

## PAPER DETAILS

TITLE: Birlesmis Milletler Güvenlik Konseyi ile Sivil Toplum Kuruluslari Arasindaki Münasebetlerin Analizi

AUTHORS: M Halil M BEKTAS

PAGES: 11-33

ORIGINAL PDF URL: <https://dergipark.org.tr/tr/download/article-file/333598>

## ANALYSING RELATIONS BETWEEN THE UNITED NATIONS SECURITY COUNCIL AND NGOS<sup>12</sup>

*M. Halil M. BEKTAŞ<sup>3</sup>*

### **Abstract**

The United Nations Security Council's (SC's) responsibilities have grown as new international challenges have emerged. These challenges include global environmental issues, refugee flows and mass migration across borders, the rapid spread of infectious diseases, civil war that threatens international peace and security, global terrorism and transnational crime. It is acknowledged that many non-state actors could contribute to the SC's work in dealing with such challenges. The SC has to this end made informal use of Non-Governmental Organizations (NGOs). The current paper first discusses the previous interactions between NGOs and the Security Council. It later analyses the sufficiency of these relations. The current paper suggests that these informal relationships should be strengthened. It is proposed that the Council should consider granting formal access to NGOs that have, as non-state actors, been active in the international legal order, and that have already made significant contributions to the above-mentioned issues.

**Keywords:** United Nations Security Council, NGOs, Informal Relations, Formal Access.

---

1 Makalenin Geliş Tarihi: 06.04.2017 Makale Kabul Tarihi: 28.04.2017

2 This work was drawn from an unpublished thesis. M Halil M Bektas, 'Reforming the United Nations Security Council: Making it more Democratic in the Post-Westphalian Legal Order' unpublished PhD thesis, De Montfort University (2016).

3 Research Assistance in the Department of International Relations at Uludag University, Turkey. e-mail: mhmbektas@uludag.edu.tr

### **Birleşmiş Milletler Güvenlik Konseyi ile Sivil Toplum Kuruluşları Arasındaki Münasebetlerin Analizi**

#### **Öz**

Birleşmiş Milletler Güvenlik Konseyi'nin (BMGK'nın) sorumlulukları yeni gelişen uluslararası problemlerle birlikte daha da artmıştır. Bu problemleri küresel çevresel meseleler, mülteci akımları, hızlı yayılan bulaşıcı hastalıklar, uluslararası barış ve güvenliği tehdit eden iç savaşlar, küresel terörizm ve ulus aşırı suçlar şeklinde sıralayabiliriz. Birçok devlet-dışı aktörlerin BMGK'ya bu problemlerle baş etmede yardımcı olabileceği kabul edilmiştir. BMGK bu amaçla sivil toplum kuruluşları ile gayri resmi münasebetler kurmuştur. Bu mevcut çalışma, öncelikle daha önce BMGK ile sivil toplum kuruluşları arasında kurulmuş olan münasebetleri ele alıyor. Sonra bu münasebetlerin yeterliliklerini analiz ediyor. Bu mevcut çalışma, bu gayri resmi kurulan münasebetlerin daha da güçlendirilmesini tavsiye etmektedir. Bu bağlamda, BMGK'nın halihazırda uluslararası sistemde aktif olan ve yukarıda bahsedilen meselelere katkıda bulunan sivil toplum kuruluşları ile resmi ilişkiler kurmayı göz önünde bulundurması önerilmiştir.

**Anahtar Kelimeler:** Birleşmiş Milletler Güvenlik Konseyi, Sivil Toplum Kuruluşları, Gayri Resmi İlişkiler, Resmi İlişkiler.

## **Background of Interactions Between the Security Council and NGOs**

Most major effective international organisations have been in dialogue with NGOs, signing memoranda of agreement or entering into official partnerships relating to the implementation of development projects, relief works, environmental protection or the maintenance of peace (Lindblom, 2005, p. 366; Hasgüler, 2007, p. 450; Çakmak, 2004, p. 119).<sup>4</sup> It might also be common practice for international organisations to attain counselling or observer status in order to allow them to participate in decision-making processes without the right to vote (Lindblom, 2005, p. 366). The UN has also developed interactions with NGOs.

Although Article 71 is the only official provision to encourage relationships between NGOs and the Security Council,<sup>5</sup> the SC has joined the other principle UN organs in establishing and maintaining such relationships (Sorensen, 2002, p. 355). The Council may have interacted with non-state actors since 1982 via an ad hoc procedure (Therien and Belanger-Dumontier, 2009, p. 363), but unlike other UN organs has mostly refused NGO's demands for access. This might stem from the Council's state-centred focus. By long-standing practice, NGOs have consequently been prevented from speaking at Council meetings and from making "consultations to official delegations, government officials of Council members and UN officials" (Boyle and Chinkin, 2007, p. 78).

Nevertheless, NGOs have noted that the SC has expanded the scope of its functions to deal increasingly with cases beyond traditional inter-state security threats (Luck, 2006, p. 16; Binder, 2008, p. 7). The protection of human rights and humanitarian assistance can be seen as essential issues for NGOs. Therefore, as Paul (2004) states,

<sup>4</sup> One of the NGOs' cornerstone activities is the Universal Declaration of Human Rights. In this regard, "some authors even wonder whether the Universal Declaration of Human Rights (1948) would have been adopted if it was not for the pressure and support of NGOs." (Hachez, 2008, p. 53)

<sup>5</sup> Even though the Article 71 deals only with relations between ECOSOC and NGOs, it also provides possibility of inserting a provision into the UN Charter in order to grant formal access for NGOs.

