

Establishing a Place at the Table:  
The Growing Influence of Non-Governmental Organizations  
in International Negotiations

A Thesis Presented by  
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**Abstract:**

The end of the Cold War marked the emergence of three new concepts in international relations: (1) state sovereignty could be violated on the basis of the protection of collective security, (2) security was no longer viewed merely in terms of military protection and (3) the recognition by states that the protection of individuals may require them to give up some of their responsibilities to other societal actors. This role has been increasingly filled by civil society, specifically by NGOs. Through an analysis of two case studies, the Convention Against Torture (CAT) and the Ottawa Convention Banning Landmines, this paper will examine the different strategies NGOs use to influence state opinion during negotiations.

The existing literature does little to answer this question, forcing me to look beyond traditional international relation theories. In the early phases, NGOs focus on building momentum by establishing transnational networks, collecting information, and framing this information into reports that will resonate with delegates. This information not only serves as the capital necessary for NGOs to gain access to the negotiations, but allows NGOs to “name and shame” states into compliance. Furthermore, during negotiations NGOs help to solve the principal agent problem by connecting state delegations to their domestic constituents.

I conclude that the reason the ICBL, relative to the work of AI in the CAT, had such a large degree of influence was that the coalition was able to move past the typical interest group theory consisting of providing information and lobbying individual delegates. This was achieved through three separate means: (1) using a multidisciplinary approach to frame the ban as a humanitarian and not a security issue, (2) joining a coalition of like-minded states and, (3) moving negotiations outside the traditional disarmament method in the UN. Through these three strategies the ICBL was able to counter powerful opposition forces in negotiations.

## **Preface**

I've finally reached the end of the road in this endeavor, the light at the end of the tunnel and whatever other clichés I would normally add in an attempt at eloquence were I not so brain dead. Not surprisingly for anyone who knows me, this final section is fairly difficult for me to write. I am still trying to understand how I feel about this process; like many college seniors before I am trapped in that phase of nostalgia where I am trying to accomplish everything on my bucket list (obviously finishing this thesis was rather high up there). Quite frankly, being caught up in this whirlwind I probably will not understand the significance of this work until after I graduate. So my greatest piece of advice to future thesis writers is the following: do not forget why you chose to do this in the first place. Hopefully, it was not just to get honors because to be honest while you will probably survive the year it will be miserable. Of course getting honors is a major reason, but there are far too many bumps along the road if you merely rely on this motivation to get you through. You have to possess a general curiosity about your topic, during the many (and by many were going to ballpark it to an average of once a week) tough times when I wanted to throw whatever material I was working on against a wall, I would take a deep breath and remind myself that at the end of the day, I am actually interested in this material.

I suppose it is natural to wonder what interested me about this topic in the first place. I have always been interested in human rights; all you have to do is take a quick glance at the extracurricular section in my resume to figure this out. However, most of my focus has been on community organizing and local educational efforts. After enrolling in various international law classes during my sophomore and junior years, my interests expanded beyond a purely local scope. Now I plan on attending law school, and hope to concentrate in international law (focusing on humanitarian law).

Ideally, I could see myself working for an NGO in the future. While I wish I could say that I want to do this because it is the “right thing to do”, this is simply not the case. I need a little bit more assurance that the work I will be doing is actually having at least a small impact. This is why I wanted to examine the work of NGOs in international negotiations: to see if they could actually have influence, or if my efforts would be better concentrated in other fields.

There are so many people I need to thank for their help in this process. First, I would like to thank Joshua Rubenstein, Dr. Leon Gordenker, Peter Willetts, and Steve Charnovitz for the advice they provided me early in the process on how I should tackle this subject. Next, I would like to thank both Betsy Pittman and Patrick Stawski for their assistance in finding sources. Turning to individuals at this University, I have even more people to thank. I would like to thank Professor Barbara Koremenos for her assistance in helping me to draft my initial proposal. Also, I would like to thank Professors Kio Tsutsui and Katherine Morse for their assistance in helping to find sources and providing insight on the topic (special thanks to Katherine for showing me how to use the microfiche machine; it made me feel like an actual scholar).

A big thanks also goes out to Professor Susan Waltz and former Ambassador Melvyn Levitsky. The insight you have both provided for this project through interviews and various conversations has been invaluable. I am extremely grateful for the time you both took to assist me. Ambassador Levitsky, thank you for agreeing to be my third reader. I hope this paper serves as the capstone to our discussion throughout the year.

Next I need to thank the class advisor, Professor Andrei Markovits, for all the time he has put into helping each one of us complete our own original work of which we can be proud. The department is lucky to have someone who cares so much about undergraduates.

Finally, thank you to my advisor Professor Jana von Stein. Without your help I would still be floundering about throughout this process, I appreciate all the effort and guidance you have provided.

To my Poli Sci 494 colleagues, thank you. I certainly would not have made it through without your support. Probably the most rewarding thing about this process is the friendships I have made. I will miss the dinners, including the always-fascinating discussions every week after class.

To my friends and family, thank you for keeping me sane and putting up with my increasingly high maintenance personality. Thank you for listening to my constant complaints, proofreading my work, offering words encouragement when needed, telling me to suck it up when needed, and most importantly forcing me to still go out and have some fun along the way. Nothing I write can truly capture how grateful I am to have all of you in my life.

## Introduction

On November 15, 1977, Horacio Guillermo Cid de la Paz, a student at the Colegio Nacional, was kidnapped on the streets of Buenos Aires by members of the Federal Argentine Police Service for being the leader the Secondary School Students' Union (UES). He was transferred to 'club atletico', an infamous concentration camp. There he was held for over 15 months, and during this time he was repeatedly tortured. For hours he would be beaten over his "head, armpits, sexual organs, anus, groin, mouth and all the sensitive parts of his body" with a "picana", which is comparable to a cattle prod.<sup>1</sup> Between these sessions his captors would apply 220 volts of current directly to his body, or subject him to the "pirippi", a type of noise torture.<sup>2</sup>

Almost 2 decades later all the way across the Atlantic Ocean in Bosnia Pero Jakic was walking to visit his home that had been destroyed by ethnic conflict. On his way he stepped on a hidden landmine in an unmarked field. While Jakic survived, his neighbor and her 17 year-old son were killed by the explosion. Jakic was by no means lucky to survive. He lost his leg and with that his livelihood. In an instant both of these young men's lives were changed forever.

While these two individuals are separated by both time and space, they have one thing in common. Both of these men are victims of atrocities, forever connected by a society's failure to protect them from harm. The question is who is to blame for these acts? I would argue that ultimately it is up to the state to protect the safety of its own citizens. However, why would a state stop this abusive behavior if the government felt that it was in its national interest?

International law first emerged as a form of governance to deal with the increased amount of interaction between states caused by globalization. Intergovernmental organizations (IGOs) such as the UN were developed to serve as a forum for negotiations between states. However,

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<sup>1</sup>Testimony on Secret Detention Camps in Argentina Pg. 18

<sup>2</sup> Testimony on Secret Detention Campus in Argentina Pg. 18

early international law focused more upon security and economic concerns such as war and trade. Further, it was limited by the overwhelming consensus that the state was seen as a sovereign entity and no international authority should have the power to interfere in domestic affairs. As such, the individual continued to suffer from abusive behavior, since no state wanted to open the door to violating another's sovereignty by taking action to rectify the situation.

Elazar Barkan contends that this changed following the end of the Cold War when the United Nations (UN) and states were looking to establish themselves in a world that was "paying increased attention to moral values."<sup>3</sup> According to Barkan, "the leaders of the policies of a new internationalism - Clinton, Blair, Chirac, and Schroder - all have previously apologized and repented for gross historical crimes in their own countries and for policies that ignored human rights."<sup>4</sup> By admitting their guilt, states have cleaner consciousness and oftentimes even receive direct political payout.

This admission of guilt, for the first time, led to interaction between the perpetrator and the victim, leading to a "new threshold of morality in international politics."<sup>5</sup> I would argue that Barkan's claim is slightly overly optimistic, instead proposing that the end of the Cold War marked the time where international stakes were significantly lowered. Human rights were on the agenda throughout the Cold War, but they took a distant third behind security and economic concerns. This can be seen by the fact that many human rights agreements that established standards of abusive behavior emerged during the height of the Cold War. However, I do concur with Barkan that towards the end of the Cold War, the public came to the realization that IGOs were unable to put a stop to some of the worst human rights disasters. States had failed in their

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<sup>3</sup> Barkan, *Guilt of Nations*. 2000. Pg. XVI

<sup>4</sup> Barkan *Guilt of Nation*. 2000. Pg. XVII

<sup>5</sup> Barkan does express some skepticism recognizing that this new standard is implemented inconsistently worldwide (*Guilt of Nations*. 2000. Pg. XVIII).



responsibility to protect their citizens; concerns over respecting sovereignty still dominated international relations (IR), preventing necessary action. This led to a void; a new political actor was needed to pressure states towards promoting and respecting human rights.

This void has been increasingly filled by civil society, which is comprised of the area between the state and the individual. It often acts as a conduit through which the individual can interact with their state. The individual has specific needs and interests that may either match or conflict with the preferences of other individuals. The Prussian philosopher Freidrich Hegel states that eventually individuals in a society will “engage in spontaneous, customary and nonrealistic forms of association.”<sup>6</sup> Through this process, individuals begin to form groups that rally around common interests. To protect interests, these associations then begin to pressure both the state and other individuals.<sup>7</sup>

One specific component of civil society is non-governmental organizations (NGOs). NGOs are often difficult to define, because the term is used very inconsistently by different states. Furthermore, despite the fact that non-state actors have existed for centuries, the official term NGO was not defined until the founding of the of the UN. Peter Willetts defines these non-state actors as "an independent voluntary association of people acting together on a continuous basis for some common purpose other than achieving government office, making money or illegal activities.”<sup>8</sup> The key difference between a state and an NGO is that an NGO has a voluntary relationship with individuals.<sup>9</sup>

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<sup>6</sup> Ahmed and Potter. 2006. NGOs in International Politics

<sup>7</sup> It is important to note that civil society is not only political; other organizations such as corporations, sports clubs, and unions are also a part of civil society.

<sup>8</sup> Willetts, Peter. “Consultative Status for NGOs at the United Nations.” in *Conscience of the World*

<sup>9</sup> NGO, as defined by the UN, will be discussed in greater detail in subsequent chapters. Charnovitz, S. 2006. “Nongovernmental Organizations and International Law”

NGO involvement in human rights agreements dates all the way back to the founding of the UN. Article 71 in the UN Charter allows the Economic and Social Council (ECOSOC) to consult with NGOs on “matters within its competence”, as long as they meet certain qualifications. This leads me to the central question that I will attempt to answer in this paper: given that human rights agreements are filled with sovereignty concerns, what are the different strategies NGOs use to influence state opinion during negotiations?

Preliminary research reveals that NGOs were involved in varying degrees in the following conventions during treaty drafting negotiations: the Convention Against Torture (CAT), the Convention on the Elimination of Discrimination Against Women, the Ottawa Convention Banning Landmines (Landmines Convention), the Convention on Rights of Persons with Disabilities, and the Convention on Rights of the Child (CRC). My advisor Professor Jana von Stein and I debated the validity of selecting cases based on the dependent variable of NGO involvement in negotiations. We concluded that while it is something to keep in mind, this is an acceptable choice considering I will be doing an overall survey of NGO strategies used in each case.

Originally, I was going to examine three different types of cases: (1) congruence, where member states and NGOs preferences match, (2a) divergence where preferences only vary slightly, and (2b) divergence where preferences differ on almost all key issues. After various consultations I concluded this was not the best route for this paper. Steve Charnovitz, a public international law scholar, offered the following advice: “there are an array of NGO views on any issue and there are an array of state views (assuming a unitary actor which is of course unrealistic) so I think it would be difficult to disentangle your 1, 2a, and 2b to match state

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preferences with NGO views.”<sup>10</sup> Peter Willetts concurred, stating that my previous research design would have “put NGOs on a different planet.” Instead he recommended looking at cases where NGOs “turned a minority of governments into a majority supporting their positions.”<sup>11</sup>

From this advice I selected three cases to examine: CAT, CRC and Landmines Convention. These cases cover proceedings in the UN from the late 60s all the way to the late 90s. In the CAT, Amnesty International (AI) played the lead role for a majority of the process. In the CRC, smaller NGOs were involved and no major coalition formed. In the Ottawa Convention, a coalition known as the International Campaign to Ban Landmines (ICBL) formed and was led by a steering committee comprised of a group of NGOs. Finally, each case includes different strategies used by the NGOs to sway member state delegations

However, I eventually narrowed my focus to the CAT and Landmines Convention. The primary reason for this was that there were greater commonalities between the two cases, thus making it easier to focus on NGOs without being concerned about other issues affecting negotiation procedures. Both treaties fall under the new realm of collective and human security. The prevention of both torture and landmines depends upon states coming together and punishing those who use these techniques within their own borders. Additionally, negotiations for the CAT occurred during the height of the Cold War, while negotiations for the Landmine Convention occurred either towards the end or following the breakup of the Soviet Union. The state of international affairs when these two treaties were being negotiated originally led me to theorize that states should be more open to outside influence by NGOs in the Landmines Convention.

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<sup>10</sup> Email Correspondence with Steve Charnovitz, September 19, 2011.

<sup>11</sup> Email Correspondence with Peter Willetts, September 20, 2011.

The first chapter will provide a discussion of existing IR theories and how they do not do enough to explain the work of NGOs. I theorize that the reason the existing literature on NGOs is so convoluted is because theorists are too narrow in their focus: they neglect to realize that negotiations are an extremely complex process and therefore the strategies used by NGOs change depending on the stage of negotiations. To completely understand the work of NGOs, I will turn to literature that is not typically associated with IR. Chapter 2 will discuss the rise of human rights in international law, which led to an increased role for NGOs in negotiations.

Chapter 3 will begin my analysis of my two case studies, providing background before turning to a discussion of the work of NGOs during the early awareness raising stage before negotiations officially begin. I hypothesize that this is the stage where NGOs can have the most independent influence. By forming networks, NGOs can pressure states from the outside. At this point, NGOs still have the power to frame an issue to resonate with both the general public and individual state delegations. The ability to control the presentation of information is power that is typically neglected by the existing literature.

Chapter 4 focuses upon my first case study, the CAT. At this point, negotiations have begun for a final treaty, so this chapter will focus on the controversial sticking point of universal jurisdiction in negotiations. Ultimately almost every sticking point in negotiations deals with issues of sovereignty. The information that NGOs provide state delegations serves as a moral capital that grants them access to delegate's valuable time. This information assisted in propelling negotiations forward and "names and shames" states into compliance. Once inside negotiations, NGOs were able to connect state delegations to their domestic constituents. Originally, I theorized that once negotiations have begun, NGOs efforts are most successful when they attach themselves to a member state with a similar agenda.

Chapter 5 examines my second case study, the Landmines Convention. Similar to the previous chapter, the Landmines Convention also had a serious sticking point in this case, the ban itself. An examination of my second case study revealed the work of the ICBL is much more visible than AI's work in CAT. This leads to the conclusion that they were able to have a greater degree of influence over the proceedings. Therefore, the final section will examine the question: why were NGOs in the Landmines Convention able to have a greater amount of influence over negotiation proceedings than in the CAT? I conclude that the ICBL was able to move past traditional interest group theory as seen in the CAT. There are three main factors that led to this: (1) framing the ban as a moral issue, (2) joining a coalition of like-minded member states, and (3) moving negotiations outside the traditional disarmament means.

