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Civil Society, Small and Emerging Powers and the UN

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Civil society, and specifically nongovernmental organizations (NGOs), have repeatedly joined with small and middle powers to form transnational advocacy networks that have worked successfully in and around the UN system to change norms, develop programs, and establish treaties and other rules. This has sometimes resulted in success even in the face of opposition from hegemonic large powers. Most notable has been the alliance of Canada and the International Campaign to Ban Landmines (ICBL) in the Ottawa Process that produced the land mines Convention, signed in December 1997 and in force in record time in March 1999, and won the ICBL the 1997 Nobel Peace Prize. The October 1996 challenge from Canadian Foreign Minister Lloyd Axworthy, to meet again in Canada in a year to sign the treaty, was a key moment. The treaty was drafted by Austria. Other less well known cases exemplify the synergistic relationship between NGOs and certain small and middle powers that has contributed to a redistribution of power in the international system.

The NGO Role in the UN

While neither the original July 18, 1944 "US Tentative Proposals for a General International Organization," nor the Dumbarton Oaks Proposals put forth by the four major powers (the US, UK, Soviet Union, and China) on October 7, 1944, contained any reference to the role of nongovernmental organizations, the San Francisco Conference – in which small and middle powers also participated -- provided for the establishment of a relationship between the Economic and Social Council (ECOSOC) and the nongovernmental organizations, formalizing the League practice of consultation with NGOs. Thus Article 71 of the United Nations Charter provided that ECOSOC might make arrangements for consultation with international and national NGOs "concerned with matters within its competence," that is, economic and social, but not peace and security, matters.

The Committee on Arrangements for Consultation with Non-Governmental Organizations report, adopted by ECOSOC on 21 June 1946, stated that the purposes of consultative status were to "secure expert information or advice" and to "enable organizations which represent important elements of public opinion to express their views." These multiple purposes made their way into the procedures adopted in 1950, revised with ECOSOC Resolution 1296 of 23 May 1968 to define Categories I (organizations "concerned with most of the activities of the Council" and "broadly representative") and II ("organizations with a special competence" in a few ECOSOC fields) and Roster (organizations which "can make occasional and useful contributions"), and revised again in ECOSOC Resolution 1996/31 of July 25, 1996, updating the arrangements and renaming the categories General, Special, and Roster. Following the passage of ECOSOC 1996/31, the Conference of Non-Governmental Organizations in Consultative Status with ECOSOC (CONGO) proposed that similar arrangements be extended to the General Assembly.

NGOs have used their consultative status with the UN even in areas outside the economic and social, and have built networks in and out of the UN, often reframing security issues to human rights issues.

Women's Rights, Peace and Security

Often NGOs, in collaboration with middle powers, were the initiators of UN General Assembly conferences. In 1972 a group of NGOs under the leadership of a representative of the International Federation of Business and Professional Women asked ECOSOC's Commission on the Status of Women (CSW) to call for an International Women's Year. At the 24th session of the CSW, 14 February to 3 March 1972, 10 NGOs signed a statement calling for such a year (E/CN.6/NGO/244). The Women's International Democratic Federation (WIDF), in particular, used its consultative status to get Romania to introduce this resolution in the CSW. It was the work of women's NGOs, particularly the International Council of Women and WIDF, consistently lobbying governments on the subject, which insured that the proposal did not get dropped at any stage (Foster, 76).

The General Assembly declared 1975 International Women's Year and held the International Women's Year Conference in Mexico City. The 10 NGOs who had signed the statement at the CSW came together to run the Tribune, the forum for NGOs who were not allowed to attend the formal UN Conference, with Mexico providing the university space to make this possible. Women's organizations continued to contribute significantly to the 1970s series of General Assembly ad hoc mega-conferences which were repeated in the 1980s and 1990s, especially the women's conferences: Copenhagen 1980, at which the Convention on the Elimination of all forms of Discrimination was opened for signature; Nairobi 1985; and Beijing 1995. They worked with middle level states (especially Denmark, Kenya), foundations, and UN agencies, both to run the Forums and to impact the intergovernmental policy-making at the official conferences.