*“As the Council took unprecedented action in the area of sanctions, peacekeeping, election monitoring, policing and post-conflict peace building, NGOs with international policy mandates decided that they must follow the Council’s work more closely.”*

It is therefore clear that NGOs have been more eager for founding interactions than has the SC.

Some conditions have nevertheless paved the way for the establishment of relations between the Security Council and NGOs. Firstly, the Council serves as an implementing body that attempts to execute specific political and social goals (Wapner, 2007, p. 257). The new challenges posed by the changes in international relations have compelled the Council to exercise this function through NGOs. Hume (2004, p. 607) observes that these changes have influenced the Council’s functioning. Council members, particularly the elected members (E-10), have therefore striven to develop relationships with NGOs so as to obtain consultative advice when dealing with new difficulties.<sup>6</sup> Establishing relations between the SC and NGOs has thus become easier, as these relations have been considered as demands, and because it is no longer only NGOs that seek such interactions.

The Council aims to take an active role in preventing internal conflicts and global disputes, an aim that could be seen as a basis for establishing relationships with NGOs. Such relationships with civil communities increased significantly in the Cold War era in which this type of issue was prevalent (Paul, 2004, p. 373). In this period, 90 per cent of those who suffered from internal conflicts were civilians, so the Council took action to maintain peace and security. The Council has also tackled other global threats when dealing with armed conflict. When the members of the SC form opinions or make decisions regarding national disputes or global challenges, they base their intelligence on information provided by NGOs

<sup>6</sup> The Council’s new fields of activity include “sanctions, peacekeeping, election-monitoring, policing, and post-conflict peace-building have placed a greater burden on SC delegates...” (Woodward, 2011, p. 222).

(Paul, 2004, p. 374).

The SC has found a way of developing relations with NGOs in order to deal with such issues. Even though “there has been an *ad hoc* procedure since 1982 that permits experts to be convened to provide information to member-states’ (Therien and Belanger-Dumontier, 2009, p. 355), a remarkable negotiation process referred to as “the Arria Formula”<sup>7</sup> was initiated in the second half of the 1990s (Paul, 2003). An NGO Working Group on the Security Council was established in 1997 after two years of attempts.<sup>8</sup> It was expected at first that the veto powers would block the process, but this did not function as intended (Paul, 2001). The Council first met with an NGO in accordance with this formula in 1997.<sup>9</sup> NGOs subsequently began to provide information pursuant to Article 39<sup>10</sup> about their fields of expertise such as the use of children in armed conflict.

The Security Council has also used the services of NGOs that operate in related fields in order to obtain information for use in internal conflict meetings in order to resolve domestic conflicts in individual countries. The Council needs accurate and timely information, and hence prizes such input from NGOs.

As mentioned earlier, a significant increase in both the Council’s activities and the extent of its authority following the Cold War is evident. The Council has begun to use “supranational coercion” to deal with issues oc-

---

7 This name derives from Venezuela’s UN Ambassador, Diego Arria, who originated this type of meeting.

8 NGO Working Group on the Security Council <http://www.globalpolicy.org/ngo-working-group-on-the-security-council.html>, accessed 05/03/2013.

9 In accordance with Arria Formula that was devised in 1993, a member of the Security Council could unofficially invite non-member states to a room other than the Council’s meeting room. The person who attends these meetings should be an executive manager and not have any relations with governments. ‘UN-Civil Society Relations Panel Established’ (2003) <http://www.globalpolicy.org/component/content/article/177/31845.html>, ‘Arria Formula and Other UN Proceedings’ <http://www.globalpolicy.org/security-council/ngos-and-the-council/arria-formula-and-other-un-proceedings.html>, accessed 05/03/2013.

10 UN Charter <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> accessed 05/03/2015

curing within borders, issues that include civil conflicts, humanitarian crises and terrorism (Binder, 2008, p. 6). This work renders NGOs' expertise and actions essential. For example, when the Council strives to establish a peace that is dependent on such factors as economic and social development, respect for human rights and disarmament, these are all fields of NGO expertise (Alger, 2002, p. 117).

It is also clear that this development has arisen from a transformation in security threats and from amendments to international norms, and in the opportunities presented by the global political system after the Cold War. It is therefore plausible to observe that the members of the Security Council have progressively increased the level of their relationships with NGOs as "partners and service contractors, in emergency and post-emergency" circumstances under the authority of the Council since the Cold War ended (Hill, 2002, p. 27). The Council's intention has always been to increase its capacity to tackle international challenges in the light of new conditions. Yet the type of interaction has always remained informal, allowing NGOs only very limited access.

### ***The Extent to Which the Security Council Grants Access to NGOs***

There are two ways by which the SC can interact with NGOs: on a legal basis<sup>11</sup> or ad hoc, as circumstances arise. The relations that have developed between the Council and NGOs can be said to derive from the latter.<sup>12</sup> By way of illustration, the number of the Council's meetings and consultations increased fourfold in just the six years between 1988 and 1993.<sup>13</sup> As mentioned earlier, a change in the scope of the Security Council's activities has thus drawn NGOs to seek a way to establish relationships with it.