## Chapter 1: Beyond Traditional International Relations Theory

Before beginning to examine my research question, it is important to discuss different schools of thought concerning IR and how they can be applied to the work of NGOs. This will not only provide the lens through which this paper will attempt to examine this topic, but will also allow the reader to see how different scholars have already tackled this topic.

Peter Willets asserts that all IR theories analyze which political actors and which types of interactions between them are important to relationships between states (2011). The three dominant frameworks in international relations are (1) realists, (2) liberals and (3) institutionalists. Realists are focused upon power dynamics in an anarchic international system where nation states rely upon themselves for security.<sup>12</sup> Therefore, realists see states as unitary actors who “define their national interests in terms of maximizing power and security.”<sup>13</sup> International law, which lacks a central enforcement mechanism, is deemed relatively ineffective since states will only protect their national interests.

This contrast with liberals, who believe security is not always the dominant concern. Thus, liberals place importance on the activities of other actors, such as NGOs, who operate in domestic transnational society.<sup>14</sup> Liberals believe states can be influenced by “moral and ethical principles, power relations and bargaining among different domestic and transnational groups, and changing international conditions.”<sup>15</sup> State power matters, but it is exercised in an international framework that allows for states to cooperate with one another.

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<sup>12</sup> Slaughter, Anne Marie et al. “International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship.”

<sup>13</sup> Mingst, Karen A and Margaret P Karns. 2007. *The United Nations in the Twenty-First Century*

<sup>14</sup> Ahmed, S. and David Potter. 2006. NGOs in international politics.

<sup>15</sup> Mingst, Karen A and Margaret P Karns. 2007. *The United Nations in the Twenty-First Century*  
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Institutionalists believe that international law is specifically designed to perform functions such as signaling, coordination, monitoring and enforcement.<sup>16</sup> Institutionalism is very similar to rational design theory, which operates under the premise that international cooperation is organized in different ways. Rational design theorists conclude that differences among international institutions are not random, but a representation of attempts to solve the specific cooperation problems between states.<sup>17</sup>

Ahmed and Potter assert that these three existing theories cannot explain the role of NGOs in IR. Realists tend to ignore NGOs as actors because they are deemed unimportant relative to states. Institutionalists are primarily focused on the interactions between governments and international law; however, research on how regimes emerge and are maintained often cites the role of NGO.<sup>18</sup> The closest of the three theories is liberalism, which does at least recognize that power relations depend more than states. Ahmed and Potter instead propose that two newly emerging theoretical theories, transnationalism and constructivism, may be the most comprehensive in explaining the rise of NGOs in civil society and IR.

Transnationalism attempts to examine IR beyond the scope of interactions between states. This framework examines interactions across state boundaries when at least one actor is a non-state agent who is acting independent of a government. According to this framework, NGOs are part of larger community of non-state actors that include: multi-national corporations, epistemic communities of scientists and technical specialists, ethnic diasporas, and cross-border terrorist and criminal organizations.

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<sup>16</sup> Slaughter, Anne Marie et al. "International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship."

<sup>17</sup> Koremenos, B., C. Lipson, and D. Snidal. 2001. "The Rational Design of International Institutions."

<sup>18</sup> Ahmed, S and David Potter. 2006. NGOs in international politics.

Constructivists believe that the international system is not fixed and immutable, so communication between actors can over time create common understandings of roles and behaviors. These common understandings are referred to as norms.<sup>19</sup> Constructivism is the only framework to acknowledge that NGOs have the ability to either change or establish new norms through persuasion and education.

While these two theories come closer to explaining NGOs role in IR, they do not capture the whole picture. In particular, these theories do little to examine how NGOs can influence international proceedings.<sup>20</sup> One of the major problems when analyzing the influence of NGOs in international negotiations is that NGOs organize in ways that are not typically examined by political scientists. They do not possess the typical strengths of states: “sovereignty, territory, and coercive capability.”<sup>21</sup> To do this, I have to turn to theory that is not in the realm of traditional IR literature.

Leon Gordenker and Thomas G. Weiss describe three facets for analyzing the work the work of NGOs during a campaign around a given issue: government, strategic, and output.<sup>22</sup> The government dimension refers to the analysis of state policy and program administration during the campaign. Strategic dimensions examine how NGOs interact with intergovernmental organizations (IGOs) and states on policy issues. This approach examines both the normative basis for action and the different strategies utilized by NGOs to influence states. The third approach, the output dimension, investigates the degree of success within the framework of the

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<sup>19</sup> A more formal definition of a norm is the explicit or implicit rules specifying what behaviors are acceptable within a society.

<sup>20</sup> I define influence in IR as a relationship where one actor causes a change of behavior in another (Willems (2011) *Non-governmental Organizations in World Politics: The Construction of Global Governance*).

<sup>21</sup> Ahmed, S and David Potter. 2006. NGOs in international politics.

<sup>22</sup> Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance.



UN system. This paper will primarily focus on the strategic dimension by examining the different techniques that NGOs utilize during international negotiations.

Focusing on NGO strategies, there are three relative social theories that can help to illuminate how NGOs attempt to influence state delegations during negotiations. The existing theories differ on (1) the extent of the role NGOs can play in the negotiation process, and (2) the effectiveness of the various techniques used in influencing member states. The first group believes that NGOs collaborate to form transnational networks that serve to raise awareness about certain issues. Another group looks at NGOs as individual actors and compares them to interest groups that lobby state delegations in order to get their preferences expressed in treaties. A final group theorizes that the primary role of NGOs in negotiations is to serve as a provider of expertise to member states, thereby acting more as a subsidiary to streamline the negotiation process.

The first group examines the collective work of NGOs. Sanjeev Khagram, James V. Riker, and Kathryn Sikkink assert that all transnational collective action involves the interaction of NGOs with international norms to create social change. Therefore, the primary goal of transnational collective action is to “create, strengthen, implement, and monitor international norms.”<sup>23</sup> There are various forms of transnational collective action as defined by these authors. The first is the transnational advocacy network, which is defined as a set of actors linked across state boundaries by a common set of beliefs. Generally, formal organizations (such as the UN and its subsidiary organs) form the main nodes in these networks, while NGOs serve as the links that communicate between these larger organizations and their domestic constituencies.

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<sup>23</sup> Khagram, Sanjeev, James Riker, Kathryn Sikkink (eds). 2002. *Restructuring World Politics: Transnational Social Movements, Networks and Norms*.

Through their advocacy efforts during this early agenda-setting phase (also known as awareness raising or standard setting), the networks gradually earn the support of the general population, and thus the norm begins to gain widespread support. Once negotiations have begun, bargaining with states often leads to indirect political participation in international affairs, since the domestic coalitions that form these networks now are directly connected to state delegations.<sup>24</sup> Therefore, one of the most important ways these networks assist negotiations is providing voices to groups that were previously absent from the decision making process.<sup>25</sup> A large part of the legitimacy of NGOs in the international community is based on this representation.

To explain this how these networks operate in IR, Sikkink developed the “boomerang” model. Under this framework, when an individual or group cannot obtain access to their government (described as a form of blockage), they attempt to obtain outside support from NGOs in a different state (State B). The NGOs in State B then pressure their own state government and intergovernmental organizations (IGOs) to apply pressure to State A. Under this international scrutiny, State A then bows to the demands of the domestic NGO. The final stage in this model is either when the new norm or the newly framed norm is completely accepted and internalized in international society. Sikkink uses this model to conclude that that the ability of NGOs to lobby for underrepresented populations (often not even in their own states) gives them a “moral authority” which they use to influence international proceedings beyond their material capacity.

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<sup>24</sup> Ghosh, S. "NGOs as Political Institutions." 2009.

<sup>25</sup> Khagram, Sanjeev, James Riker, Kathryn Sikkink (eds). 2002. *Restructuring World Politics: Transnational Social Movements, Networks and Norms*.

These scholars have also examined whether a network can be more effective if it rallies around an existing norm, or attempts to establish a new norm. They found that transnational networks are most effective in mobilizing where “pre-existing well-institutionalized norms” exist.<sup>26</sup> Darren Hawkins argues that it is easier to rally around an established cause, and thus existing norms act as “pull factor” on NGOs. Furthermore, existing international norms possess more legitimacy because in most cases they have been established by states.<sup>27</sup> As a result, an NGO can pressure other actors with the authority of one or multiple states, instead of merely championing a cause on its own.

If a network does attempt to establish a new international norm, Peter Willets concludes that it has the most influence during the agenda setting stage because its greatest strength is its ability to mobilize transnational public opinion.<sup>28</sup> Similarly, networks can often assist negotiations by merely bringing together the necessary actors that may be hesitant to join negotiations.<sup>29</sup> For instance, NGOs have had great success bringing different parties together by organizing parallel conferences that coincide with current discussions in the UN. These conferences are designed to debate a given issue and to consider how to best present it to the relevant UN body. Through these conferences, host NGOs can generate horizontal links between economic and social sectors and also vertical links between grassroots organizations and

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<sup>26</sup>Hawkins, Daren. “Human Rights Norms and Networks in Authoritarian Chile” in *Restructuring World Politics: Transnational Movements, Networks and Norms*.

<sup>27</sup> Hawkins, Daren. “Human Rights Norms and Networks in Authoritarian Chile” in *Restructuring World Politics: Transnational Movements, Networks and Norms*.

<sup>28</sup> Willets, Peter. 1996. *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN*

<sup>29</sup> Goodman, R., and D. Jinks. "How to Influence States: Socialization and International Human Rights Law."

governments. Furthermore, during these conferences NGOs often act negotiators whose main function is to harmonize common positions between states on the issue under discussion.<sup>30</sup>

Whether the network is building on an existing norm or establishing a new norm, ultimately the success of a campaign depends upon its ability to counter its opposition. In "Accountability and Effectiveness in NGO Policy Analysis", Jane Covey enumerates the characteristics of an effective alliance or coalition. She argues that any alliance needs both a coherent campaign strategy, and must possess the necessary resources to influence policy makers. To achieve this, alliances must determine the best way to frame an issue in order to appeal to grassroots organizations and limit the opposition's ability to counter-mobilize. Generally, networks accomplish this through large education and media campaigns. These serve not only to increase awareness of the issue at hand, but just as importantly to instill the belief that change is possible. This optimism is required to help build commitment to the alliance.

Other scholars focus on what NGOs can accomplish as individual actors, instead of what they can achieve collectively as a group. These scholars compare NGOs to domestic interest groups that lobby state governments in order to get their preferences expressed in legislation. This framework can be applied to IR, since, once granted access to formal negotiations, NGOs and their partner states can attempt to sway opponents towards a treaty that best represents their preferences. There are two schools of thought on the effectiveness of interest groups. The first group is slightly more pessimistic about interest groups ability to independently influence states. Deardorff and Hall claim that the objective of lobbying is not to change legislators' minds, but to assist allies in achieving their own goals.<sup>31</sup> They hypothesize that lobbyists target their strongest

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<sup>30</sup> Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance

<sup>31</sup> Hall, R. L., and A. V. Deardorff. "Lobbying as Legislative Subsidy."

allies, since they are more likely to listen to like-minded interest groups.<sup>32</sup> Further, they claim that interest groups and legislators should cooperate to draft material that would otherwise be tabled due to limited time and budgets. In essence, this first group assumes that NGOs are dependent on the assistance of like-minded states to influence other governments.

The alternative perspective examines how interest groups can remedy a principal-agent problem where a disconnect exists between a state and its citizens. This occurs because citizens (agent) elect officials (principal) to represent their interests in government, but the principal may not always understand the preferences of its agents. Interest groups solve this problem by serving as the connectors that lobby government officials on behalf of individuals. This framework can easily be applied to international law, since a similar disconnect often exists between a state delegation in the UN and its domestic constituents.<sup>33</sup> This important link is often missing because the primary responsibility of delegates is to represent their government. If the link between citizens and their government at the domestic level is faulty, this often translates to the international level.<sup>34</sup>

The principle-agent problem is slightly different from networks ability to represent the minority groups in negotiations. This approach looks at how NGOs can connect a single state to their own domestic constituents, instead of focusing on connecting underrepresented groups to the entire international community within the UN. By participating directly in negotiations, NGOs gain an understanding of state delegates' positions.<sup>35</sup> Once this occurs, their connections to grassroots organizations and the media allow them to enhance "domestic signaling" by

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<sup>32</sup> Hall, R. L., and A. V. Deardorff. "Lobbying as Legislative Subsidy."

<sup>33</sup> Mercer, C. "NGOs, Civil Society and Democratization: A Critical Review of the Literature."

<sup>34</sup> The only major difference is that citizens do not get to directly elect state delegations in the UN to represent them; instead they are typically appointed by states.

<sup>35</sup> Raustiala, K. "States, NGOs, and International Environmental Institutions."

making negotiations more visible and thereby raising domestic audience costs.<sup>36</sup> Domestic audience costs allow individual constituents to observe and offer their opinion on any given issue. Once domestic constituencies become involved it is difficult for state delegations to ignore public opinion, pressuring them into certain actions.<sup>37</sup> Peter Willets describes this phenomenon by stating: “Domestic politics will affect the positions governments advocate in IGOs, while the decisions of intergovernmental organizations will feed back into domestic politics.”<sup>38</sup>

The next question is what techniques do NGOs utilize to influence states that mimic interest groups? Since NGOs do not possess the military capabilities of states or the economic resources of interest groups, they primarily rely on softer methods such as persuasion.<sup>39</sup> Persuasion changes the mind of an actor by getting them to reevaluate a certain norm through either “social learning” and/or the provision of information.<sup>40</sup> Persuasion primarily uses two different techniques: (1) framing, and (2) cuing. Framing is how a message is presented to the target audience. Sideny Tarrow states that frames are not ideas, but ways of packaging and presenting these ideas.<sup>41</sup> Issue framing is presenting an issue in a way that is understandable to the target audience.<sup>42</sup> Typically, NGOs frame issues by matching the empirical or statistical data

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<sup>36</sup> Fearon, J.D. "Domestic Political Audiences and the Escalation of International Disputes." and Breen, Claire. "Rationalising the Work of UN Human Rights Bodies or Reducing the Input of NGOs? The Changing Role of Human Rights NGOs at the United Nations."

<sup>37</sup> However, this is dependent on negotiations being public, which is often not the case.

<sup>38</sup> Willets, Peter. 2011. *Non-governmental Organizations in World Politics: The Construction of Global Governance*

<sup>39</sup> Khagram, Sanjeev, James Riker, Kathryn Sikkin (eds). 2002. *Restructuring World Politics: Transnational Social Movements, Networks and Norms.*

<sup>40</sup> Goodman, R., and D. Jinks. "How to Influence States: Socialization and International Human Rights Law."

<sup>41</sup> Khagram, Sanjeev, James Riker, Kathryn Sikkin (eds). 2002. *Restructuring World Politics: Transnational Social Movements, Networks and Norms.*

<sup>42</sup> Goodman, R., and D. Jinks. "How to Influence States: Socialization and International Human Rights Law."

of the debate with firsthand accounts that help to personalize the numbers.<sup>43</sup> Cuing is based on the idea that the presentation of new information often causes actors to look at an issue in a new way.

