. In addition, greater NGO participation in formal United Nations sessions would further reduce the already diminished opportunity for governmental participation resulting from the huge expansion in United Nations membership. While the allotted time for discussion basically has remained constant over the years, the constitutional memberships of both ECOSOC and the General Assembly

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143. For a discussion of this event, see U.N. Press Release ECOSOC/3700, Mar. 14, 1975, at 2-3.

144. *Regional Conference of NGOs for Asia*, *supra* note 80, at 284.

145. E.S.C. Res. 1296, *supra* note 20, at 22.

146. U.N. Doc. E/C.2/768, at 3 (1975).

have each practically tripled. Tellingly, Resolution 1296 declared: "The [consultative] arrangements should not be such as to overburden the Council . . . ."

Furthermore, public movements and private organizations are foreign to the prevailing ethos that permeates the present non-Western majority in the United Nations. NGOs are eyed suspiciously by governments imbued with a statist ideology. To the extent that NGOs win favor in the non-Western countries, on the other hand, Western observers are likely to perceive them as mere governmental pawns. It thus will be difficult for NGOs to attain a more exalted status. This certainly does not mean, however, that the UN-NGO connection will be dissolved. Rather, what is likely is a continuance of what has gone before, a sort of muddling through. Even if the most dire predictions concerning the results of a restructured ECOSOC do occur, namely an unwillingness to reaffirm Charter article 71, the very fragmentation of the consultative relationship would cause UN-NGO connections to continue to thrive in other U.N. bodies and agencies. Although new formal privileges of participation in U.N. bodies probably will not be achieved, more regularized but less ostentatious channels of communication such as those recommended by the Secretary-General are attainable. In addition, NGOs increasingly may realize that at times the best place for them to influence governmental opinion is on the domestic level before it is finalized as national policy. Although following such a strategy seemingly will diminish their ostensible presence in the United Nations system, in reality it may increase their substantive contribution.