11 According to Article 71 of the UN Charter, ECOSOC could arrange official and formal consultations with NGOs.

12 For further details of the types of informal NGO access to the Council; see (Paul, 2004)

13 "During this period, the number of Council meetings increased from 55 to 171 and consultations from 62 to 253. The number of resolutions increased from 20 to 93 and presidential statements from 8 to 88" [http://www.globalpolicy.org/images/pdfs/Number\\_of\\_Security\\_Council\\_Formal\\_Meetings\\_and\\_Informal\\_Consultations.pdf](http://www.globalpolicy.org/images/pdfs/Number_of_Security_Council_Formal_Meetings_and_Informal_Consultations.pdf) and [http://www.globalpolicy.org/images/pdfs/Number\\_of\\_Security\\_Council\\_Resolutions.pdf](http://www.globalpolicy.org/images/pdfs/Number_of_Security_Council_Resolutions.pdf), accessed 13/05/2013.

There are reasons other than this expanded scope of activity for enhancing interactions between the Council and NGOs. Firstly, the Council's delegates, particularly the Elected States (E-10), have found it difficult to fulfil these increased responsibilities. This inability has impelled them to seek information, expertise and policy ideas, purposes for which NGOs can be seen as ideal (Donini, 1996).

The permanent members have also asked to present their national perspectives during informal interactions (Weiss and Young, 2005, p. 131). The more important point is that they were expected to obtain support from NGOs for the admissibility and applicability of their own national policies and initiatives. This might indicate that NGOs have increased their reputations and earned respect from Council members sufficient to gain access to the Council. Furthermore, Council delegates have viewed these meetings primarily as a welcome change of pace from the Council's endless diplomatic discussions (Weiss and Young, 2005, p. 131). More importantly, it proves that the permanent five do not pose an insuperable obstacle to granting access to NGOs. These interactions have potentially planted the seeds of formal<sup>14</sup> relations between the Council and NGOs. At least they have forced a reconsideration of any scepticism regarding the possibility of such a development.

What is more, NGOs play a significant role in moulding public opinion regarding international political behaviour. Their public advocacy and media campaigns have always shaped public understanding of crises. This has further enabled NGOs to use public opinion to leverage governments to take action. The Council has therefore begun to regard the support of such actors as essential to its initiatives' success (Weiss and Young, 2005, p. 133).

Apart from the expansion of the Council's functions, criticism of its democratic deficit has also prompted the establishment of relations between

<sup>14</sup> Formal access refers to granting accredited NGOs Council access through a committee. It is not membership, it is to provide counselling or observer status in order to allow them to participate in decision making processes without the right to vote.

it and NGOs. These criticisms are provoked by the Council's anti-democratic structure and its ineffectiveness, both of which stem from its permanent members and their veto power. In fact, the Security Council has become more secretive and unaccountable than ever, as its meetings have increasingly taken place behind closed doors "in private consultations of the whole" after 1990 (Weiss and Young, 2005, p. 131). Critics and some prominent states have argued that the Council's work lacks legitimacy because its practices are not sufficiently transparent or publicly accountable. At the same time, some have seen the growing relationships between the Council and NGOs as a significant stage in the growing legitimacy and increasing effectiveness of the international political and legal order (Weiss and Young, 2005, p. 133). It was believed that NGOs could leverage the SC and balance it to increase its legitimacy and make it more fit for a legal environment.<sup>15</sup> This constitutes another circumstance that paves the way for the participation of NGOs in the Council.

The increase in the Council's activities has made the incapacity of the state-based system more obvious. The Council thus feels it necessary to cooperate with NGOs in order to increase its capabilities. The need to balance the illegitimate behaviour of the permanent members has also led the elected members to cooperate with NGOs. In addition to these internal reasons, the Council's inefficiency combined with the relevance of its activities has led NGOs to aspire to interact with it. There are thus significant drivers for the development of interactions between the SC and NGOs. These reasons could also be instrumental in establishing formal relations between the two.

Nevertheless, even though these circumstances have drawn attention to the importance of NGOs' involvement, the Council has mostly forestalled the granting of formal access to NGOs. This reaction may have originated

---

15 See: 'Reforming the Security Council', a conference organised on May 1994. Some of these views can be found in the speeches. See at: <http://www.globalpolicy.org/security-council/security-council-reform/32789-reforming-the-security-council.html>, accessed 15/05/2013, *ibid*.

from its permanent members, who have strongly resisted NGO scrutiny of their “special terrain” (Willetts, 2011). Some Council members have also regarded the work of NGOs unfavourably because of the negative feedback they have received from human rights organisations and other NGOs.<sup>16</sup> These factors may therefore have resulted in the restriction of interactions between the two to informal consultations. Especially recently, the results of such meetings have also lost their relevance,<sup>17</sup> perhaps because the Council aims to apply to NGOs only when circumstances render it necessary. The reactions of the SC’s members to date have thus made it impossible to take the process beyond informal relationships.

### **Is Informal Access Enough?**

Some may argue that informal relations are good enough – indeed, that they are more suitable for the purposes of NGOs. They believe that formal access may compromise the nature of such organizations, claiming that formal access would in fact limit their capabilities, allowing states to control them. On the other hand, some also argue that even the consultative status is not adequate for NGOs to perform efficiently (Gartner, 2010). The outcomes NGOs have achieved by informal relations will first be examined, while determining any problems in this regard. The conclusion will be that formal access has become essential, as NGOs have faced difficulties in demonstrating the efficiency of their performance by informal processes. With some exceptions, states have tended to use NGOs for their own convenience, calling on them as and when they see fit. This state of affairs has already discouraged some NGOs.