Another form of soft power that NGOs utilize is acculturation, defined as “actors adopting the beliefs and behavioral patterns of surrounding cultures”.<sup>44</sup> Acculturation relies on the social-psychological costs of not conforming to group norms and the “cognitive dissonance” or discomfort of following divergent views. For costs to be enforced, there has to be a “naming and shaming” of countries who are violating the socially acceptable norms. NGOs fulfill this function by publishing reports that highlight violating states.<sup>45</sup> The difference between persuasion and acculturation is that acculturation only requires that an actor perceive that a social norm is important to a target group. Furthermore, persuasion requires the assessment of the merits of that social norm, whereas acculturation only involves an evaluation of one’s relationship in a social sphere.

The third and final group argues that the primary responsibility of NGOs is to serve as a source of expertise to delegates through the provision of information.<sup>46</sup> Being smaller bodies, NGOs are extremely mobile and thus can travel on-site, something that states and IGOs are often incapable of due to size and political constraints. During negotiations, delegates often find it difficult to keep track of the huge flow of information. By distributing flyers, reports, and hosting

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<sup>43</sup> Joachim, J. "Framing Issues and Seizing Opportunities: The UN, NGOs, and Women's Rights."

<sup>44</sup> Goodman, R., and D. Jinks. "How to Influence States: Socialization and International Human Rights Law."

<sup>45</sup> It is important to note that conformity with a socially acceptable norm increases with the exposure of the group that is following the norm to the target actor and its relative importance to the target actor.

<sup>46</sup> Cohen, C. P. "The Role of Nongovernmental Organizations in the Drafting of the Convention on the Rights of the Child."

seminars, NGOs that specialize in one area can provide detailed records to delegates who do not have the time to be experts in all subjects.<sup>47</sup> NGOs target their own contributors, the public and decision makers. The goal of providing this information depends on the motivation of the NGO. If an NGO is allied with another state, this information can streamline negotiations, providing the partner state with the necessary tools to lobby its fellow state delegations. Even if an NGO is not partnered with a state, they often distribute information with the hope that if delegations are provided with the facts of an issue, they will be motivated to act.

Given this framework on how NGOs influence states, I now turn to a discussion of the evolution of IR (and international law) into its modern day equivalent. This will provide the necessary background information to understand how states and NGOs interact on an international level. I will concentrate mainly the United Nations (UN), since this is where the greatest amount of interactions occurs. I will begin from a historical perspective, and then turn to an actual analysis of the interworking of the different bodies within the UN.<sup>48</sup> This discussion, and a majority of the remainder of this paper, will focus on the issue of sovereignty, considered to be one of the most important issues of contention in IR.

Most historians classify the history of IR into three separate categories: pre-World War I, post World War I/pre-world War II, and post World War II. In his textbook *Swords into Plowshares: the Problems and Progress of International Organization* Inis Claude Jr. describes three major strands of thought concerning IR that occurred well before WWI. The first is that states began to recognize the benefits of multilateral diplomacy over the traditional bilateral agreement. The second strand involved the formation of public international unions that were

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<sup>47</sup> Charnovitz, S. "Nongovernmental Organizations and International Law."

<sup>48</sup> I will not explain all the bodies in the UN, but instead will focus on the bodies that are relevant to a discussion of the work of NGOs in the UN.



established to combat problems emerging out of the industrial revolution. The third strand was the Hague System, where Czar Nicholas II of Russia hosted two conferences to discuss strategies to prevent war and the conditions under which arbitration against another state was justified.

The precursors of NGOs also began to emerge during this time. Well before the establishment of any official NGO, Simon E. Baldwin compiled a 12 page list of “international congresses” that occurred between 1826 and 1907. The importance of these congresses was that they allowed the participation of private members or associations not directly affiliated with states.<sup>49</sup> The earliest examples of NGOs with an international scope were the World Alliance of YMCAs, founded in 1855 with member associations spread throughout Europe.<sup>50</sup> In 1910 a group of 132 organizations came together to form the Union of International Associations.<sup>51</sup> This was one of the first recorded instances where non-state organizations collaborated to form a larger network.

However, IR first began to become more visible with the establishment of larger IGOs. At the end of World War I, the Treaty of Versailles established the League of Nations, the precursor to the UN. The two main principles of the League were: (1) member states agreed to respect and preserve the territorial integrity and political independence of states, and (2) aggression by one state should elicit a response by all members with economic sanctions if necessary.<sup>52</sup> When the League of Nations was first founded, NGOs were given the same rights as state delegations, except for the right to vote.

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<sup>49</sup> Charnovitz, S. "Nongovernmental Organizations and International Law."

<sup>50</sup> Willetts, Peter. 1996. "Consultative Status for NGOs at the United Nations." Pp.31-62 in Peter Willetts (ed.), *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN System*.

<sup>51</sup> Willetts, Peter. 1996. *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN*

<sup>52</sup> Forsythe, David. *Human Rights in International Relations*. 2006.

In the 1920's and 30's, heightened tensions led to an increased role for private actors to communicate between states. Peter Willets estimates that between 1920 and 1933, the number of NGOs rose from 400 to 700.<sup>53</sup> More importantly, during this time individual NGOs collaborated to form larger networks. In 1910 a group of 132 organizations came together to form the Union of International Associations.<sup>54</sup> At a follow-up conference in 1929 in Geneva, a group of organizations that previously attended League of Nations meetings under the Leagues Secretariat agreed to form the Federation of Private and Semi-Official International Organizations.<sup>55</sup> By 1938 the Federation had grouped together 42 NGOs into its' association.

Prior to 1945, the relationship between a state and its citizens was allegedly absolute, with the state having supreme authority within its own borders. This is known as sovereignty, a concept that will be discussed in much greater detail in the next chapter, but is defined as each state is free to determine its own form of government and pursue its own interests without outside influence.<sup>56</sup> However, following the end of WWII there was a movement towards the creation of international institutions where states consented to give up some of their sovereign authority. A new concept emerged, known as “pooled sovereignty” where states recognized that the protection of international security and human rights might justify slight restrictions in international authority.<sup>57</sup>

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<sup>53</sup> Seary, Bill. “The Early History: From the Congress of Vienna to the San Francisco Conference.” In *The Conscience of the World*.

<sup>54</sup> Seary, Bill. “The Early History: From the Congress of Vienna to the San Francisco Conference.” In *The Conscience of the World*.

<sup>55</sup> Willets, Peter. 2011. *Non-governmental Organizations in World Politics: The Construction of Global Governance*.

<sup>56</sup> Schachter, Oscar. “Soveriegnity and Threats to Peace” in Weiss, Thomas G and Leon Gordenker. 1996. *NGOs, the UN, and Global Governance*.

<sup>57</sup> Mingst, Karen A and Margaret P Karns. 2007. *The United Nations in the Twenty-First*

The most significant event following the end of WWII was the creation of the UN. During the San Francisco Conference, where initial drafts of the UN Charter were discussed, delegates were urged to look past their national interests in favor of what was best for the international community. During the drafting of the Charter, it quickly became apparent that the issue of national sovereignty was to be in constant conflict with the goals of creating a powerful IGO. According to the charter, the UN's primary goal is maintaining peace and security. Towards that objective, "all member states shall refrain from threatening or using force against the territorial integrity or political independence of any state, and from acting in any manner inconsistent with UN purposes; and...they shall settle their international disputes by peaceful means."<sup>58</sup> This peaceful coexistence among states is often difficult to achieve, requiring intervention in the domestic affairs of individual member states.

There are two schools of thought on the relation of individual states to international law, given sovereignty constraints. The first group<sup>59</sup> claims that the society of states that emerged at the end of the eighteenth century "fortified the older conception of the primacy of 'mankind' expressed through the law nations."<sup>60</sup> In other words, they believed that international law was merely a representation of a larger "common" law that was "backed up by religious and philosophical principles of good faith and good will between men and nations."<sup>61</sup> Therefore, national sovereignty is granted to states by the moral principles of natural law found in international society. The second group believed that international law was merely based on the

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<sup>58</sup> UN Charter

<sup>59</sup> The first philosophy was developed by scholars such as Francisco de Victoria, Albertrico Gentili, Hugo de Groot, and Samuel Pufendorf (Bederman, D. J. International Law Frameworks).

<sup>60</sup> Schachter, Oscar. "Soveriegnty and Threats to Peace" in Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance.

<sup>61</sup> Bederman, D. J. International Law Frameworks. Pg. 3.

domestic experiences of states.<sup>62</sup> Thus, international law is the creation of states and any restraint is dependent on their consent.

The UN contributes to international law by assisting in the treaty drafting process. The definition of a treaty can be found in the 1969 Vienna Convention on the Law of Treaties. It defines an international agreement as one “concluded between States in written form and governed by international law.” In international law “treaties”, “pacts”, “protocols”, “conventions”, “covenants” and “declarations” are all terms for international agreements, but they may differ in their formality.<sup>63</sup> Treaties can either be between two nations (bilateral) or between three or more countries (multilateral). They are not binding or legally enforceable against states that are not signatories.

The treaty process begins in negotiations, when diplomats are given instructions and authority by the state they represent to draft an agreement. Most negotiations occur in specific UN bodies. The UN is made up of three primary bodies: the Security Council, the General Assembly, and the Economic and Social Council (ECOSOC). Many treaties get their start in the General Assembly<sup>64</sup>; however, in most instances the Assembly will merely refer drafting of a treaty to one of its subsidiary bodies such as ECOSOC. Most of ECOSOC’s work is done in ten

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<sup>62</sup> The second view is based on the philosophies of scholars such as Richard Zouche, Corenlus van Bynkershoek, and Emmerich de Vattel (Bederman Pg. 3).

<sup>63</sup> Bederman, D. J. *International Law Frameworks*. Pg. 21.

<sup>64</sup> The bulk of the work in the General Assembly occurs in six functional committees: the First, known as the Disarmament and International Security Committee; the Second, or the Economic and Financial Committee; the Third, or the Social, Humanitarian, and Cultural Committee; the Fourth, or the Special Political and Decolonization Committee; the Fifth, or the Administrative and Budgetary Committee; and the Sixth or the Legal Committee (Mingst and Karn Pg. 31). The Committee most relevant to this paper is the work done in the Legal Committee. The Legal Committee is made up of an elected 34 members who draft international conventions (Mingst and Karn Pg. 33).

functional commissions, a majority of which deal with human rights and development.<sup>65</sup> Originally, it was little more than a carrier of messages between the General Assembly and other subsidiary bodies. However, Resolution 1235 allowed for ECOSOC to take up specific claims, while Resolution 1503 allowed the commission to deal with private petitions of gross violations of human rights.<sup>66</sup> Article 62 of the UN Charter states that ECOSOC “may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.” The Charter also states that ECOSOC may initiate studies, prepare draft conventions, and hold international conferences on matters that are within its competence. However, an action taken by ECOSOC requires the approval of the General Assembly.

If the subject of a drafting negotiation pertain to human rights ECOSOC, will often forward this task to the Human Rights Council. Originally, the Human Rights Council was the Commission on Human Rights (CHR) and was a subsidiary body to ECOSOC. At first the CHR only clarified law and did not criticize individual countries for violations. In the late 60’s the Commission gained the power to discuss human rights violations through resolutions 1235 and 1503.<sup>67</sup> From this point the Commission was responsible for disseminating information and “naming and shaming” countries into compliance. The Commission was deemed to be a relatively ineffective body and was redesigned into the Human Rights Council. However, the Council is still criticized for being an overly political body.

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<sup>65</sup> Mingst, Karen A and Margaret P Karns. 2007. *The United Nations in the Twenty-First Century* Pg. 34

<sup>66</sup> Forsythe, David. 2006. *Human Rights in International Relations*.

<sup>67</sup> Korey, William. 1998. NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”

State delegations, following their instructions, debate with their peer states over the principles to be included in the treaty, the language of specific articles; and ultimately the final draft of the treaty itself. The final draft of the treaty is presented before the General Assembly for signature by member states. An authorized official, normally a UN diplomat, is responsible for signing the treaty on behalf of their member state. Signing a treaty does not make it legally binding, but instead merely signals intent to ratify. Ratification is “the act by which a state makes clear its intent to be legally bound by a treaty.”<sup>68</sup> When a country ratifies a treaty (if permitted) it can issue a reservation, which is an opt-out clause for a specific provision of a treaty.<sup>69</sup> Once ratified, a treaty may then be used in a domestic court in a monist country such as the Netherlands, where a treaty has the same status as domestic law. In dualist countries, such as the US, a treaty does not take effect until domestic legislation is implemented.

From my research it became apparent that existing IR theory could not capture the nuances of the work that NGOs do in the international community. This forced me to go out of the normal realm of IR, from which I developed three different theories of how NGOs influence states in international negotiations. These three theories will provide the framework to analyze the work of NGOs in my specific case studies. The UN, especially ECOSOC, provided the necessary body for NGOs to effectively target state delegations. The next chapter is a discussion on the issue area in IR that this paper will focus on.

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<sup>68</sup> Bederman, D. J. *International Law Frameworks*. Pg. 31

<sup>69</sup> Reservations may water down a treaty to the point that they no longer protect the rights they were designed to, but without reservations many countries may be reluctant to sign a treaty.

## Chapter 2: The Rise of Collective and Human Security

This paper will focus on one specific issue of relevance to the UN: human rights. Human rights are basic entitlements granted to individuals simply by being human. There are two different types of human rights: positive and negative. Positive human rights allow individuals to reach their full potential<sup>70</sup>; in other words, governments have to provide certain resources to its citizens. Positive rights are often associated with economic rights, such as the provision of healthcare. Negative rights are the absence of barriers, things that a government cannot do to its citizens.<sup>71</sup> Negative rights are often associated with political freedoms such as the freedom of speech or religion. I chose to focus on this topic because international enforcement of human rights is one of the most prominent topics in discussions of violations of state sovereignty. Further a majority of the work done by NGOs occurs in field of human rights. This chapter will examine how the rise of human rights in international law and the UN led to an increasing role for NGOs in negotiations, relative to constraints placed by concerns over sovereignty.

Human rights have been an issue in international relations well before the founding of the UN. For example, during the French Revolution the French people rallied around the Declaration of the Rights of a Citizen, which demanded basic freedoms. The revolution resulted in a French Constitution that protected both civil and political rights.<sup>72</sup> During the 1800's the most significant event in the US was the abolition of slavery. This was one of the first times that groups of people got together to advocate for a single human rights issue on an international level. Two other important movements during this time period were humanitarian law and women's rights. Henri Dunant founded the Red Cross to provide aid and to lobby states to

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<sup>70</sup> Forsythe, David. 2006. *Human Rights in International Relations*

<sup>71</sup> Forsythe, David. 2006. *Human Rights in International Relations*

<sup>72</sup> Forsythe, David. 2006. *Human Rights in International Relations*

outlaw certain war crimes after witnessing the aftermath of the Battle of Solferino. The result of this movement was the Geneva Conventions, which placed in writing the various laws of war that states still follow. Women's rights introduced a new issue to international relations because the protection of these rights was not about relationships between states, but how a state treated its own citizens. Where cutting of the slave trade was a major step in combating slavery, women's rights enters into the realm of culturally specific rights.

This issue of respecting national sovereignty versus the protection of human rights really emerged as a visible problem in IR in the UN Charter.<sup>73</sup> At the early Dumbarton Oaks Conference to draft the charter, discussion of human rights was limited. However, at the San Francisco Conference, the U.S. led a coalition that pushed not only for the inclusion of general human rights provisions, but that member states have an obligation to protect these rights.<sup>74</sup> Representatives of 1,200 voluntary organizations were present during proceedings, with the US inviting over 42 NGOs to participate in the conference. William Korey credits the inclusion of human rights provisions in the UN charter to lobbying by non-state actors, in particular the American Jewish Committee.<sup>75</sup> These non-state actors worked closely with then US Secretary of State Edward Stettinius on behalf of President Roosevelt.<sup>76</sup>

While Theodore Roosevelt spoke of the four freedoms<sup>77</sup>, he was reluctant to create an international organization with a strong enforcement mechanism that could interfere in the affairs

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<sup>73</sup> This debate is very similar to the conflict between sovereignty and international law as discussed in the previous chapter.

