

# **The UN Committee on NGOs – Gatekeepers for Civil Society at the United Nations**

## **Civil Society participation at the United Nations:**

The basis for civil society participation at the United Nations (“UN”) can be found in Article 71 of the UN Charter. In addition, Article 5 of the Declaration on Human Rights Defenders<sup>1</sup> recognizes the right of everyone, individually and in association with others, at the national and international levels, to communicate with non-governmental and intergovernmental organisations. In addition, the Declaration confirms the right to unhindered access to and communication with international bodies.

ECOSOC resolution 1996/31, which establishes the mandate to the Committee, recognises the “breadth of non-governmental organisations’ expertise and the capacity of non-governmental organisations to support the work of the United Nations”.

The importance of creating a pro-civil society culture within the UN was highlighted by the Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association. In his 2014 report to the General Assembly (A/69/365), he noted that “(s)uch a culture should be rooted in the attitude that the organization is an agent dedicated to upholding ideals and effecting change, rather than a bureaucracy built to maintain the status quo (...) It should be acknowledged that a strong civil society sector is essential for multilateral institutions’ effectiveness, as it is often the best source of information on the ground.”

Recently, the Secretary General spoke of the need for “a strong campaign” to encourage States to recognise that the flow of communication between political and civil society is critical in a modern democracy, and that the UN needs to recognise the importance of civil society participation to the quality of democratic governance and global institutions.<sup>2</sup>

Transforming the culture by which states understand the role of civil society can start at the UN.

## **The NGO Committee – How NGOs gain access to the UN:**

The Committee on Non-Governmental Organisations (or “NGO Committee”) is a standing committee of the Economic and Social Council (“ECOSOC”). It reports directly to ECOSOC, providing two reports a year following its sessions (end of January and May). It recommends draft decisions to the Council in regard to granting / suspending or withdrawing ECOSOC accreditation to NGOs.

With ECOSOC accreditation (or “consultative status”) NGOs have access to a range of UN bodies and processes as well as participation privileges at ECOSOC. Consultative status is required at the Human

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<sup>1</sup> The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

<sup>2</sup> Meeting with NGO during the 61<sup>st</sup> session of the Commission on the Status of Women, 17 March 2017.

Rights Council in Geneva to deliver oral and provide written statements as well as organise side events.

The mandate of the NGO Committee is established in ECOSOC resolution 1996 / 31 and its proceedings are guided by the “Rules of Procedure” of ECOSOC and precedent set through Committee practice.

The Committee has 19 members who are elected on the basis of equitable geographical representation:

- 5 members from African States;
- 4 members from Asian States;
- 2 members from Eastern European States;
- 4 members from Latin American and Caribbean States; and
- 4 members from Western European and other States.

For 2015 -2018 the membership of the NGO Committee is: Azerbaijan, Burundi, China, Cuba, Greece, Guinea, India, Iran, Israel, Mauritania, Nicaragua, Pakistan, Russian Federation, South Africa, Sudan, Turkey, United States of America, Uruguay and Venezuela (Bolivarian Rep.)

The term of office for each member is four years. The elections for the next period (2019-2022) will be held in April 2018.

The main tasks of the Committee are:

- The consideration of applications for consultative status and requests for reclassification submitted by NGOs;
- The consideration of required quadrennial reports submitted by NGOs in General and Special categories;
- The implementation of the provisions of Council resolution 1996/31 and the monitoring of the consultative relationship

The Committee determines whether an applicant organisation operates in line with a set of principles, including that its aims and purposes be “in conformity with the spirit, purposes and principles of the Charter of the United Nations.”

The NGO Committee is required to ensure “participation of NGOs from all regions, and particularly from developing countries, in order to help achieve a just, balanced, effective and genuine involvement of NGOs from all regions and areas of the world.”<sup>3</sup>

Currently, over 4,500 NGOs have ECOSOC accreditation.