### ***Outcomes of Informal Interactions Between the Security Council and NGOs***

A person’s employability depends to a large degree on their previous

<sup>16</sup> For instance, there were tensions between governments and human rights NGOs in the Vienna World Conference in 1993. Some states were apprehensive of NGOs’ influence on the reporting of “damaging information” to the world’s media (Weiss and others, 2007).

<sup>17</sup> While NGOs try to attend such meetings with high level personnel, states do not pay the same amount of heed as do NGOs.

experience and achievements, which are key indicators of reliability because past deeds strongly suggest future ones. The same applies to NGOs in the present context: it is necessary to address their histories and achievements under conditions of informal relations in order to support a case for formal access.

NGOs have had some success in empowering themselves to influence decisions taken by decision-making organs. There are many examples of NGOs' achievements in this area. Kofi Annan (1998) aptly states that their involvement has increased over the last few years and has "moved 'upstream' as NGOs participate more and more commonly in the design of projects".

As mentioned earlier, the Security Council has maintained informal relationships with NGOs since 1982<sup>18</sup>, relationships that were reinforced by the Arria<sup>19</sup> formula in 1992. An NGO Working Group also advocates off-the record relationships with the Council by arranging briefings for delegates. It brings 30 high-profile NGOs including OXFAM, MSF, Amnesty International and CARE together under the leadership of the Global Policy Forum (Therien and Belanger-Dumontier, 2009, p. 355). Under these informal interactions, NGOs have striven to increase Council member states' awareness of issues related to human rights, humanitarian aid, disarmament and the environment (Willetts, 2011). In addition to informal relations, some interactions have also been established under a subsidiary organ for specific cases at formal meetings under Article 29.<sup>20</sup> These interactions have produced specific outcomes. To this extent, NGOs have been able to introduce issues onto the Security Council's agenda and to orient the decision-making process (Paul, 2001).

There is no doubting NGOs' capacity for advocacy and influence. James

18 Ad hoc procedural relations.

19 "The members of the Security Council are encouraged to plan "Arria-formula" meetings, in accordance with paragraph 54 of the Note by the President of the Security Council (S/2006/507), and to take part in such meetings." <http://www.un.org/en/sc/about/methods/arriaformula.shtml>, accessed 09/09/2014.

20 Article 29 of the UN Charter.

Paul maintains that “this was NGO advocacy at its best and most effective” (Paul, 2004). Global Witness is a major NGO. It describes itself thus: “we find the facts, we uncover the story and we change the system”.<sup>21</sup> One of its most noteworthy ventures provides a very powerful illustration of this definition. The NGO has succeeded in drawing the international community’s attention to the problem of conflict diamonds (known also as “blood diamonds”) by releasing their report “A Rough Trade” in 1998.<sup>22</sup> This report demonstrates how diamonds have helped fund the civil war in Angola. The Security Council consequently adopted Resolution 1295 in April 2000.<sup>23</sup> In fact, some resolutions such as 864 (1993), 1127 (1997), 1173 (1998) and 1237 (1999) had already been taken on Angola. Yet Global Witness had discovered violations of these resolutions.

The Council might not have known the facts, or it might have affected not to know. Nevertheless, an NGO was able to uncover the facts and change the circumstances. This incident therefore actually constitutes evidence for the power of NGOs and the inability or outright failure of the Security Council. In this respect, James Paul states that “Global Witness showed how a compelling and original analysis could mobilize public support, affect government positions and change thinking and action in the Council” (Paul, 2004, p. 381).

The first Security Council resolution on Angola was in 1993. Global Witness’ report was published in 1998, while the Council resolution relating to that report was taken in 2000. This seven-year gap strongly suggests that the Council was too late in the light of the resolutions themselves, all of which – from 785 in 1992 to 1173 in 1998 – focused on UNITA.<sup>24</sup> The Council resolution on Angola consisted mainly of reaffirmations of con-

21 Global Witness <http://new.globalwitness.org/aboutus.php>, accessed 08/09/2014

22 <http://www.globalwitness.org/campaigns/conflict/conflict-diamonds>, accessed 08/09/2014

23 Global Policy Forum <https://www.globalpolicy.org/component/content/article/202/41592.html>, accessed 08/09/2014.

24 The National Union for the Total Independence of Angola (UNITA) is an Angolan political party.

demnations and sanctions against UNITA. Yet the SC barely recognised that UNITA was not the only problem in Angola. It took an NGO to prove that other actors were also at play in the Angolan conflict, their report revealing the countries that were violating sanctions against UNITA for their own interests.

If formal access had been granted, Global Witness or another NGO would have discovered the facts more efficiently and exerted pressure on the SC to act in time, thereby forestalling further violations of human rights. This is not to ignore the fact that Global Witness had succeeded through informal channels. Yet neither can the unconscionable lateness of the report as the result of the lengthy procedures entailed in those informal interactions be gainsaid. It cannot be denied that, had the report been issued at least a year earlier, it would have been able to prevent many of those violations of human rights and to save the lives of many people over that period.