<sup>74</sup> Forsythe, David. 2006. *Human Rights in International Relations*

<sup>75</sup> Korey, William. 1998. NGOs and the Universal Declaration of Human Rights: "A Curious Grapevine" Chapter 2.

<sup>76</sup> Gaer, Felice. "Reality Check: Human Rights NGOs Confront Governments at the UN". In Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance.

<sup>77</sup> The four freedoms are: freedom of speech, freedom of religion, freedom from want and freedom from fear.



of the US. The resulting UN Charter represents a compromise between these two conflicting ideologies. Chapter 1 of the charter states that the UN will not interfere “within the domestic jurisdiction of the state.” Later in Chapter 9 the charter seems to contradict itself by spelling out human rights provisions that the UN was founded to protect. Article 56 states that “all members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the human rights purpose”, but the UN itself was not granted the supranational authority to enforce these rights.

Given these concerns about sovereignty, it is not surprising that the charter is very specific in defining the criteria that NGOs need to possess to be recognized by the international community. The requirements for an actor to qualify as NGO, as defined by ECOSOC, are to be “founded by private individuals; be independent of states; be oriented toward rule of law; pursue public rather than private interests as an objective; demonstrate a transnational scope of activities, and possess a minimal organizational structure.”<sup>78</sup> Willetts adds the negative criteria that NGOs “cannot advocate the use of violence; cannot be a school, a university or a political party; general rather than restricted to a particular communal group, nationality or country.”<sup>79</sup>

Profit-oriented organizations can still qualify as NGOs as long as maximizing profit is not their sole purpose. On the other hand, Leon Gordenker and Thomas Weiss define certain actors that may appear to be NGOs on the surface, but do not qualify under the definition set by the UN.<sup>80</sup> Government Organized NGOs (GONGOs) are formed by states to achieve certain objectives in the public sector that protect their national interests. Donor-organized NGOs

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<sup>78</sup> Hobe, S. "Global Challenges to Statehood: The Increasingly Important Role of Nongovernmental Organizations."

<sup>79</sup> Willetts, Peter. "Consultative Arrangements" to "Partnership": The Changing Status of NGOs in Diplomacy at the UN

<sup>80</sup> Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance

(DONGOs) are formed to protect donor interests in the public sectors. Quasi-nongovernmental organizations (QUANGOS), such as the International Conference of the Red Cross, receive part of their funding from states. QUANGOs are often still invited to participate in UN proceedings, but GONGOs and DONGOs are almost always denied access.

Given concerns over sovereignty, it is surprising that the UN Charter offered NGOs official access to the proceedings of the UN, an access point through which they could channel efforts to influence states. Article 71 in the UN Charter allows ECOSOC to consult with NGOs on “matters within its competence” as long as they meet certain qualifications.<sup>81</sup> Before ECOSOC even held its first meeting, it had received four applications from the World Federation of Trade Unions, the American Federation of Labor, the International Co-operative Alliance, and the International Federation of Women, all requesting the ability to participate in the discussion.<sup>82</sup> Therefore, the General Assembly recommended that ECOSOC develop an agreement to cooperate with these organizations. ECOSOC then set up a committee on NGOs to work out a set of guidelines.<sup>83</sup>

The main purpose of the Committee on NGOs is to determine which NGOs are granted consultative status to UN proceedings. To gain consultative status, NGOs must first issue a letter of intent and fill out the application package to the UN. The candidate then attends an initial NGO section screening, followed by closed deliberation by the committee on NGOs.<sup>84</sup> ECOSOC then makes its final decision. The ability to grant consultative status effectively allowed member

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<sup>81</sup> Professor James T. Shotwell, who felt that the UN should be modeled after the tripartite structure (where equal representation is given to governments, employers and workers) of the International Labor Organization (ILO), drafted the original proposal for this article.

<sup>82</sup> Willets, Peter. 2011. *Non-governmental Organizations in World Politics: The Construction of Global Governance*.

<sup>83</sup> ECOSOC Resolution 288B

<sup>84</sup> Roth, Kenneth. 2000. “Human Rights Organizations: A New Force for Social Change.”

states to vet NGOs before granting them access to negotiations, leading to the complaint that gaining consultative status has become a political game between countries.

Not only do NGOs need to be concerned with meeting the general criteria for consultative status, the process is made even more complicated since ECOSOC devised three separate levels of consultative status for NGOs: general consultative status, special consultative status and roster status.<sup>85</sup> The differences revolve around the size of the general population that the NGO reaches, with each rung up the ladder offering more exclusive privileges. The three levels of classification determine the actual involvement that NGOs can have in UN proceedings. Only NGOs with general consultative status can propose items for the ECOSOC agenda.<sup>86</sup> Further, NGOs that possess general status can attend ECOSOC meetings and speak or circulate statements up to 2,000 words. NGOs with special status have the same rights, except they cannot speak at ECOSOC meetings or propose agenda items and their statements are limited to 1,500 words. NGOs designated as roster organizations can only participate when their presence is requested by member states.

Despite these restrictions, all NGOs that have been granted any level of consultative status can freely lobby ambassadors within the halls of the UN. Originally they were even granted access to the delegates' lounge, a location where important informal debate occurs. But due to a recent string of NGO violations of UN law, this privilege has been removed.<sup>87</sup> Tables are placed in UN hallways near the meeting rooms so that NGOs can display their information. NGOs are also allowed to host lectures and seminars for delegates in an informal setting outside

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<sup>85</sup> Willets , Peter. 1996. *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN*

<sup>86</sup> Willets , Peter. 1996. *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN*

<sup>87</sup> Martens, K. "Examining the (Non-) Status of NGOs in International Law."

official UN chambers. Finally, NGOs can be granted association with the UN Department of Public Information (DPI), which provides access to meetings and deliberations but does not allow NGO participation aside from observation.

Following the adoption UN Charter, the first important human rights document is the Universal Declaration of Human Rights ('48). It covers thirty principles, ranging from rights of political and civic political participation to economic rights.<sup>88</sup> Being a declaration, this treaty is nonbinding upon signatories. Instead it serves as a representation of what states hope to achieve, and their signature is more of a symbolic gesture.

After the Declaration came the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR), both in 1966. The ICCPR created a Human Rights Committee that processes individual complaints. It includes two optional protocols: (1) hearing individual complaints, and (2) the abolition of the death penalty.<sup>89</sup> Together, the Universal Declaration, ICCPR and the ICESR make up the "International Bill of Human Rights".

Many scholars conclude that the Cold War represented a step backwards in progress towards the protection of human rights. During the Cold War, concerns over sovereignty were so large that the respect for human rights, and the promotion of certain rights in other countries, took a distant third behind security and economic concerns. The movement known as McCarthyism made discussion of international human rights almost impossible. Little progress was made in the UN since the US and Soviet Union's veto power in the Security Council enabled them to table almost all proceedings.<sup>90</sup> This is why it took nearly two decades for the ICCPR and

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<sup>88</sup> Forsythe, David. 2006. *Human Rights in International Relations*

<sup>89</sup> Optional protocols either change or add on to a treaty and are not binding unless ratified.

<sup>90</sup> Mingst, Karen A and Margaret P Karns. 2007. *The United Nations in the Twenty-First*

ICESR to emerge after the Declaration.<sup>91</sup> The Soviet bloc and other developing countries pushed for economic social rights, whereas Western states supported civil and political rights.<sup>92</sup> The Western bloc eventually accepted economic rights as long as they could be gradually realized over time, which resulted in the formation of two covenants so that different supervisory mechanisms could be created.

Given the combination of Cold War paranoia and the significant increase in the number of NGOs, it was not surprising that states began to reevaluate the positions of NGOs in the UN. Resolution 1225 called for a review of the work on done by the Committee on NGOs and the existing admission criteria for consultative status.<sup>93</sup> More importantly, Resolution 1225 allowed the Committee on NGOs to review consultative status every four years. NGOs are also required to prepare and submit reports on their activities at specified intervals. If the Committee finds an NGO in violation of financing practices or falling under the influence of a state, Resolution 1225, under “Suspension and Withdrawal of Consultative Status”, gave the Committee the ability to nullify its consultative status. This led to multiple reviews in the UN where many NGOs lost their consultative status.<sup>94</sup>

The review of the work on the Committee of NGOs ended up focusing on its membership. Originally the Committee was dominated by what became known as the “Big Five”, the permanent members of the Security Council (China, France, the Soviet Union, the

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*Century*

<sup>91</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”*

<sup>92</sup> The Western bloc thought that while economic rights were ideal, in reality a government might not possess the resources to provide these rights. Conversely, this bloc felt that political rights are easy to provide since they merely require control over domestic actors such as the judiciary.

<sup>93</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”* Chapter 2.

<sup>94</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”* Chapter 2.

United States and the United Kingdom). Somewhat surprisingly, during the review ordered by Resolution 1225 the “Big Five” ceded some of their power when the Committee was enlarged from 7 to 13 members. In 1966, membership was once again increased from 13 to 19, and a formal requirement that the seats be distributed on a regional basis was passed. Thereafter, there was large increase in the number of African countries on the Committee causing a shift from the previous Western dominance.<sup>95</sup>

Prior to this review, for the Committee on NGOs to grant consultative status, a NGO must meet certain criteria: “international standing, independent governance, and geographical affiliation.”<sup>96</sup> However, before this review it became apparent that NGOs represented a much more diverse issue base. As a result, it was difficult for the Committee to compare the relative merits of various NGOs given such vague criteria.<sup>97</sup> In response, ECOSOC drafted Resolution 1296 that lists more specific criteria for an NGO to gain access: (1) activities relevant to the work of ECOSOC and aligned with the UN’s goals and principles, (2) in existence for at least two years, (3) an established headquarters and an executive officer, (4) democratic and transparent decision-making processes, and (5) financial and political independence from governments.<sup>98</sup> Additionally, it limited the reasons that an NGO could lose its consultative status to three circumstances: (1) “substantial evidence of secret governmental financial influence to induce an organization to undertake acts contrary to the principles of the UN”, (2)

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<sup>95</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”* Chapter 2.

<sup>96</sup> Martens, K. "Examining the (Non-) Status of NGOs in International Law.", ECOSOC Resolution 288B

<sup>97</sup> Ahmed and Potter claim that this upward trend is caused by the connected relationship between growing industrial maturity and public interest activity. Increased economic success leads to the rise of a middle class that is no longer struggling to survive, and therefore can focus on quality of life.

<sup>98</sup> ECOSOC Resolution 1296

“systematically engaging in unsubstantiated or politically motivated acts against member states,” and (3) “if, within the preceding three years, an organization had not made any positive or effective contribution to the work of the Council or its commissions and other subsidiary organs”.<sup>99</sup>

Finally, this review limited the reach of NGOs in UN proceedings by limiting what they could release in written statements. Originally, written statements could be submitted to the Secretariat, who would then translate them into the official UN languages and distribute the document throughout ECOSOC. However, again sovereignty concerns caused many states to be concerned about statements that refer to human rights situations in specific states (Willets 2010). As a result, Resolution 728F forbid communications from NGOs that referred to violations in specific countries from being circulated in official debate in ECOSOC or its subsidiaries.<sup>100</sup>

Despite the rise of US hegemony, the end of the Cold War signified an emergence of increased collaboration among states, a trend coined “collective” security by many scholars. The basic definition of collective security is that states join together to prevent any of their members from “using coercion to gain advantage, especially conquering another.” Collective security assumes that any member state may at some time behave in a manner requiring corrective action, thus violating state sovereignty. Hence, the goal of collective security is to serve as a deterrent against abusive behavior-- threats against peace would lead to the mobilization of a force so large that no state would want to deal with the consequences.<sup>101</sup>

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<sup>99</sup> ECOSOC Resolution 1296

<sup>100</sup> Korey, William. 1998. NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”

<sup>101</sup> Weiss, Thomas G. (ed). 1993 Collective Security in a Changing World: A World Peace Foundation Study. Boulder, Co: Lynne Rienner Publishers. Pg. 6.

Collective security develops a new international norm that international order may occasionally trump individual state sovereignty.

Besides the increased collaboration among states, the end of the Cold War also marked the beginning a phase of globalization that further increased the interdependence among states. Jessica Matthews, in her article “Power Shift”, describes how the traditional Westphalian system<sup>102</sup> has been replaced by a new concept known as “human security”.<sup>103</sup> She expands upon the definition of collective security, stating that security is no longer just about physical safety and military power, but depends upon the provision of resources necessary for survival in daily life. The near concurrent emergence of collective and human security linked the maintenance of international order with the protection of the dignity of individuals for the first time.

Admittedly, scholars are torn on the extent state sovereignty can be violated in the name of both collective and human security. Some argue that the concept of positivism, or that states are subject to no moral authority above them, has taken a backseat to a new moral age where crude and abusive behavior is no longer acceptable.<sup>104</sup> Along these lines, there has been a new emphasis placed on emphasizing the “morality” behind human rights during negotiations. The idea is that moral arguments are effective because they influence two important levels of decision making during negotiations: (1) policy debate and (2) the directed consciousness of

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<sup>102</sup> Defined where a state resources lie within its territorial boundaries and a single secular authority that governs and represents the state outside

<sup>103</sup> Matthews, Jessica Tucker. “Power Shift”

<sup>104</sup> Bederman, D. J. International Law Frameworks. Pg. 3.



individuals to aid their decision-making.<sup>105</sup> Moral arguments therefore attempt to restrain power (in this case state sovereignty) in order to direct it towards certain goals.<sup>106</sup>

On the other hand, realists, such as Professor Falk of Princeton University, conclude that concerning the power of morality in international law, “is mainly a kind of moralistic charade” that is not taken seriously by military strategists during times of war.<sup>107</sup> Many scholars, similar to Falk, conclude that drafting treaties focused on ethics leads to weak resolutions lacking concrete enforcement mechanisms

Events in the 1990s demonstrate that the existing UN structures were not successful in protecting individuals from systematic violations of human rights, proving that moral arguments can indeed lead to progress in negotiations. The newly established connection between collective and human security showed how sometimes sovereignty is a two way street. States have a responsibility to protect their citizens, and if they fail to do this they can no longer be considered sovereign entities. Out of this discussion emerged a doctrine called the Responsibility to Protect (R2P).<sup>108</sup> The R2P frames the discussion of intervention as a moral responsibility and not a right to intervene when a government fails to protect its citizens. Typically, intervention begins with less direct measures such as economic or political pressure, but if this does not work stronger action such as military intervention may be necessary. Since R2P is deeply controversial, certain well-defined criteria must be met for it to be invoked. The first principle is “just cause”, or that inaction would lead to large-scale loss of life. Next there are precautionary principles such as

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<sup>105</sup> Hehir, J. Bryan. “Landmines: A Political-Moral Assessment” in Cahill, Keven. (ed.) (1995) *Clearing the Fields: Solutions to the Global Landmine Crisis*

<sup>106</sup> Admittedly, in international relations cultural diversity often makes it difficult to define what constitutes ethical agreements.