The Women's International League for Peace and Freedom (WILPF) and other women's NGOs worked closely with Bangladesh and later Namibia to get the Security Council in October 2000 to pass Resolution 1325 on Women, Peace and Security (text at www.PeaceWomen.org/1325inTranslation/index.html), the first time the Council had taken up this linkage. During the Commission on the Status of Women, Ambassador Anwarul Chowdhury of Bangladesh, then President of the Security Council, made a speech on March 8, 2000, International Women's Day, that linked equality, development and peace, the themes of the UN women's conferences, and the urgent need for greater women's involvement. Chowdhury said that he was working toward a Security Council session on the role of women in armed conflict and peace. The Women and Armed Conflict Caucus, convened by WILPF, organized events to provide information on the issue to Security Council members. In the NGO Working Group on Women and International Peace and Security, a small number of women's NGOs worked with Chowdhury and other small and middle powers, and met with UN gender officials and Security Council states. Because Namibia had hosted the May meeting that produced the Windhoek Declaration, the group hoped Namibia would hold the Security Council open session during its October presidency. Regional consultations, the production of documents, and information sharing networks, preceded the meeting. Under the Arria Formula (an arrangement initiated by Ambassador Diego Arria of Venezuela in 1993 in which NGOs meet informally with members of the Security Council), meetings were held on October 23 and 30, where women from Sierra Leone, Guatemala, Somalia, Tanzania, and various NGO experts, addressed Security Council members. On October 31, 2000 the Security Council adopted Resolution 1325, which urged increased representation of women in decision-making on prevention, management, and resolution of conflict, and called upon all parties to armed conflict "to take special measures to

protect women and girls from gender-based violence.” The group did not stop with the passage of the resolution, but has continued to work on its implementation. (Hill; Hill, Aboitiz, and Poehlman-Doumbouya).

The World Court Project: NGOs and the International Court of Justice

While consultative status has been important to NGOs, they have played significant roles even where they did not have consultative status. In the World Court Project, NGOs worked with New Zealand and other states critical of nuclear weapons to bring a case to the International Court of Justice. In the early 1980s Sean MacBride of the International Peace Bureau suggested getting an advisory opinion of the World Court on the legality of nuclear weapons. In 1986 the World Court Project began in New Zealand to get countries to request such an opinion. New Zealand had earlier joined with Australia to protest French nuclear testing in the Pacific, and with other island states to create the South Pacific Nuclear Weapons Free Zone in 1985, as well as declaring itself a nuclear free zone. The International Physicians for the Prevention of Nuclear War (IPPNW), which had received a Nobel Peace Prize in 1985 for its work on nuclear weapons, sponsored a resolution at its World Congress in 1988. The practice of states including NGOs on their national delegations enabled a citizen advisor on the New Zealand delegation to the Third UN Special Session on Disarmament to spread the idea to other delegates. The project spread to the World Congress of the International Association of Lawyers Against Nuclear Arms (IALANA), and to other states, with the aid of newsletter coverage by the Parliamentarians for Global Action.

Using Article 66 of the Charter, which allows other organs, in addition to the UN General Assembly, to request World Court advisory opinions, the IPPNW convinced the World Health Organization to adopt a resolution on the subject on May 14, 1993. After the case went to the Court in September 1993, IALANA and IPPNW drafted model submissions which were used by some states. The World Court Registrar received citizen delegations with documents and petitions in 1994 and 1995.

Nuclear weapons states and others argued that, not WHO, but the UN General Assembly, was the correct venue for such a question. The Lawyers’ Committee on Nuclear Policy, the US affiliate of IALANA, pushed for the adoption of a resolution by the UN General Assembly First Committee. Having achieved the support of the Non-Aligned Movement, the resolution was adopted 18 November 1994. In December 1994 the resolution was adopted by the General Assembly (78-43, with 21 abstentions and 53 not voting). Within days the case arrived at the World Court, which decided to consider the WHO and General Assembly questions separately but simultaneously. The World Court delivered its decision on July 8, 1996, finding threat or use of nuclear weapons contrary to the law of armed conflict, and in particular international humanitarian law, but not concluding in the case of self-defense. (Dewes and Green)

NGOs in this case worked with middle powers and used their consultative status, coupled with legal expertise and social movement organizing, to obtain a result from the International Court of Justice that powerful nuclear states strongly opposed. This pattern was echoed in other cases outside the realm of economic and social issues. Secretary-General Kofi Annan repeatedly indicated the importance of NGOs with respect to the development of the International Criminal Court and the land mines treaty.