Moreover, NGOs have played a significant role in the strengthening the Angolan sanctions regime. After civil actors had increased the awareness of Council members, some resolutions were also adopted to prevent the illicit flow of arms into Africa and to protect civilians, particularly women.<sup>25</sup> NGOs have made contributions to the establishment of *ad hoc* international criminal tribunals for Yugoslavia and Rwanda.<sup>26</sup> Council members were apparently not aware of the exact situation in Yugoslavia until a Bosnian priest came to New York and asked to see various Council members, but only Ambassador Arria agreed to meet him (Paul, 2003). If no one including the Ambassador had done so, the priest would have been forced to return to Bosnia having made no impact. It cannot be right to leave issues of international peace and security to such informal arrange-

<sup>25</sup> <http://www.un.org/en/sc/about/methods/arriaformula.shtml>, accessed 09/09/2014.

<sup>26</sup> NGOs have also had significant contribution in establishment of the International Criminal Court in a variety of ways such as 'International agenda setting, facilitating the ratification process and bringing organisational expertise, on-going development and support of the Court.' (Barrow, 2004)

ments with their uncertain access and equally uncertain impact.

Another prominent example is Security Council Resolution 1325, adopted on October 2000. This was the first formal acknowledgement from the Council that respect for women's rights and support for women's participation in peace negotiations and in post-conflict reconstruction was required.<sup>27</sup> This resolution was adopted after lobbying by dozens of women's organizations (United States Institute of Peace, 2010). Its date illustrates how hard it is to adjust to the realities of the world order without NGOs. The pressing issue of women's rights is hardly a new one, but the Council has remained silent on it until the dawn of the new millennium. If NGOs had not influenced the Council, it would not have adopted any resolution on such a significant issue even till now. This demonstrates that the SC alone is not able to consider all issues.<sup>28</sup> The state-based Council system is a deficient means of keeping pace with the evolution of global circumstances.

Apart from the efforts of NGOs on their own initiative, the SC has also explicitly asked them for support. For example, Resolution 771 in 1992 regarding Yugoslavia "...demands that relevant international humanitarian organizations, and in particular the International Committee of the Red Cross, be granted immediate, unimpeded and continued access to camps...within territory of the former Yugoslavia and calls upon all parties to do all in their power to facilitate such access", while the following paragraph calls "upon states and, as appropriate, international humanitarian organizations to collate substantiated information..." regarding

27 The United Nations Security Council Resolution 1325.[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1325\(2000\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1325(2000)), accessed 09/09/2014.

28 As the Syrian conflict continues, the issue of protecting Syrian antiquities appears not to be being considered. There is, however, an NGO that does. In this regard, the report of the American Association for the Advancement of Science (AAAS) has spurred the Council to action. The Council adopted Resolution 2199 on 12 February 2015, according to which "all Member States shall take appropriate steps to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance." See more at <https://www.globalpolicy.org/component/content/article/144-bibliographies/52741-un-security-council-banning-all-trade-with-syrian-antiquities.html>, accessed 04/04/2015.

breaches of human rights.<sup>29</sup> The Council refers more explicitly to NGOs in Resolution 1470 of 2003, calling “on States, international organizations and non-governmental organizations to continue to support the National Recovery Strategy of the Government of Sierra Leone”.<sup>30</sup>

Not the least significant example is the Ottawa Treaty, also known as Anti-Personnel Mine Ban Convention, often referred to as the Mine Ban Treaty but officially named the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. This was signed after lengthy efforts by NGOs in December 1997.<sup>31</sup> Although this treaty does not refer directly to interactions between the SC and NGOs, it does provide indirect acknowledgement of their influence. The Convention was signed by 162 states. 35, including the US, Russia and China, did not sign. The Treaty thus demonstrates how NGOs could persuade two thirds of UN member states to adopt a measure against the opposition of three permanent members of the Security Council.

In addition, given the fact that the Ottawa Treaty was formulated as it were “from below”, many international legal scholars, activists, diplomats and organizations believe that the Convention represents both a democratization and a new source of legitimacy for international law (Anderson, 2000, p. 91). The Ottawa Treaty can therefore be seen as a hallmark achievement of NGOs.

Nevertheless, the examples referred to still do not provide a compelling enough argument to allow informal relations to be considered adequate. For example, the Ottawa Treaty has only been ratified by 40 states. Three permanent members of the SC do not adhere to it. As mentioned, the resolution on women’s rights could have been taken much earlier if NGOs

29 UN Security Council Resolution 771 (13 August 1992), para. 4-5.

30 UN Security Council Resolution 1470 (28 March 2003), para. 8.

31 “In the efforts to ban anti-personnel mines, two NGOs are of primary significance: the International Committee of the Red Cross (ICRC) and the International Campaign to Ban Landmines (ICBL).”(Short, 1999)

had had formal access to the Council. The ICC could also have been established earlier, and could even have prevented many war crimes. A stronger ICC striving to implement rules of international law might have been set up.<sup>32</sup> Such a Court would be able to restrain the Council's questionable activities. Informal access to the Council can thus result in only limited or late success, while formal access would make NGOs' performance more efficient.

Their achievements certainly cannot be denied. Paul (2004) classifies their contribution to the SC. Firstly, they have improved its accountability and transparency. He states that

*"After more than a decade of NGO action, the public knows much more about the Council than before, and citizens are in a stronger position to demand accountability for Council action."*<sup>33</sup>

Secondly, NGOs have mostly provided better information and analysis than states to Council members. In fact, its non-permanent members have increasingly benefited from this, because NGOs have broken the permanent members' intelligence monopoly. The Council has been much "better informed, on a wider range of issues, than at the start of the 1990s and before"(Paul, 2004).