<sup>107</sup> Hehir, J. Bryan. “Landmines: A Political-Moral Assessment” in Cahill, Keven. (ed.) (1995) *Clearing the Fields: Solutions to the Global Landmine Crisis*

<sup>108</sup> Evans, Gareth and Mohamed Sahnoun. 2002. “The Responsibility to Protect”

“right intention” with the goal to stop human suffering, “last resort” where all other measures have been ineffective, “proportional means” where the scale, duration, and intensity be the minimum necessary to rectify the situation, and “reasonable prospects” that intervention will be successful.<sup>109</sup> The final principle is “right authority”, or that intervention is deemed most legitimate when an international body such as the United Nations orders it.

The R2P document marked a watershed moment for NGOs in that it showed that there were situations where national sovereignty should be violated to protect individuals, opening the door for NGOs to have access to situations on the ground. Returning to Matthews’ article “Power Shift”, she describes how the reevaluation of security begun to shift the balance of power in IR from the traditional state-centered approach to a recognition by states that the protection of individuals may require them to give up some of their responsibilities to other societal actors.

Miguel de Laringa and Claire Tureren Sjolander label this new trend towards openness in IR following the Cold War as “New Multilateralism”.<sup>110</sup> They assert that the state is still the foundation for “new” multilateralism, but the key difference from the original definition is that states now have to evaluate their policies relative to transnational public opinion.<sup>111</sup> As the former Secretary General to the United Nations Boutros- Boutros Ghali in his “Agenda for Peace” states, “the time of absolute and exclusive sovereignty has passed.” Oscar Schachter, who is slightly more skeptical than Ghali, asserts that the nature of state sovereignty has changed

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<sup>109</sup> Evans, Gareth and Mohamed Sahnoun. 2002. “The Responsibility to Protect”

<sup>110</sup> Multilateralism is defined as a “number of states that have competed and cooperated in a particular part of the world” (Bederman Pg. 2).

<sup>111</sup> Laringa, Miguel and Sjolander, Claire. “Representing Landmines from Protector to Enemy: The Discursive Framing of New Multilateralism” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

following the Cold War, but that the “reality of state power and authority cannot be ignored.”<sup>112</sup> Both sides agree, however, that following the end of the Cold War new actors such as NGOs became more involved in the affairs normally associated solely with the state.

This trend towards increased involvement for NGOs can be seen during the 1993-96 review of the UN Charter where there was an increasing movement for ECOSOC to recommend that consultative status relationship between NGOs and ECOSOC should extend to the larger General Assembly. In January 1997, the Open-Ended Working Group covering UN reform set up a subgroup on NGO participation (with Ahmad Kamal of Pakistan in the chair) to discuss this issue.<sup>113</sup> While the roles of NGOs was slightly expanded, it was clear that states are still reluctant to give up sovereignty since the subgroup came up with only three proposals: (1) NGOs should have better access to documents in the assembly, (2) more funds should be allocated to widen electronic access to documents and (3) a new trust fund was created to assist NGOs from developing countries and former communist countries.<sup>114</sup>

In 1948 the UN listed 41 groups who were granted consultative status in ECOSOC. By 1993 this number had skyrocketed to 1,500.<sup>115</sup> Nonetheless, many NGOs are still critical of the process to gain consultative status. Their first complaint is that NGOs may petition for years if a few states cooperate to continue to block their access. The Committee does not even have to deny an NGO access, but instead can delay proceedings by asking more questions during the

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<sup>112</sup> Schachter, Oscar. “Sovereignty and Threats to Peace” in Weiss, Thomas G and Leon Gordenker. 1996. NGOs, the UN, and Global Governance.

<sup>113</sup> Willetts, Peter. 1996. “Consultative Status for NGOs at the United Nations.” Pp.31-62 in Peter Willetts (ed.), *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN System*

<sup>114</sup> Willetts, Peter. 1996. “Consultative Status for NGOs at the United Nations.” Pp.31-62 in Peter Willetts (ed.), *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN System*

<sup>115</sup> Simmons, P. J. "Learning to Live with NGOs."

debate to grant consultative states. By doing this a state can ensure that the NGO can get lost in proceedings for years. A second major complaint is the states that are often the target of human rights NGOs are often included as members on the Committee. The third complaint is that the large increase in the number of applications has caused the Committee to become overburdened and not give proper consideration to each application.<sup>116</sup>

In short, the end of the Cold War marked the emergence of three new concepts in IR: (1) state sovereignty could be violated on the basis of the protection of collective security, (2) security is no longer viewed merely in terms of military protection, and (3) recognition by states that the protection of individuals may require them to give up some of their responsibilities to other societal actors. During the Cold War human rights were still important, but they took a distant third to security and economic concerns. Towards the end of the Cold War, UN Secretary General Javier Perez de Cueller states he saw “an irresistible shift in public attitudes toward the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents.”<sup>117</sup> The current trend of international law is more neutral; state sovereignty is still respected; however, there is now the recognition that the violation of certain fundamental human rights may justify intervention in state affairs. In the remaining chapters this paper will attempt to show how the emergence of the idea that sovereignty is a two way street served both as a gateway for NGOs to negotiations in the UN and provided them with the necessary legitimacy to influence state behavior.

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<sup>116</sup> Aston, J. D. "The United Nations Committee on Non-governmental Organizations: Guarding the Entrance to a Politically Divided House."

<sup>117</sup> Weiss, Thomas G. (ed). 1993 Collective Security in a Changing World: A World Peace Foundation Study.

### Chapter 3: The Power of Information

Of all the IR frameworks discussed in Chapter 1, realism offers the most limited understanding of international human rights. While realism is most likely correct in its assumption that when security concerns are high, human rights are hardly a priority, it neglects to acknowledge that power in IR is no longer solely attached to military and economic resources. Beginning in the middle of the Cold War, a new idea emerged that states may be subject to a moral authority above them and that crude and abusive behavior may no longer be acceptable. The end of the Cold War led to an emergence of collective security that in some cases may trump individual state sovereignty. As a result of the rise of collective security, new non-state actors rose to the defense of individuals under the guide of human security. Here I will introduce two case studies, the Convention Against Torture (CAT) and the Ottawa Convention Banning Landmines (Landmine Convention), that both fall under the category of human security because they deny the individual provisions necessary for life.

To begin, I will provide the necessary background to understand these two case studies by examining how these two issues emerged and gained support in the international community. The issue of torture<sup>118</sup> predates concerns about Landmines<sup>119</sup>. Until the eighteenth century torture had been both regularly practiced and legal in Western civilizations for over seven centuries. In the 20<sup>th</sup> century torture gained increased international attention due to the rise of Nazi Germany. Following the war, the international community decided to take steps to ensure that the atrocities

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<sup>118</sup> Torture for the purpose of this paper will be defined as “the officially sanctioned infliction of intense suffering, aimed at forcing someone to do or say something against his or her will” (Rodley 1987). Sean Macbride labeled torture as an “epidemic” used by regimes “to control dissent and maintain power” (Korey 1998).

<sup>119</sup> Landmines in this paper refer to Antipersonnel Mines. When an individual steps on a landmine it starts a chain reaction where the mechanical pressure triggers the detonator. This ignites a booster charger that sets off a powerful explosion of trinitrotoluene also known as TNT.

that occurred during WWII never happened again. This led to the drafting of the Geneva Conventions that redefined the rules of humanitarian law concerning prisoners of war. The Common Article 3 of the four Geneva Conventions forbids “cruel treatment and torture of persons taking no active part in the hostilities.” The third Geneva Convention is slightly more specific where under article 99 it states “no moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.”

Following the Geneva Convention, torture took a backseat in UN proceedings until an increase in violence associated with military coups in Latin America.<sup>120</sup> These changes in power were often justified as a response to a corrupt government or a civilian “uprising” typically associated with guerilla warfare. Arguably the most visible case was the military coup against Salvador Allende (constitutional government of Chile) by Augusto Pinochet and his armed forces on September 11, 1973.<sup>121</sup> Pinochet’s rise to power led to a consistent era of brutality in Chile that the General Assembly simply could no longer ignore. In February 1975 the CHR formed an Ad Hoc Working Group on the Situation in Chile to examine the problem.<sup>122</sup> Once there, it found numerous inconsistencies between victim’s accounts and what the government had been telling the UN. The violations were so atrocious that the international community felt a moral obligation to act.

Switching focus to my second case study, landmines have been a widely used tool in the military since the 1940s. According to the UN, each year 2-5 million new mines are scattered in

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<sup>120</sup> Political Killings by Governments (London: Amnesty International, 1983)

<sup>121</sup> Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*.

<sup>122</sup> Torture in the Eighties (London: Amnesty International and Martin Robertson, 1984).

the ground throughout the world.<sup>123</sup> The State Department estimates that 85 to 90 million landmines are currently active in the grounds over 62 countries.<sup>124</sup> The countries that most suffer from the problem of landmines are in the developing world, especially in Africa and Asia, and thus do not possess sufficient resources to deal with the problem.<sup>125</sup>

The Geneva Conventions of 1949 also address the effects of weapons such as AP mines in its provision on the “Protection of Civilian Persons in Time of War”, but advances in technology led to additional protocols since the existing ones were considered outdated. These changes led to two fundamental principles of international humanitarian law: broadly, the weapons used by states engaged in conflict may be limited and (2) specifically, weapons that causes superfluous injury or unnecessary suffering were prohibited. (Geneva Convention Protocol I). However, the Geneva Conventions do recognize “military necessity” that permits violence deemed necessary and reasonable as long as the means do not violate international law.

Henry Dunant, the father of the Red Cross, first drew attention to the dangers of landmines in 1862 in his work *A Memory of Solferino*.<sup>126</sup> Nonetheless, it was not until the 1970s that the ICRC had established landmines as a conventional weapon of concern that needed to be addressed by the international community. In 1973 it published a report based on discussions by governmental and NGO experts entitled *Weapons That May Cause Unnecessary Suffering or Have Indiscriminate Effects*. Following the release of this report, the ICRC convened a

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<sup>123</sup> Vines, Alex. “The Crisis of Anti-Persoal Mines” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

<sup>124</sup> Vines, Alex. “The Crisis of Anti-Persoal Mines” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

<sup>125</sup> The Arms Project of Human Rights Watch and Physicians for Human Rights. 1993. *Landmines: A Deadly Legacy*.

<sup>126</sup> Maslen, Stuart. “The Role of the International Committee of the Red Cross” in in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

conference of governmental experts on the Use of Certain Conventional Weapons in Lucerne, Switzerland.

It was not until landmine use reached a period of crisis in the early 1990s that the issue was finally taken up by the UN. Huge casualties during refugee-repatriation efforts in Afghanistan and Cambodia in the early 1990s especially drew attention the issue.<sup>127</sup> Events in these two countries made it apparent that there was a lack of mine awareness among personnel in the UN Commission for Refugees (UNHCR).<sup>128</sup> This crisis was caused by a large increase in the number of nations, especially in the developing world, producing and exporting mines. Furthermore, it was exacerbated by the fact that the nature of war had changed, since now many wars were long-lasting and involved cash-starved entities for which cheap landmines offer a great solution.<sup>129</sup> On the other hand, for those who can afford it, landmine production had become much more sophisticated. Momentum for a ban reached its full potential when Prince Sihanouk of Cambodia called for a complete ban of AP mines.<sup>130</sup>

Relative to the issue of torture, the main NGO actor was Amnesty International (AI). After reading an article where two Portuguese prisoners were sentenced to life imprisonment for treason and being appalled by conditions they faced, Peter Beneson came up with the vision of a one-year worldwide campaign to draw the international community's attention to detained prisoners.<sup>131</sup> With the support of the prominent English Quaker, Eric Baker, and the highly respected international lawyer Louis Blom-Cooper, he published a piece in *The Observer* entitled

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<sup>127</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>128</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>129</sup> "A Weapon of Mass Destruction in Slow Motion" in *The Arms Project of Human Rights Watch and Physicians for Human Rights*. 1993. *Landmines: A Deadly Legacy*.

<sup>130</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>131</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*



“The Forgotten Prisoner”.<sup>132</sup> In this article Beneson and his supporters officially called for a one-year campaign titled “An Appeal for Amnesty”. Increased international interest in Beneson’s campaign led to the establishment of various regional offices. The first two began in the United Kingdom and the Federal Republic of Germany and then spread to the rest of Western Europe and North America.<sup>133</sup> The network that formed from these small branches would eventually lead to the establishment of AI. As Beneson asserts, “AI from its earliest days has been a grass roots movement, united into common actions.”<sup>134</sup>

AI finally established a headquarters staffed by an international secretariat in London in 1963.<sup>135</sup> In this headquarters a bureau was created to research political imprisonment in different countries, and then to prepare background papers to distribute to different actors. AI refocused its efforts in 1972 through its worldwide Campaign for the Abolition of Torture. Through this campaign, AI hoped to generate an international movement against torture based on the prohibition of torture contained in Article 5 of the Universal Declaration of Human Rights. The ultimate goal of this campaign was a UN resolution that would call for a Convention Against Torture. AI had done extensive marketing research to establish itself in the international community as a recognizable brand. The emblem of AI, a candle encircled by barbed wire, and AI’s slogan “better to light a candle than curse the darkness”, are recognized worldwide. By the end of 1977, it had well over 150,000 members in over 100 countries.<sup>136</sup>

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<sup>132</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

<sup>133</sup> Korey, William. 1998. NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”. Chapter 7.

<sup>134</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

<sup>135</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

<sup>136</sup> Korey, William. 1998. NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”. Chapter 7.

AI is not the only NGO working towards eliminating the process of torture. The International Committee of the Red Cross (ICRC) works diligently to alleviate some of the worst conditions for political prisoners. They are one of the only organizations granted the ability to make actual in-person visits with detainees to observe prison conditions.<sup>137</sup> Between 1971 and 1981, ICRC officials made approximately 15,000 visits to almost 80 countries.<sup>138</sup> Unlike AI, however, ICRC does not generally publish the findings of its missions. Further, the International Commission of Jurists (ICJ) combats torture by focusing on the legal aspect. It lobbies international delegations in attempt to ensure that there is greater observance of human rights norms.<sup>139</sup> Similar to AI, it publishes quarterly reviews, specific country reports, and other studies that provide facts on the prevalence of torture in the world.

Turning to the main actors in the Landmines convention, in 1991 Bobby Muller, the head of Washington D.C. based Vietnam Veterans of America Foundation (VVAFA), met with Thomas Gebauer, the director of Medico International (MI) over lunch to discuss how the placement of AP mines was interfering with their humanitarian work. The two men agreed to use their organizations to launch a global campaign calling for a total ban on all landmines.<sup>140</sup> The International Campaign to Ban Landmines (ICBL) was formally launched after a meeting in the offices of Human Rights Watch (HRW) in New York in October 1992.<sup>141</sup> More than 50 representatives from more than 40 NGOs met in London at the first ICBL International

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<sup>137</sup> International Committee of the Red Cross (ICRC, 1996). *Anti-personnel Landmines: Friend or Foe?*. Geneva: ICRC, March.

<sup>138</sup> *Torture in the Eighties* (London: Amnesty International and Martin Robertson, 1984).

<sup>139</sup> *Torture in the Eighties* (London: Amnesty International and Martin Robertson, 1984).

<sup>140</sup> White and Rutherford. "The Role of Landmine Survivors Network" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>141</sup> After the signing of the Ottawa Convention a reflection meeting was held for NGOs and officials from the core group of countries to reflect on the Ottawa process to determine whether certain strategies were either successful or failure.