The International Criminal Court, the NGO Coalition, and the Like-Minded Group

The movement toward the establishment of the International Criminal Court represents a unique collaboration between the Like-Minded Group of states and nongovernmental organizations, with the strong support of the UN Office of Legal Affairs. In a letter of 21 August 1989 (UN Doc. A/44/195), the “Permanent Representative of Trinidad and Tobago requested that the Secretary-General include a supplementary item on the possibility of establishing an international criminal court with jurisdiction over illicit trafficking in narcotic drugs across national frontiers and other transnational criminal activities.” The matter was referred to the International Law Commission by GA Res. 44/39 (1989). (Murphy, p. 1019) This occurred at the initiative of then Prime Minister A.N.R. Robinson, who had worked closely with Robert Woetzel, President of the Foundation for an International Criminal Court (Glasius). According to presentations at a panel on Trinidad and Tobago and the ICC at the 2009 Annual Meeting of the Academic Council on the UN System in Trinidad and Tobago, while the initiative did advocate including illicit drugs under the jurisdiction of the court, this was done as much to interest the United States in the court as from particular interest in the drugs issue. (Ramcharan, interjection during panel discussion). The General Assembly in 1991 requested that the International Law Commission (ILC) draft an international criminal court treaty (UN General Assembly Resolution 4654). With the ILC’s 1994 final draft of a court statute, the General Assembly, at the recommendation of its Sixth (legal) Committee, established a PrepCom in 1995 and authorized a diplomatic conference from 15 June to 17 July, 1998 in Italy to finalize and adopt the treaty.

The Like-Minded Group, originally roughly a dozen small and middle level states (largely from Northern Europe and Latin America, plus Canada), many of whom had worked together in the Sixth Committee, came together especially at the second PrepCom in August 1996 on the issue of setting a clear date for the diplomatic conference and worked to create a strong, independent court quickly. The group grew to 42 members and later to over 60. Leadership of the meetings came largely from the Group: Adriaan Bos of the Netherlands, who had helped establish the Ad Hoc Tribunal on the Former Yugoslavia, became Chairman of the PrepCom. He was succeeded by Philippe Kirsch of Canada as Chair of the Rome Conference. Cherif Bassiouni, both Egyptian government representative and NGO activist, served as Vice-Chair of the PrepCom and chaired the drafting committee in Rome.

Six NGOs observing the Sixth Committee in fall 1994, recognizing their inability to influence negotiations, came together to form the NGO Coalition for an International Criminal Court (CICC). Founded primarily by human rights NGOs, and organized by Bill Pace of the World Federalist Movement, the CICC worked to support the Like-Minded Group both by attempting to influence governments at home and, more directly, negotiations at the UN. Among the organizations prominent in the CICC were Amnesty International, Human Rights Watch, and the Lawyers’ Committee for Human Rights. The CICC, which began with 30 members, expanded to include 800 NGOs from all regions, including humanitarian, parliamentary, religious, and women’s groups, with the more prominent groups producing expert documents that influenced the negotiations, and others disseminating information and building coalitions. (Benedetti and Washburn) Their help was significant in the work of the well-organized Like-Minded Group of states, which eventually even split the permanent five Security Council members.

Conclusions

With the active encouragement of small and middle powers, non-governmental organizations and civil society have used their consultative status in the UN, beyond ECOSOC areas, to develop networks that magnify both their power and that of the small and middle level powers with whom they have worked. They have learned to be extremely effective even on peace and security issues where there has been opposition from hegemonic states. Small and middle

powers have leveraged their international influence by cooperating with networks of non-governmental organizations that share their views of a less hegemonic world order. The transnational advocacy networks that have resulted appear to have significantly affected the creation and implementation of less hegemonic security norms and international regimes that reflect the emerging transformation to human and not just state security.

Given the huge asymmetries in the global system, middle and small powers may be natural allies with nongovernmental organizations. NGOs often find alliances with middle powers less threatening than with large states. They may have more access in smaller states. Small and middle states, because of their inability to field very large delegations, may benefit more from the expertise and energy of NGOs with which they agree. Middle level states are less able to behave unilaterally on the global scale, and the coalitions that result – often between Canada, the Scandinavian states, and other selected states in all regions – may reflect the less hegemonic norms that may well result from this structural position. In some cases, working with NGOs may give middle powers allies within the large powers they seek to influence. Many of the cases which attribute tremendous success to civil society advocacy are in fact alliances of middle level states and NGOs, in which the power of each is magnified toward the development of less hegemonic norms and international regimes.

Among the research questions that might be pursued in this area might be whether there are particular types of middle level states that are more likely to cooperate with particular types of NGOs. For example, are democratic middle level states more likely to work with NGOs? If so, why? With respect to issues of co-optation, are NGOs less likely to be co-opted by middle level states than large states? Or the reverse: are southern small and middle powers likely or not likely to be co-opted by alliances with northern NGOs, particularly those who may provide concrete benefits? Do the norms and regimes that result from middle power/NGO cooperation simply reflect existing power structures or a redistribution of power in the international system?