It is true that NGOs have a significant capacity to provide information. It may be wondered if states, with their intelligent services, are not better placed in this regard. Jaeger considers that

---

32 Although the recognition of a Palestinian state is controversial because of US resistance, the ICC still does not hesitate to approve Palestine as a party to the Rome Statute. In this regard, "the International Criminal Court (ICC) held a ceremony on 1 April 2015 at the seat of the Court in The Hague (the Netherlands) to welcome the State of Palestine as the 123rd State Party to the Rome Statute, the ICC's founding treaty". See [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1103.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1103.aspx), accessed 01/04/2015.

33 "The Council thus moved steadily away from the secrecy of the early and mid 1990s, when it did not even allow the Secretariat to tape record the Council President's press statements. NGO information culture, magnified by the web, had seeped into the Council, changing its outlook and working methods." (Paul, 2004)

*"If they (UN officials) were unable to obtain the relevant information from independent sources (and UN backup facilities are often unable to produce an in-depth analysis), committee members would have to take government reports at their face value and would be hard pressed to challenge them." (Jaeger, 1982, p. 174)*

NGOs allow comparisons to be made between information from a variety of sources because they can provide independent and comprehensive information. It is therefore easier to analyse causes more accurately without obscuring facts,<sup>34</sup> rather than relying on possibly tendentious inferences.

Thirdly, NGOs have taken the lead regarding some procedural reforms, launching their own regular consultation processes with Council members and expanding the Arria Formula. Their aims are to increase the number of informative mission web sites and to significantly broaden the nature and amount of UN information on the Council and its work (Binder, 2008). They have also urged the Council to adopt new approaches in its field missions, and have promoted expert panels to reinforce sanctions (Binder, 2008).

One of the main reasons for the maintenance of informal interactions is that NGOs cannot legally participate in the Council, forcing it to concentrate its legislative activity in the informal arena (Pauwelyn, Wessel and Wouters, 2014, p. 733). In this regard, NGOs find informal relations to be an alternative way of establishing relations under the conditions of international law. It can be concluded that NGOs would actually prefer to establish formal relations, regarding informal ones as their least preferred option. For example, if they favoured the latter, they would not strive for consultative status in ECOSOC, nor would they complain about the deficiencies inherent in informal relations. A second reason is that informal relationships are demanded by the Council, which regards such relations

<sup>34</sup> For instance, as regards the aforementioned Syrian conflict, NGOs successfully provided footage on the use of chemical weapons. In fact, this issue was not even on the agenda of states until NGOs revealed the footage.

as an option for obtaining information from NGOs. Yet informal relations are not enough, either for the Council's needs or for international legal circumstances. It would thus be advisable for the Council to allow formal access to NGOs.

In conclusion, NGOs have achieved a remarkable amount, both in the Council and outside it. It is clear that they have influenced the Council's decision-making process and have accomplished much in the legal and political policy arenas.<sup>35</sup> It is thus helpful to note their capacity to influence states, and consequently to push the latter to take action. At the same time, it also demonstrates how limited access has mostly resulted in limited successes that have been gained only through the limited access and sources entailed in informal relations. In fact, it is not easy for participating NGOs to exert pressure on the SC, "the ultimate bastion of power politics" (Therien and Belanger-Dumontier, 2009, p. 355). Nonetheless, as Therien and Dumontier (2009) state, NGOs have contrived to loosen "the grip that states have on the institution" despite these impediments. In adverse circumstances they have managed to increase their strength in world politics and have achieved many outcomes through informal interactions. It can thus plausibly be maintained that such achievements would be rendered even more satisfactory by the establishment of formal relationships.

The cases just discussed relate to issues of security and peace. They demonstrate that NGOs have already helped maintain international peace and security, nominally not their legal responsibility but that of the SC. This provides grounds for asserting that if formal access (which implies legal personality) were granted, they would greatly increase their success in that role.

### **Concluding Remarks**

It can be concluded that it is important for NGOs to establish relations with an institution that has hitherto closed its doors to them. Several methods

<sup>35</sup> James Paul has summarized previous legal and political achievements (Paul, 2004).

have been used to grant access to the SC, but such relations as have developed have been confined to informal meetings (Wapner, 2007) and have depended on the agreement of Council members, particularly its permanent ones. While NGOs have been eager to develop such relationships, the Council has mostly preferred to use a demand-based approach, restricting it to informal consultations. Indeed, relations have sometimes become unilateral rather than remaining bilateral, when the Council's reluctant reactions are taken into account. This accords with Willett's (2011) prediction that "the last bastions to resist formal relationships with NGOs will be the International Monetary Fund and the Security Council".

Nevertheless, the Council's resistance cannot withstand the challenge presented by current circumstances, since NGOs have found a place in Council resolutions as supporting actors. The practices of Council members, including its permanent ones, demonstrate that they are aware of their inability to deal with issues of international peace and security solely through a state-based system, but it is still the elected members who aim to develop relations further with NGOs. They persist in attempting to find alternative ways of interacting with NGOs, who have likewise taken an avid interest in obtaining access to the Council. Taken together, the indispensability of the assistance provided by NGOs paves the way for the establishment of concrete formal relations between NGOs and the SC.