Conference on Landmines to discuss how to expand the movement from fragmented regional efforts to a transnational network.<sup>142</sup>

The steering committee was made up of Handicap International (HI) (France), HRW (US), MI (Germany), Mines Advisory Group (MAG) (UK), Physicians for Human Rights (PHR) (US) and the VVAF (US). Each NGO brought its own set of expertise to the table. For example, PHR provides medical documentations on human rights violations, supports medical personnel who are facing difficulties while defending human rights and assists in developing a human rights curriculum for the medical profession.<sup>143</sup> HRW conducts regular investigations of human rights abuses in over sixty countries around the world. A smaller division of HRW is the Arms Project, which seeks to eliminate arms transfers by governments associated with consistent violations of human rights.<sup>144</sup> Jody Williams from the VVAF was hired to serve as coordinator of the ICBL.

The steering committee was responsible for providing direction for the global campaign and to serve as the umbrella organization connecting regional campaigns that were focused upon grassroots efforts. The ICBL had three central objectives: (1) an international ban on the use, production, stockpiling, sale, transfer or export of AP mines; (2) the creation of an international fund to assist victims of mines, assist in landmines awareness programs, and finance mine

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<sup>142</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>143</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*. New York, NY: St. Martin's Press. Chapter 17.

<sup>144</sup> *The Arms Project of Human Rights Watch and Physicians for Human Rights*. 1993. *Landmines: A Deadly Legacy*. New York: Human Rights Watch.

removal programs that would be administered by the UN and (3) enforcing that producers and exporters of AP mines contribute to this fund.<sup>145</sup>

Based on this background, I would concur that the boomerang model developed by Keck and Sikkink can best describe the importance of these networks. If abusive behavior occurs in one state, it is very difficult for the status quo to change unless outside actors become involved. Networks under the leadership of either one actor or a steering committee can help to group a bunch of regional coalitions into one strong cohesive group that can pressure abusive states. This cohesive structure becomes especially important once negotiations have begun, which will be discussed more thoroughly in the next chapter.

Further, it appears Darren Hawkins is correct in his assertion that NGOs can have the greatest effect on pre-established norms. The establishment of transnational NGO networks in both cases began well before the point of crisis, but efforts were significantly intensified following the situation in Chile in the CAT and large civilian casualties in Landmines. The beginnings of a norm that proclaimed both practices unacceptable occurred because of attention drawn to domestic situations. More importantly, the UN in both cases did not acknowledge the situation until political situations led to escalation. As Theo van Voen, the former director of the UN Division of Human Rights describes, there was a “crise de conscience also prevalent in other human rights organizations and bodies such as the UN CHR.”<sup>146</sup> Therefore, while the work of NGOs begins well before a crisis, political momentum is necessary for the issue to get on the

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<sup>145</sup> White and Rutherford. “The Role of Landmine Survivors Network” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>146</sup> *Political Killings by Governments* (London: Amnesty International, 1983) Pg. 2

international agenda. Once on the international agenda, it is much easier for NGOs to gain access to additional resources, such as information and important political figures.

While the work of NGOs often makes leaders of state nervous, the change in how states viewed the issue of sovereignty following the Cold War, combined with the political scene reaching a stage of crisis as described above, provides the necessary push many states need to reevaluate the work of NGOs. In many cases, states are willing to collaborate with NGOs, since they can perform necessary tasks that states are unable to do. NGOs provide services for which they possess a comparative advantage in terms of flexibility, efficiency, and proximity to target populations. For example, NGOs, being smaller bodies, can often travel on-site to dangerous locations that states may be reluctant to send their own observers. Further, since delegates cannot be experts in all fields, they often rely on the information that NGOs provide to fill in the gaps and streamline negotiations. After establishing initial networks, NGOs moved quickly to capitalize on this “deep seated conviction of urgency and widely felt sense of human compassion and solidarity” that had emerged in international relations.<sup>147</sup> In both cases, NGOs began their campaigns by dispatching missions to countries to gather more detailed information. A majority of the work of NGOs occurs during this information-gathering phase, well before official negotiations even begin in the UN.

It is important to understand that accurate information on human rights abuses is extremely difficult to obtain. Concerning torture, first-hand accounts are very difficult to come by since the act normally takes place without independent witnesses.<sup>148</sup> Furthermore, torture techniques have progressed to the point where victims may not have obvious long-lasting

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<sup>147</sup> Political Killings by Governments (London: Amnesty International, 1983) Pg. 3.

<sup>148</sup> Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*.

physical scars.<sup>149</sup> Most victims and their families are too afraid of future repercussions to complain to outside organizations. Concerning Landmines, hospitals and clinics in war zones are often overburdened and thus pay little attention to collecting accurate health information.<sup>150</sup>

When dispatching missions that attempt to monitor situations on the ground, most NGOs provide their representatives with specific instructions. For example, AI follows the rule that no mission is to be sent clandestinely to a country. Further, while in the country, AI officials are not supposed to release any statements to the country's press. Once the mission is over, AI officials are required to submit their findings to the International Executive Committee. It is not until this body approves the mission's findings that a memorandum is prepared presenting the findings along with recommendations.<sup>151</sup> The purpose of all these steps is to ensure the accuracy of all the information collected to make sure states are willing to allow access to NGOs. Again, gathering information typically involves the violation of state sovereignty, and in most cases NGOs are observing states that have been accused of abusive behavior. Even abusive states may collaborate out of fear of the social and economic repercussions of refusing to admit a mission, which in practice appears as an admission of guilt.

An example of a one of the more famous direct contact missions concerning the issue of torture occurred in October 1973 when the new regime in Chile agreed to admit a three-man team to examine allegations of abusive behavior by the government.<sup>152</sup> Claims of torture against political detainees had begun, as discussed earlier in this chapter, once the military government

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<sup>149</sup> Political Killings by Governments (London: Amnesty International, 1983)

<sup>150</sup> The Arms Project of Human Rights Watch and Physicians for Human Rights. 1993. Landmines: A Deadly Legacy. New York: Human Rights Watch.

<sup>151</sup> Korey, William. 1998. NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine" Chapter 7.

<sup>152</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

of General Pinochet seized power in 1973.<sup>153</sup> During this mission AI concluded that Chilean law does little to protect its citizens and that Chilean courts are very liberal in their interpretation of what constitutes torture.

An example of a smaller mission focused on the issue of torture would be AI's mission to the Republic of Philippines. The team consisted of only two members, American lawyer Thomas C. Jones and a member of the International Secretariat, Wenhsien Huang.<sup>154</sup> These two officials held discussions with many government officials, including President Ferdinand Marcos. An example of a famous case study was the mission to Afghanistan led by Rae McGrath (serving as a representative of MAG). McGrath was known for having both military experience and expertise with landmines and other munitions.<sup>155</sup>

According to the existing literature, the purpose of these transnational networks is to strengthen international norms. My research concurs, since in both case studies NGOs used this information collected from direct contact missions to accomplish three goals: (1) to raise awareness about the issue, (2) to initiate the standard setting process that will continue during negotiations and (3) to "name and shame" the states that violate these prescribed standards. The most common thing that NGOs do with the information they gather is to compile it into a single report that can then be published and distributed to the public. For example, the first major report compiled by AI that gained international attention was its *1973 Report on Torture*. This report was 224 pages in length and examined allegations of torture occurring in sixty countries over a 10-year period.<sup>156</sup> In 1991 MAG released the *Afghanistan Mines Survey*, which was a

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<sup>153</sup> Torture in the Eighties (London: Amnesty International and Martin Robertson, 1984).

<sup>154</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975).

<sup>155</sup> Rutherford, Kenneth. Disarming States: The International Movement to Ban Landmines.

<sup>156</sup> Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*.

“comprehensive survey of the impact of landmines on people, their animals, their agricultural land, irrigation systems, farming implements and access routes” based on the information collected by McGrath.<sup>157</sup> This was followed by PHR’s main work *Landmines: A Deadly Legacy* in 1993. It compiled the evidence that the organization had found from its missions to Cambodia, Angola, Mozambique, Somalia and Iraqi Kurdistan.<sup>158</sup>

The main question is what is the purpose of these reports; in other words, how do they accomplish the three conditions mentioned above? One way to answer this question is to look at how they are organized. As discussed in earlier chapters, scholars theorize that the success of a transnational network to create social change is dependent on its ability to frame the issue in a way that resonates with its intended audience. This leads to an important caveat: the political situations in the CAT and Landmines are extremely different, and thus NGOs utilized slightly different strategies when gathering information. Therefore, while the purpose of the published reports in the two case studies remains the same, the way the information is framed is slightly different due to the unique circumstances.

The first part of a report typically contains a basic background section before delving into specifics. Normally the report will contain a basic definition of an issue and an examination section that looks at the problem from a larger perspective. For example, the report *Torture in the Eighties*<sup>159</sup> opens with a section on the moral arguments against torture. It immediately attacks the utilitarian argument that the effective use of torture can be used to save lives since information is obtained that otherwise would not have been. AI argues that those who use torture

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<sup>157</sup> Stover, E. and McGrath R. (1991) *Landmines in Cambodia: The Coward’s War*, New York: Human Rights Watch and Physicians for Human Rights”

<sup>158</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”* Chapter 17.

<sup>159</sup> Note that AI compiled all reports concerning torture in this chapter.



would naturally argue that they could not have obtained the information otherwise. States often become reliant on torture and other methods of interrogation are used less frequently.

Reports on Landmines normally begin with an analysis of the military utility of AP mines. The main tactical argument in favor of AP landmines is that they allow a military to shape the battlefield by denying access to a given territory to enemy forces. This allows a military force to move their opponents to a vulnerable position.<sup>160</sup> Further, AP mines are often used to defend states' borders against enemy invasion.<sup>161</sup> Patrick Blagden, in his work "The Use of Mines and Impact of Technology", counters most of these points stating that the perceived utility of mines operates under the incorrect assumption that they are used lawfully.<sup>162</sup> He concludes that AP minefields cause more damage to one's own troops than the enemies; (1) they restrict soldiers from changing their position during conflict; and (2) the fear of landmines cause many patrols to fail in completing their mission. The ICRC also addressed this topic in its report, *Friend or Foe? A Study of the Military Use and Effectiveness of Anti-Personnel Mines*, a survey of these weapons in conflicts over the past 55 years.<sup>163</sup> It came to similar conclusions as Blagden, noting that the cost of using AP mines in terms of "casualties, limitation of tactical flexibility and loss of sympathy of the indigenous population is higher than has been generally acknowledged."<sup>164</sup>

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<sup>160</sup> Gard, Robert. "The Military Utility of Anti-Personnel Mines" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>161</sup> Johnson, Richard. "Why Mines? A Military Perspective" in Cahill, Keven. (ed.).1995. *Clearing the Fields: Solutions to the Global Landmine Crisis*.

<sup>162</sup> Blagden, Patrick. "Landmines a Political-Moral Assessment" in Cahill, Keven. (ed.).1995. *Clearing the Fields: Solutions to the Global Landmine Crisis*.

<sup>163</sup> International Committee of the Red Cross (ICRC, 1996). *Anti-personnel Landmines: Friend or Foe?*. Geneva: ICRC, March.

<sup>164</sup> International Committee of the Red Cross (ICRC, 1996). *Anti-personnel Landmines: Friend or Foe?*. Pg. 12.

This introduction section also contains examples of domestic and international law that pertains to the issue. When the AI mission examined existing Philippine law, they found that the 1973 Constitution of the Republic of the Philippines in section 3 states “the Philippines adopt the generally accepted principles of international law as part of the law of the land...”<sup>165</sup> In Argentina, AI found fault with law 22.068, issued on September 12, 1979, that allowed the state or a relative to declare a person who disappeared during the previous five years dead. The date of the death was to be officially labeled on the date of disappearance.<sup>166</sup>

Normally, this background section will include a section discussing the allegations against the country and thus the purpose of the mission. AI's mission to the Philippines had two main objectives: (1) “seek the support of members of the Philippines government for the development of regional institutions for the protection of human rights in Southeast Asia” and (2) “to discuss with members of the government and with concerned Filipinos, problems relating to imprisonment under martial law, the treatment of prisoners and the procedures for the release of prisoners.”<sup>167</sup>

Finally, this section will conclude with an analysis of the victims and perpetrators of the offense. Concerning torture, these reports show, as a whole, that victims of torture are an extremely diverse group. However, they do share many characteristics that lead them to be targeted by states. Typically, a victim of torture is a political opponent of the government who is attempting to rally others towards some degree of social change. Many victims are assumed to be associated with armed insurgency groups in order to justify government action against them.

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<sup>165</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975). Pg. 54.

<sup>166</sup> Testimony on Secret Detention Camps in Argentina (London: Amnesty International, 1980) Pg. ii.

<sup>167</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975). Pg. 11.

Concerning landmines, AP mines are described as being a “blind weapon” that cannot distinguish between a soldier and a civilian.<sup>168</sup> Since landmines can remain dormant in the ground long after the fighting has ended, the majority of the victims end up being children.<sup>169</sup> For those who survive, the initial explosion can drive dirt and bacteria into their skin, causing secondary infections. The shock wave resulting from the explosion can cause serious damage to blood vessels, forcing physicians to amputate higher up the leg than would normally be necessary.<sup>170</sup>

Regarding torture, the perpetrator can be either police or military, but in most cases it is the military that seizes the victim. This individual may or may not be officially affiliated with the government; therefore, they may or may not be wearing a uniform or be in a marked car. The report *Torture in the Eighties* includes a whole section describing the training that torturers go through in order to show that torture is an endemic process, something that cannot be simply solve by punishing a few individuals. It discusses how the process of ideological indoctrination often counts as torture itself, since training can consist of ordering the soldiers to eat their berets, swearing allegiance to commanding officers, and performing demeaning acts in front of their fellow soldiers. Relative to the perpetrators in landmines, the largest producers were China, Italy, and the former Soviet Union (Cameron). Italy is associated with playing the biggest role in

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<sup>168</sup> Vines, Alex. “The Crisis of Anti-Persoal Mines” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

<sup>169</sup> “A Weapon of Mass Destruction in Slow Motion” in *The Arms Project of Human Rights Watch and Physicians for Human Rights*. 1993. *Landmines: A Deadly Legacy*. New York: Human Rights Watch.

<sup>170</sup> Rae McGarth and Eric Stover, “Injuries from Landmines” 303 *British Medical Journal*, Dec. 14, 1991

exporting, but almost every country has purchased landmines at some point, except San Marino, Andorra, and Saint Lucia.<sup>171</sup>

This opening section serves the dual purpose of providing information and activating an emotional response from the reader. The information gathered about the use of torture and landmines allowed NGOs to draw conclusions on the relative utility of the two practices. It significantly strengthens NGO arguments to argue that these practices are ineffective before even tackling the moral aspect. Further, examining existing law (both domestic and international) gives NGOs increased legitimacy when they denounce a certain practice that is utilized in a state. By describing the common suffering among victims in this section, NGOs begin the process of evoking emotion from the reader. NGOs believed this emotional response can effectively capitalize on the moral movement previously described and, thus, pressure actors to action. These reports pinpoint the actor that NGOs should concentrate on when directing their efforts to influence a state away from any given action.