## **The Practice of the NGO Committee:**

The membership of the Committee has become increasingly dominated by states whose human rights records are poor and whose governments are especially intolerant towards civil society. Members employ practices such as repeated questioning of NGOs and multiple, arbitrary deferrals of applications to delay granting accreditation – for years in some cases. The process was described by one applicant – the

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<sup>3</sup> ECOSOC resolution 1996/ 31 Principle 5.

Committee to Protect Journalists – as “Kafka-esque”.

Many members ignore what precedent and few guiding procedures there are in place, and rather than make fair determinations of applicant NGOs opt instead to carry out national agendas. During the January 2017 session of the Committee, several applications and proposals for withdrawal of accreditation were considered on the basis of registration at national level – all related to NGOs based in Turkey or until recently working there. National registration is not a criterion upon which ECOSOC accreditation is based. The failure to act in accordance with ECOSOC resolution 1996/ 31 Article 56 at the Committee’s January 2017 session, left NGOs that had been denied due process at national level facing a similar lack of due process practiced by the UN. This development has brought a new level of insecurity to NGOs who currently hold status. It is of note that for permanent accreditation with the Organization of American States and with the Council of Europe, no evidence of national registration is required.

Human rights organisations have a significantly higher likelihood of having their applications deferred and amongst human rights groups, those working on sexual and reproductive rights, the rights of LGBTI people, the rights of minorities and impunity fare worst.

At the January- February 2017 session approximately 55% of all NGOs were granted special consultative status, but only 31% of human rights organisations.

### **Criticism of the practice of the Committee:**

Concerns about the practice of the Committee have been expressed by states, UN officials and NGOs for many years.

Chile, Mexico and Uruguay have been expressing concern about the practice of the NGO Committee - including referring to deferrals as reprisals against those seeking to cooperate with the UN - at ECOSOC sessions for three years running. To note a few, the European Union, the United Kingdom, and the United States have called for an end to arbitrary questioning of NGOs and stated that the disproportionate number of deferred applicants raise strong concerns. Other States have also expressed concern publicly.

The UN High Commissioner for Human Rights has said: “the deferral of a large number of NGO applications for consultative status, sometimes for years and reportedly for arbitrary reasons, has deprived international debate of important civil society contributions”<sup>4</sup>

The former Special Rapporteur on the Rights to Freedom of Assembly and Association, Mr Maina Kiai in his report (A/69/365) dated April 2016, declared that Committee practice did not comply with the spirit or provisions of ECOSOC resolution 1996/31. He noted that he found ‘these practices deeply disconcerting’ and that they ‘profoundly undermine the ability of the United Nations to constructively engage with civil society.’

The 2016 vote in the Committee against accrediting the Committee to Protect Journalists prompted the then Secretary General to speak of an “authoritarian impulse to silence NGOs”.

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<sup>4</sup> UN High Commissioner for Human Rights, ‘Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned.’ (A/HRC/ 32/20)

In 2016, 230 NGOs signed a letter calling for ECOSOC to reform the practice of the Committee and institute a non-political, fair and transparent consideration of NGO applications for consultative status. They pointed out that the practice of the Committee is reflective of growing restrictions on civil society globally at the very time restrictions at the national level make access to the UN all the more crucial.

The NGO Committee has been reluctant to reform itself. At the most recent session, however, a member of the Committee requested that the working methods of the Committee be discussed as part of the formal agenda of the next Committee session in January 2018. This will be an opportunity for constructive engagement.

### **The Need for ECOSOC engagement:**

Ultimately, ECOSOC has the responsibility of ensuring that the NGO Committee follows a fair, transparent and impartial process for assessing NGO applications for accreditation so that civil society can provide the UN with the effective partners it needs. In its most recent session in April, ECOSOC voted in favor of a resolution requiring all open NGO Committee sessions be webcast. The introduction of this resolution – by Chile, Mexico, and Uruguay – and the resounding victory (indeed, no state voted against) demonstrates the need for ECOSOC to step in and reform the Committee, and the success its efforts will produce. The May session of the NGO Committee was webcast for the first time in its history – a true victory for transparency at the UN.