As observed above, the outcomes produced by informal access are undeniable, as is the very fact that obtaining access to the Council constitutes a major achievement, because gaining admission to an institution that has deliberately tended towards exclusiveness is not easy. Paul (2004) emphasizes that the presence of NGOs in this state-based club "reflects tectonic shifts in the international order". It is therefore a remarkable success even to have gained informal access to the Council. Yet the international legal order has been evolving rapidly, a reality with which the Council has failed to keep pace.

Notwithstanding the outcomes of informal relations, it is necessary to

transform these into a formal mode. This is mainly because informal relations provide only limited access to NGOs and thus does not permit them to operate efficiently. Limited access can only bring limited success. Given the fact that the issues with which the Council deals are related to international peace and security, it is essential to take appropriate measures in a timely manner. Informal access is far from meeting this requirement, since it both depends on the good will of member states and takes a long time to reach decisions. NGOs should therefore be granted at least a partial legal personality that would allow them to perform more efficiently. When NGOs' access is strengthened, their achievements would commensurably improve. Formal participation on the Council is thus important under current conditions.

Lastly, Fassbender (2004) highlights how the obstacles that face NGOs every time they try to access the Council have "given way to a certain ennui or resignation of the interested governments and nongovernmental organizations". Paul (2004) likewise observes that "NGOs are often dismayed by the realpolitik that they observe and by the needless human suffering that so often results".

In the light of these facts, it cannot be argued that informal relations between NGOs and the SC have been satisfactory. Translating relationships into a formal mode would enhance the Council's capabilities, as NGOs would be able to provide more resources more efficiently, and also because the Council would be able to address the realities of the current international legal order. Of course, formal access to the SC would provide more efficient opportunities for access. The further development of current informal mechanisms would therefore bring NGOs into close contact with high-ranking governmental representatives such as members of the Council and other leading UN officials (Martens, 2004).

## Reference

- Boyle, A. and Chinkin, C. (2007). *The making of international law*. Oxford: OUP.
- Alger, C. (2002). The Emerging roles of NGOs in the UN System: From article 71 to a people's millennium assembly. *Global Governance*.
- Anderson, K. (2000). The Ottawa convention banning landmines, the role of international non-governmental organizations and the idea of international civil society. *EJIL*, 91-120.
- Annan, K. (1998). *Arrangements and practices for the interaction of non-governmental organizations in all activities of the United Nations system*. Secretary-General.
- Barrow, K. (2004). The role of NGOs in the establishment of the International Criminal Court. *Dialogue*, 11-22.
- Binder, M. (2008). The politicization of International Security Institutions: The UN Security Council and NGOs. *Social Science Research Center*.
- Çakmak, C. (2004). The role of Non-governmental Organizations (NGOs) in the norm creation process in the field of human rights. *Alternatives: Turkish Journal of International Relations*, 100-122.
- Donini, A. (1996). The bureaucracy and the free spirits: Stagnation and innovation in the relationship between the UN and NGOs. In T. G. Gordenker, *NGOs, The UN and Global Governance*. Lynne Rienner Publisher.
- Fassbender, B. (2004). Pressure for Security Council reform. In D. Malone. Lynne Rienner.
- Gartner, D. (2010). Beyond consultation: Civil society and the governance of international institutions. *Center for Universal Education at Brookings Working Paper*.
- Hachez, N. (2008). The relations between the United Nations and civil society: Past, present, and future. *International Organizations Law Review*, 49-84.
- Hasgüler, M. and Uludağ, M. B. (2007). *Devletlerarası ve hükümetler dışı uluslararası örgütler*. İstanbul: ALFA Basım.
- Hill, F. (2002). NGO perspectives: NGOs and the Security Council" in Kerstin Vignard ed., NGOs as partners: Assessing the impact, recognizing the potential. *United Nations Institute for Disarmament Research*.
- Hume, C. R. (2004). The Security Council in the twenty-first century. In D. Malone, *The UN Security Council: From the Cold War to the 21st Century*. Lynne Rienner.
- Jaeger, G. (1982). Participation of non-governmental organizations in the activities of the United Nations high commissioner for refugees. In P. Willets, *Pressure Groups in Global System: The Transnational Relations of Issue-Oriented Non-Governmental Organizations*. continuum international publishing.
- Therien, J.P. and Madeleine, B. D. (2009). The United Nations and global democracy: From discourse to deeds. *Cooperation and Conflict: Journal of the Nordic International Studies*

Association, 355–377.

Pauwelyn, J., Wessel, R. A. and Wouters, J. (2014 ). When structures become shackles: Stagnation and dynamics in international lawmaking. *European Journal of International Law*, 733-763.

Lindblom, A. K. (2005). *Non-governmental organizations in international law* (CUP, 2005), p.366. Cambridge: CUP.

Luck, E. C. (2006 ). *UN Security Council: Practise and promise*. Routledge.

Martens, K. (2004). NGOs in the UN system: Examining formal and informal mechanisms of interaction". *International Journal of Civil Society Law*.

Paul, J. ( 2004). Working with nongovernmental organizations. In D. Malone, *The UN Security Council: From the Cold War to the 21st Century* (p. 373). Lynne Rienner.