The next major section in most reports provides a detailed account of how the information was gathered and verified. An example of this can be seen in AI's *Political Imprisonment in the People's Republic of China*. This report clearly states that the information comes from two sources: (1) official published documents and (2) personnel accounts. AI claims that official published documents "provide essential information on the official principles and institutions related to the penal policy of the PRC".<sup>172</sup>

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<sup>171</sup> Vines, Alex. "The Crisis of Anti-Persoal Mines" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

<sup>172</sup> To be specific AI used the information published in two collections published in Peking in the 1950s: *Zhonghua Renmin Gongheguo Fagui Huipian* (Collection of Laws and Regulations of the People's Republic of China) and *Zhongyang Renmin Zhengfu faling Huipian* (Collection of Laws and Ordinances of the Central People's Government) (*Political Imprisonment in the Peoples Republic of China* (London: Amnesty International, 1978))

The majority of the information found in these reports comes from interviews of victims, and, in the case of torture, from personal detainees and prisoners. In its report *Torture in the Eighties*, AI discusses the process by which it verifies the information it uses in its interviews. The standard “systematic interview” lasts between four to six hours.<sup>173</sup> The questions are not known in advance by the interviewee and are designed to get the same information in different ways.<sup>174</sup> AI will then compare its findings with any medical evidence concerning the interviewee’s health, both before and after torture. Whenever possible, AI attempts to draw on evidence from medical officials who have conducted interviews with victims.<sup>175</sup> AI will even release a report entirely from the perspective of a victim, such as its report on prison camps in Argentina. In these types of reports, NGOs include even larger sections describing verification procedures. In this specific report, the two victims explained that they were able to remember so much during their 15 months of captivity because they realized early on that their ultimate goal was to escape -- as such, they were constantly alert to all their surroundings.<sup>176</sup>

The purpose of this section is relatively straightforward: to be seen as a legitimate body within the international community, NGOs need to confirm that all the facts in their reports have come from reputable sources. This is especially true if the report is denouncing the actions of a state. One of the easiest ways that states counter the conclusions drawn by NGOs is to claim that the information is either incorrect or biased. This section helps to preemptively nullify this

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Pg. xii).

<sup>173</sup> *Torture in the Eighties* (London: Amnesty International and Martin Robertson, 1984).

<sup>174</sup> *Torture in the Eighties* (London: Amnesty International and Martin Robertson, 1984).

<sup>175</sup> *Torture in the Eighties* (London: Amnesty International and Martin Robertson, 1984).

<sup>176</sup> *Testimony on Secret Detention Camps in Argentina* (London: Amnesty International, 1980)

argument, forcing to states to either come up with a different excuse or to actually examine their policies.

Generally at this point the report moves to a third section that discusses specific cases. It is important to note that NGOs typically try to select their cases from all over the world. For example, in its report *Torture in the Eighties*, AI made sure to include a focus on torture that occurred in countries that were considered to be more liberal, such as Northern Ireland. This section generally begins with basic statistics from various sources. These statistics were often meant to startle the public in hopes of moving them towards action. To illustrate, Africa Watch concluded that the approximate ratio of amputees due to mine explosions to the general population in Angola is one to 470.<sup>177</sup> By comparison, the US, which has a population of 220 million, performed more than 10,000 amputations on patients due to trauma.<sup>178</sup> The ICRC finds that “85 percent of the 528 mine-wounded were engaged, when wounded, in non-military activity such as farming, traveling between villages or tending cattle; 77 percent were returnee refugees.”<sup>179</sup>

This section will then typically move to a description of the situation on the ground. It often includes a detailed description of common techniques to implement the issue: conditions of the facilities where the acts took place and the effects these issues have on the daily lives of victims. In its report on Argentina, AI describes one of the most infamous concentration camps, club atletico, located in the lower part of the Federal Capital. It was described as being “an underground, unventilated place, without any natural light, and it was very damp and very

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<sup>177</sup> Landmines in Angola (NY: HRW 1993).

<sup>178</sup> E. Stover and D. Charles, “The Killing Minefields of Cambodia” *New Scientist*, Oct 19, 1991, pg. 27

<sup>179</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

hot.”<sup>180</sup> Prisoners were forced to stand at all times and always had tight cloth blindfolds covering their eyes. The torture room was labeled the “operating theater” in attempt to further demean detainees. The only piece of furniture in the room was a “picana” (prod) and a metal table to which victims were attached.<sup>181</sup>

In Landmines, a key focus of the groundwork was to show that landmines have other lasting consequences besides physical ramifications. The first report to look at the socioeconomic consequences of landmines was *After the Guns Fall Silent: The Enduring Legacy of Landmines*, coauthored by Shawn Roberts and Jody Williams. Most of the victims of landmines live in the developing world, which are typically agrarian societies.<sup>182</sup> In these societies, an amputee is considered to be an unproductive member, and thus just another mouth to feed.<sup>183</sup> The Department of State concludes that landmines “provide a continuing element of chaos in countries striving for stability...the impact of un-cleared landmines on a developing economy is tremendous.”<sup>184</sup> Families of victims have to deal with financial difficulties associated with medical costs, combined with the fact that in many cases one of the household earners can no longer work.

This section then normally ends with quotes and stories from individual victims. In its report on the situation in Chile, AI medical examiners described the ordeal of Adriana Vargas

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<sup>180</sup> Testimony on Secret Detention Camps in Argentina (London: Amnesty International, 1980) Pg. 4.

<sup>181</sup> Testimony on Secret Detention Camps in Argentina (London: Amnesty International, 1980) Pg. 18.

<sup>182</sup> The Arms Project of Human Rights Watch and Physicians for Human Rights. 1993. *Landmines: A Deadly Legacy*. New York: Human Rights Watch.

<sup>183</sup> Roberts, Shawn. 1995. *After the Guns Fall Silent: The Enduring Legacy of Landmines*.

<sup>184</sup> US State Department (1993) *Hidden Killers: the global problem with uncleared mines-* a report on international demining, Implementation of Section 1364. Pg. 3

Vasquez, a 31-year old factory worker who had been tortured in March 1980.<sup>185</sup> She received multiple courses of electrical shocks and was continuously hung up by her wrists. Doctors observed small black scabs where electrodes had been applied along with “swelling and discolorations in places she had received blows.”<sup>186</sup> She lost almost 6 kg while detained for four days and suffered from nausea for 20 days after her release.

This third section usually takes the most space in the report, which is logical since in the beginning NGO networks are focused on bringing attention to the issue. Senator Patrick Leahy, in the introduction to *Landmines: A Deadly Legacy*, states that the Arms Project of HRW and PHR “have been instrumental in raising awareness of the urgent need to address the global landmines problem.”<sup>187</sup> Through these reports, NGOs help to raise awareness about an issue by strengthening the ties between the domestic situation on the ground and the international community. This support makes the work of NGOs seem more legitimate since it represents those who would not otherwise have a voice in negotiations, in this case the victims. This is why combining statistics with first- hand accounts is so important because it gives the numbers actual real-world perspective. Both delegates and the general public can easily identify with this personal testimony thus allowing these reports to move negotiations towards a moral issue where the actions are seen as intolerable. As mentioned earlier, morality is an effective tool because it provides momentum for individuals to affect policy. Therefore, this section provides policymakers with a valuable resource that states will use during the next phase of negotiations. The value of this information will be discussed in greater detail in the next chapter.

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<sup>185</sup> Torture in the Eighties (London: Amnesty International and Martin Robertson, 1984).

<sup>186</sup> Torture in the Eighties (London: Amnesty International and Martin Robertson, 1984). Pg. 24

<sup>187</sup> The Arms Project of Human Rights Watch and Physicians for Human Rights. 1993. *Landmines: A Deadly Legacy*. Pg. xi



The fourth and final section combines the theory provided from the first section with the data from the third section to come up with some sort of general conclusion. After analyzing data from clinics and hospitals, Asia Watch and PHR concluded, that Cambodia has “the highest percentage of physically disabled inhabitants of any country in the world.”<sup>188</sup> Almost all these reports contain recommendations for the countries investigated or solutions to address the issue as a whole. In its report on the Philippines, AI recommended that the government make immediate inquiries into those individuals listed in the report as being victims of torture and the 88 officers listed in the report as having employed torture.<sup>189</sup> In *A Coward’s War*, Asia Watch and PHR called on the UN and ICRC to re-evaluate the 1980 CCW landmine protocol and urged governments to “seek advice from representatives of relief, medical, de-mining and military organizations.”<sup>190</sup>

In some cases, these general conclusions include the provisions that the NGO thinks should appear in the treaty. In the case of Landmines, the reports would frequently discuss how an outright ban on AP mines was the only viable solution. Analyzing other possible solutions and then proving that they would not adequately address the problem accomplished this. For example, the general conclusion is that mine clearance efforts are typically poorly funded and organized. Most mine clearing tools are simple farm instruments, little more than one moving through the field with a stick.<sup>191</sup> Also, mine-clearance is an extremely expensive endeavor. The

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<sup>188</sup> Stover, E. and McGrath R. 1991. *Landmines in Cambodia: The Coward’s War*

<sup>189</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975).

<sup>190</sup> Stover, E. and McGrath R. 1991. *Landmines in Cambodia: The Coward’s War*

<sup>191</sup> Jim Wurst, “Ten Million tragedies, One Step at a Time” *The Bulletin of the Atomic Scientists*, July/Aug 1993, p. 20

average mine costs between \$10 and \$20 while the average mine removal costs between \$300 and \$1,000 a mine.<sup>192</sup>

If available, NGOs like to include responses from the accused government in this final section. In the Philippine report, the government responded firstly stating that it regretted the AI mission had not adhered to the promises it made to the Philippine government.<sup>193</sup> For example, the mission was “to report in confidence to the Secretary-General... and to make no public statements during to the course of its mission.”<sup>194</sup> Further, the Philippine Government claims that Mr. Jones promised that the findings of the mission would be presented to government privately and no publicity would be made from the report. When part of the report was leaked to the press, AI used this as an excuse to publish the complete report, violating previous guarantees to the contrary.<sup>195</sup>

The purpose of this third section is to accomplish the second and third condition that I discussed earlier in the chapter. Standard setting is one of the first steps of building a norm and is associated with what defines acceptable behavior. By providing information, NGOs are directly trying to sway delegations towards specific beliefs on what behaviors are morally unacceptable. The conclusions that NGOs draw and subsequent recommendations that they make in this final section are a more direct way for the general public to let states know what behavior they deem

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<sup>192</sup> “A Weapon of Mass Destruction in Slow Motion in The Arms Project of Human Rights Watch and Physicians for Human Rights. 1993. Landmines: A Deadly Legacy. New York: Human Rights Watch.

<sup>193</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975). Pg. 65.

<sup>194</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975). Pg. 65.

<sup>195</sup> Report of an Amnesty International Mission to the Republic of the Philippines (London:Amnesty International, 1975).

abusive. Thus, these standards often serve as the basis for establishing the standards that will appear in a UN treaty.

Finally, as Peter Simmons points out, the monitoring that NGOs perform in these reports “call attention to violations of the UN Declaration on Human Rights.”<sup>196</sup> States do not exist to primarily report the truth; they are more than willing to hide or misreport information if it assists them in protecting their national interest. Scholars conclude that in many situations, normally ones where sovereignty concerns are low, it is easier to fix the problem than to deal with the resulting international pressure. In these instances, the mere mention of a violation can force states into compliance. My case studies seem to show that this theory is true, since merely publishing reports seem to have some effect on naming and shaming states into compliance.<sup>197</sup>

For example, Greece withdrew itself from the Council of Europe after AI’s two-year investigation into allegations of torture.<sup>198</sup> After publishing its report on Northern Ireland, the British government reluctantly accepted the findings of its own specially-appointed investigative commission that had come to similar conclusions. Of course, AI also met resistance from certain countries. After releasing its report on torture in Brazil in 1972, the Brazilian government banned any mention of AI in its press.<sup>199</sup> In the case of Landmines, the United States was unwilling to accept the conclusion that the only solution was an outright ban for most of the negotiations. States are often reluctant to let AI monitor, however, refusing to grant access is often seen as an admission of guilt in itself. It is important to note that the most abusive states will often attempt

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<sup>196</sup> Simmons, P. J. "Learning to Live with NGOs."

<sup>197</sup> However, an important caveat is that it is often difficult to ascertain who should be held responsible for these two human rights abuses. In some cases there is obvious government involvement, but even in these cases, the government will often deny responsibility either by remaining silent or giving false testimony (*Political Killings by Governments* (London: Amnesty International, 1983).

<sup>198</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

<sup>199</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

to clean up their act before a mission. This makes the work of NGOs harder, but it is almost impossible to erase all traces of abusive behavior.

NGOs also use this information to distribute petitions throughout the international community. Similar to its ability to attract delegates, this information provides the necessary moral capital to gain access to the public's time. It then provides the leverage that NGOs use to convince individuals to sign their petition.

The main thrust of AI's campaign was establishing its "Prisoner of Conscience Network". AI attempted to balance its selection of prisoners between democratic states, communist bloc, and the third world. Ten or so AI supporters would adopt three prisoners from these separate categories.<sup>200</sup> Once adopted, AI would write to these prisoners and their families and begin to work towards their release. Between 1970 and 1977, AI adopted more than 15,000 prisoners and was able to secure the release of more than 9,000 prisoners.<sup>201</sup> In 1973 AI moved from merely defending specific prisoners to calling for an outright ban on torture when it began to distribute a petition to all its members entitled "An International Appeal to Outlaw Torture". In one year this petition had gained more than one million signatures from 85 countries. This petition was then sent to the President of the UN General Assembly.

Concerning Landmines, PHR lobbied intensively in the US through a letter-writing and petition campaign based on the adoption of the Landmines Use Moratorium Act which was adopted by Congress as part of the Foreign Operations Appropriation Bill.<sup>202</sup> In Cambodia the ICBL launched a massive signature campaign gathering names at temple, markets and schools

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<sup>200</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*. Chapter 7.

<sup>201</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*. Chapter 7.

<sup>202</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*. Chapter 17.

throughout the country.<sup>203</sup> Leading up to negotiations in the UN, during a review conference of existing international law, the ICBL delivered a petition of 1 million signatures from people around the world calling for a ban.<sup>204</sup>

Again I conclude that following the Cold War there was shift in the international community that abusive behavior will no longer be tolerated. The raising of awareness that results from the distribution of information contained in NGOs reports begins this spirit to build political momentum. This momentum is captured through petitions that show states the preferences of the general public. Combined with the information, NGOs use these petitions to attract the attention of delegates in the UN. It is extremely difficult for states to ignore the general public once an issue is on the agenda of the international community. Political momentum builds until the UN can no longer ignore the issue.

However, the UN is often limited in the action it can take because it has to respect national sovereignty. During this early phase, NGOs can challenge state authority by redefining key international norms associated with the importance of sovereignty through the provision of information. Thus, the information NGOs gather through their monitoring activities provides a necessary function given this limit of the UN system. Once the issue is on the figurative international table, NGOs were able to gain access by sharing expertise that they have compiled in the various forms discussed in this chapter.

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<sup>203</sup> Williams, Jody and Stephen Goose. "The International Campaign to Ban Landmines". in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Toronto, Canada: Oxford University Press.

<sup>204</sup> Williams, Jody and Stephen Goose. "The International Campaign to Ban Landmines". in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Toronto, Canada: Oxford University Press.