Paul, J. (2001). *A short history of the NGO working group*. Retrieved from [http://www.globalpolicy.org/images/pdfs/April\\_2001\\_-\\_A\\_Short\\_History\\_of\\_the\\_NGO\\_Working\\_Group.pdf](http://www.globalpolicy.org/images/pdfs/April_2001_-_A_Short_History_of_the_NGO_Working_Group.pdf)

Paul, J. (2003). Retrieved from the Arria formula: <http://www.globalpolicy.org/component/content/article/185/40088.html>

Short, N. (1999). The role of NGOs in the Ottawa process to ban landmines. *Kluwer International Law*, 481-500.

Sorensen, G. M. (2002). The roles a civil society can play in international dispute resolution. *Negotiation Journal*, 355.

Weiss, T. G. and Young, K. E. (2005). Compromise and credibility: Security Council reform? *Security Dialogue*.

Weiss, T. G. and others. (2007). *The United Nations and changing world politics*. Westview.

United States Institute of Peace. (2010, October). Retrieved from what is U.N. Security Council resolution 1325 and why is it so critical today?: [http://www.usip.org/gender\\_peacebuilding/about\\_UNSCR\\_1325#Why\\_is\\_Resolution\\_1325\\_important\\_](http://www.usip.org/gender_peacebuilding/about_UNSCR_1325#Why_is_Resolution_1325_important_)

Wapner, P. (2007). The UN and civil society. In T. G. Daws, *The Oxford Handbook on the United Nations*. Oxford: OUP.

Willetts, P. (2011). *Non-governmental organizations in world politics: The construction of global governance*. Routledge.

Woodward, B. K. (2011). The role of international NGOs: An introduction. *Willamette J. Int'l L. & Dispute Res.*, 203-231.

## Özet

Birleşmiş Milletler Güvenlik Konseyi'nin (BMGK) temel görevi olan uluslararası barış ve güvenliği koruma sorumluluğunun kapsamı, özellikle Soğuk Savaş sonrası dönemde küresel çevresel meseleler, mülteci akımları, hızlı yayılan bulaşıcı hastalıklar, uluslararası barış ve güvenliği tehdit eden iç savaşlar, küresel terörizm ve ulus aşırı suçlar gibi yeni tehditlerin gelişmesiyle, gittikçe genişlemiştir. Bu gelişme uluslararası Sivil Toplum Kuruluşlarının (STK) dikkatlerini BMGK'ya çekmiş ve BMGK ile ilişkiler kurmaya sevk etmiştir. Başta kaynakları daimi olan üyelere göre çok daha kısıtlı olan daimi olmayan üyeler olmak üzere, BMGK da bu gelişen problemlerle mücadelede kapasitelerini arttırmak amacıyla STK'lar ile ilişkiler geliştirilmesine sıcak bakmıştır. Sonuç olarak, uluslararası barış ve güvenliği tehdit eden bu sorunlarla etkili bir şekilde mücadele edebilmek amacıyla BMGK ile bu konularda uzman olan uluslararası STK'lar arasında resmi olmayan ilişkiler kurulmuştur. BMGK ile STK'lar arasındaki ilişkiler 1982'den beri geçici bir prosedürle başlamış olsa da, 1990'ların ikinci yarısında 'Arria Formülü' adı verilen müzakere süreciyle daha sık gerçekleşen bir hal almıştır. Böylelikle, STK'lar özellikle sivil çatışmalar, insani krizler, terör ve askeri çatışmalarda çocukların kullanılması gibi uzman oldukları alanlar hakkında BMGK'ya birinci elden bilgiler paylaşıp danışmanlık yapmışlardır. Ancak bu ilişkilerin gayri resmi olmasından dolayı, görüşmeler BMGK dışında BMGK üyelerinin temsilcilerinin katıldığı toplantılarda veya bazen ikili toplantılarda gerçekleşmektedir. Bununla beraber, şartlar BMGK ile STK'lar arasında münasebetler geliştirilmesini teşvik etse de bu ilişkilerin kurulması kolay olmadığı gibi bu ilişkiler resmi olarak tanımlanmadığı için etkin bir şekilde sürdürülmesi hususunda yetersizlikler söz konusu olmaktadır. Bu bağlamda, gayri resmi münasebetler yoluyla STK'lar kendi kaynaklarıyla elde etmiş oldukları bulguları BMGK'ya ulaştırmada ve sonuç almada sorunlar yaşamaktadırlar. Bunun temel nedeni BMGK sadece istediği konular dışında STK'ların raporlarını kayda almamasıdır. Bu yüzden, STK'ların BMGK'nın istemediği bir konuda

sonuç alması çok uzun sürebilmektedir. Mevcut ilişkiler gayrı resmi olmasından dolayı çoğu zaman BMGK'nın özellikle daimi üyelerinin STK'lara ihtiyaçları olamadığında mesafeli durduğu ve onları ciddiye almadıkları gözlemlenmektedir. STK'lar mevcut gayrı resmi ilişkiler vasıtasıyla bazı başarılar elde etmiş olsa da, bu olumsuzluklar STK'lar arasında da yılgınlıklara yol açabilmektedir. Sonuç olarak, ilişkilerin gayrı resmi olması STK'ların BMGK ile etkin ilişkiler geliştirip kaynaklarını aktif bir şekilde sunmaları güçleşmekte ve sonuç almaları zorlaşmaktadır. BMGK, uluslararası barış ve güvenliği koruma gibi önemli bir sorumluluğu olan bir yapı olarak, daha etkin çalışmasına katkı sağlayacak olan STK'larla mevcut gayrı resmi münasebetleri daha da iyileştirilip resmi boyuta taşınması isabetli olacaktır.