## Chapter 4: Sovereignty the Sticking Point in Negotiations

As mentioned briefly in the preceding chapter, once the UN had taken up the issue in both case studies, NGOs used the information they possess as leverage to gain access to delegates. In an interview with AI member Professor Susan Waltz, she asserts, “power is not in repacking and distributing information but collecting new information.”<sup>205</sup> She claims that in many negotiations, NGOs gain access to negotiations because they possess information that is not available to states.<sup>206</sup> Granted access is dependent upon acceptance of NGO reports as legitimate within the international community, and a motivating factor for undergoing the measures discussed in the previous chapters to document how they gathered information. Through the provision of information, NGOs can get their ideas into negotiations, even if they are banned from actual proceedings.

This chapter will shift away from the early stages of raising awareness about the issue and move towards an examination of the negotiations that go into drafting a treaty in the UN with a focus on the sticking points in negotiations where state preferences diverge, thus causing major debate. This chapter will center on one case study the CAT, where the major issues of concern were universal jurisdiction and implementation procedures that included verification measures. Through this discussion I will examine how, once granted an initial access point to UN negotiations, NGOs change their tactics to focus on advocacy techniques. I conclude this discussion by comparing the work of NGOs at this stage in negotiations to that of a domestic interest group.

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<sup>205</sup> Interview with Susan Waltz, Professor at the Ford School of Public Policy at the University of Michigan. December 14, 2012.

<sup>206</sup> Interview with Susan Waltz, Professor at the Ford School of Public Policy at the University of Michigan. December 14, 2012.

Before beginning this discussion, however, it is necessary to give a brief background on how delegates interact during negotiations. An interview I conducted with the former US ambassador to Brazil, Melvyn Levitsky, provides a first-hand description of negotiations between member state delegations. In terms of the United States, delegations receive their instruction from the Department of State, and most states have a similar body.<sup>207</sup> The head delegate receives both instructions on what the goals/interests are for delegation and a variety of information compiled by the State Department and the intelligence community.<sup>208</sup> A majority of negotiation, according to Levitsky, is being aware of the personalities and positions of the other states involved.<sup>209</sup> This allows the delegation to be aware of where there are parallel and conflicting interests that will appear during negotiations. Delegations must work to build a coalition of these like-minded states in order to counter opponents.

For example, political action on torture was first taken up by the General Assembly with statements by the foreign ministers of Denmark, Sweden and the Netherlands at the 28<sup>th</sup> session of the General Assembly. The Danish Foreign minister discussed how he was “alarmed by the many reports of torture.”<sup>210</sup>

While NGOs were not directly present in these early negotiations, they were often referenced. During these early negotiations, states were still trying to gather as many facts as possible, such that NGOs such as AI were often approached for assistance. To illustrate, the Netherlands referred to reports from various parts of the world, which provide evidence that this “appalling practice has become rife and is often used against people suspected of having

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<sup>207</sup> The negotiation process is very similar for other state delegations.

<sup>208</sup> Interview with Melvyn Levitsky, Professor at the Ford School of Public Policy at the University of Michigan. December 21, 2012.

<sup>209</sup> Interview with Melvyn Levitsky, Professor at the Ford School of Public Policy at the University of Michigan. December 21, 2012.

<sup>210</sup> GAOR, 28<sup>th</sup> Session, 2128<sup>th</sup> Plenary Meeting

committed a political offence.”<sup>211</sup> Even more powerful states such as the Federal Republic of Germany mentioned the work of NGOs as proof of the prevalence of torture in the world, “ ‘non-governmental organizations and the mass media’ maintained that torture was ‘one of the most serious and widespread forms of ill-treatment of human beings at the present day’ .”<sup>212</sup>

Further, since they were often denied access to proceedings NGOs began to hold side conferences that paralleled negotiations. These conferences may cover anything from debate on a specific clause to providing information to delegates before an upcoming session. Some conferences were held by AI to target its own members. During the campaign against torture, AI’s network spanned the entire globe. While AI allowed regional circumstances to dictate most of its national chapter strategies, large conferences were often convened to remind these regional groups of the overall international goal. For example, in 1975 AI held a Regional Conference in New Delhi, India. The purpose of this conference was to specifically discuss the development of AI programs in southern Asia.<sup>213</sup>

Sweden introduced an AI sponsored draft resolution (no. 3059) at the General Assembly third committee, calling for the Assembly to examine the question of torture as a separate agenda item at its 29<sup>th</sup> session.<sup>214</sup> Sweden had gained the support of the Danish, Irish, and Austrian delegations.<sup>215</sup> Based on recommendations from Denmark, the resolution was slightly modified a

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<sup>211</sup> Report of the Third Committee, GAOR, 28<sup>th</sup> Session, Annexes, Agenda item 56, A/9240 par. 6.

<sup>212</sup> A/C.3/SR.2064 par 15

<sup>213</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976).

<sup>214</sup> The Resolution was also sponsored by Austria, Costa Rica, Ireland, the Netherlands, Sweden, and Trinidad and Tobago.

<sup>215</sup> Amnesty International 1961-1976 A Chronology (London: Amnesty International, 1976) and Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*.



to include a standard setting provision that rejects any form of torture and other cruel, inhuman or degrading treatment or punishment.<sup>216</sup> Sweden submitted the resolution as a revised draft.

In 1974 the agenda of the UN General Assembly contained an item “Torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment.”<sup>217</sup> The delegations of the Netherlands and Sweden collaborated with Austria and Ireland to edit and submit the draft resolution to the General Assembly on November 6, 1974.<sup>218</sup> The General Assembly adopted it as Resolution 3218, calling on the 1975 Fifth UN Congress on the Prevention of Crime and the Treatment of Offenders to Consider Rules Against Torture, Safeguards Against Arbitrary Detention to further examine the issue of torture.<sup>219</sup> The principles established in this resolution would eventually serve as the basis for the Declaration against Torture.

However, despite calling on states to obey existing international treaties, this resolution did not include a single clause about how the UN would attempt to locate member states that were still committing acts of torture (these provisions are known as fact-finding). At that time, there was little precedence for fact-finding and implementation clauses in international law, since the Cold War still dominated international relations, and thus member states were concerned about violations of their national sovereignty. Most of this monitoring work was done by NGOs, as discussed in the previous chapter. The member states that drafted this resolution were willing

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<sup>216</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 14.

<sup>217</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 14.

<sup>218</sup> Additional delegations, Bangladesh, Costa Rica, Jordan, and the Philippines joined as sponsors of the resolution (CAT Handbook Pg. 14).

<sup>219</sup> Willets, Peter. 1996. *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN*

to sacrifice this point in favor of mobility because they wanted to capitalize on the momentum caused by the human rights situation in Chile.<sup>220</sup>

In preparation for the Fifth UN Congress, AI spent a year lobbying governments. During this time, it submitted a 16-page document with a series of recommendations and sponsored educational seminars.<sup>221</sup> The Congress dealt with a number of problems concerning torture, as dictated by the General Assembly. Primarily, the Congress would be responsible for creating and then reporting to the General Assembly “an international code of ethics for police and related law enforcement agencies”, as well as elaborating upon the standards for the treatment of prisoners.<sup>222</sup>

The Congress decided that torture was the most important issue at hand, so it created a working group to implement Resolution 3218.<sup>223</sup> The working group concluded that the basis of its work would be turning article 5 of the Universal Declaration of Human Rights into a new draft declaration.<sup>224</sup> Based on this decision, the Swedish and Netherlands delegations submitted a draft recommendation that allowed the Congress to go beyond its original mandate, as stated in resolution 3218. It also allowed the Congress to forward the creation of a code of conduct for police officials to the UN Committee on Crime and Prevention Control.<sup>225</sup> The major debates during drafting included developing a definition of torture and the relatively weak enforcement

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<sup>220</sup> Rodley, Nigel. 2003. “United Nations Human Rights Treaty Bodies and Special Procedures of the Commission on Human Rights: Complementarity or Competition?”

<sup>221</sup> Cook, Helena. 1996. “Amnesty International at the United Nations.” Pp.181-213 in Peter Willetts (ed.), *The Conscience of the World: The Influence of Non-Governmental Organizations in the UN System*

<sup>222</sup> General Assembly Resolution 3218

<sup>223</sup> Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*.

<sup>224</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Dordrecht, the Netherlands: Martinus Nijhoff Publishers. Pg. 15

<sup>225</sup> UN doc. A/CONF.56(V)/Misc. 2, I Sept. 1975

procedures that only require states to try to implement the principles in the draft declaration.<sup>226</sup> NGOs were still involved in the negotiation process at this point, but mainly they were called upon to provide information and expertise. The working group then submitted the draft to the fourth session of the Congress, who made a few minor changes and then unanimously adopted it.<sup>227</sup>

In June, 1975 AI sponsored a seminar in The Hague for police officials from eight different European countries. Out of this conference emerged a code of ethics for police officials, including a provision that justified police officers disobeying orders to inflict torture.<sup>228</sup> This code was eventually distributed to member delegations of the Fifth UN Congress on the Prevention of Crime and Treatment of Offenders by the Netherlands. This Conference assisted the Congress by allowing it to focus on the elaboration of a draft declaration.

Other smaller NGOs also met in 1975 to host similar conferences. The International Council of Nurses met in Singapore to adopt a resolution on the “Role of the Nurse in the Care of Detainees and Prisoners”. The World Medical Association met in Tokyo and adopted a Declaration of six articles containing “Guidelines for Medical Doctors concerning Torture...”<sup>229</sup> Furthermore, AI also collaborated with other NGOs during some of these conferences. In

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<sup>226</sup> The delegations of Norway, Greece, the Federal Republic of Germany, and Australia did, however, address lack implementation provisions and the need for international supervision that was not included in the final text (Rodley).

<sup>227</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 16.

<sup>228</sup> Amnesty International 1961-1976 *A Chronology* (London: Amnesty International, 1976)

<sup>229</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 16.

collaboration with the ICJ, AI drafted a “Code of Ethics for Lawyers, relevant to Torture and other Cruel, Inhuman or Degrading Punishment”.<sup>230</sup>

Resolution 3452, also known as the Declaration Against Torture, was submitted to the UN General Assembly in December 1975 by the Netherlands. It contained four main sections: (1) rules against torture and ill-treatment, (2) safeguards against arbitrary arrest and detention, (3) professional ethics for police and analogous officials, and (4) professional ethics for medical personnel. Following the passing of the Declaration, the General Assembly passed Resolution 3453, which called for the Commission on Human Rights to study the issue of torture, specifically to (1) “ensure the effective observance of the Declaration...” and (2) “the formulation of a body of principles for the protection of all detainees and prisoners.”<sup>231</sup>

The death of Stephen Biko in South Africa, combined with the continued brutalities in Chile, provided additional momentum for the campaign in the UN. During the thirty-second session of the General Assembly, Sweden set in motion the drafting of a treaty against torture.<sup>232</sup> Sweden argued that the Declaration “should not be the ultimate goal of the United Nations’ efforts to protect all persons from torture, and that the works should lead up to a legally binding international instrument.”<sup>233</sup> Further, in order to strengthen the Declaration during draft negotiations, the Assembly authorized the development of a questionnaire for distribution to

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<sup>230</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 19.

<sup>231</sup> Resolution 3453, Articles 2a and 2b

<sup>232</sup> General Assembly Resolution 32/62

<sup>233</sup> GAOR, 32<sup>nd</sup> Session, Third Committee, Summary Records, A/C.3/32/SR.35 par. 22

member states detailing their compliance with the DAT<sup>234</sup> and encouraging governments to obey their eventual commitment to the CAT.<sup>235</sup>

Between 1979 and 1984, the CHR requested that ECOSOC form an open-ended working group in order to draft concrete procedures.<sup>236</sup> This group met each January for one week before the official start of that years' CHR session.<sup>237</sup> After its opening session, the Commission would change the pre-sessional working group into a sessional working group that would continue to work on the current draft. Being an open-ended working group means that no votes can be taken; thus decisions on textual changes in the current draft must be made by consensus.<sup>238</sup> When consensus cannot be reached, the working group is obliged to report to the Commission the differing opinions expressed during the discussion of that provision.

One of the conditions of an open-ended working group is that all CHR members can participate. Even states that were not members of the CHR could attend as official observers. NGOs that possessed consultative status with ECOSOC can also attend these sessions with the same observer status. However, in practice these sessions were only attended by 20 to 30 delegations and most were Western countries.<sup>239</sup> Frequent participants were Australia, France, the UK, and the US. Nonetheless, there were still a fair number of regular non-Western participants including Argentina, Brazil and the Soviet Union.

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<sup>234</sup> General Assembly Resolution 32/63

<sup>235</sup> General Assembly Resolution 32/64

<sup>236</sup> Rodley, Nigel. 1987. *The Treatment of Prisoners Under International Law*. And

<sup>237</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 31.

<sup>238</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 35

<sup>239</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 35.

Although AI does not submit specific drafts during negotiations, other NGOs did submit draft conventions. The International Association of Penal Law (IAPL), in cooperation with the ICJ, sponsored the preparation of a draft convention declaring torture a crime under international law.<sup>240</sup> It was submitted to the UN on January 15, 1978.<sup>241</sup> Jean-Jacques Gautier, after studying torture, concluded that the only effective combative means is “a system of inspection through regular visits to all places of detention.”<sup>242</sup> Through the his own NGO, Gautier convened a meeting of experts to prepare a first draft of a *Convention concerning the Treatment of Persons Deprived of their Liberty*. This draft established a supervisory commission that would have the authority to send a delegation authorized to visit any center of interrogation, detention, or imprisonment to states who are party to the convention.<sup>243</sup>

In 1978 the Swedish government submitted a draft convention that would be the basis of most of the deliberation in the working group.<sup>244</sup> This draft was chosen over the draft proposal submitted by the IAPL.<sup>245</sup> It was primarily based on Declaration Against Torture, and thus contained many of the same elements. Despite the IAPL draft not being chosen, NGOs continued to lobby state delegations in more informal settings in order to ensure that a number of key

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<sup>240</sup> ICJ came up with the first draft and then collaborated with AI, the ICRC and a large number of experts in international law to make edits. The IAPL then held a drafting committee at the International Institute of Higher Studies in Criminal Sciences at Siracusa, Sicily where NGOs came up with a Draft Convention for the Prevention and Suppression of Torture.

<sup>241</sup> E/CN.4/NGO/213

<sup>242</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 26.

<sup>243</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 27.

<sup>244</sup> E/CN.4/1285

<sup>245</sup> Based on the proposal of Niall MacDermot, Costa Rica submitted the CSCT draft as an optional protocol to the Swedish draft (E/CN.4/1409). To ease concerns this protocol would not be considered until after the adoption of the convention.

principles were included, namely: (1) the obligation of states to extradite or try alleged torturers, (2) the universality of jurisdiction, (3) an effective implementation mechanism in the treaty, (4) extending all relevant provisions to ill-treatment, and (5) the rehabilitation of victims.<sup>246</sup>

One of the most important, and subsequently controversial, additions discussed above was the clause found in Article 8 that established the “principle of “universality”. For the sake of brevity, this paper will focus on this particular sticking point. I chose this issue because it serves as one of the best representations of the tug-of-war between international law and state sovereignty. Given states concern about violations into national sovereignty, one concludes that they will argue much more strongly for a treaty that matches their individual preferences. Therefore, the influence of NGOs is made all the more significant given states reluctance to allow outside influences to dictate their national policy.

Universality means that states should have jurisdiction over the crime of torture wherever it had been committed (even if this was outside the prosecuting state), and this authority should be used by a state if an individual accused of committing torture has been found in their territory.<sup>247</sup> The purpose of universal jurisdiction<sup>247</sup> is to make it very difficult for a torturer to find safe haven in a state that has ratified the Convention. However, this authority only holds if the state does not extradite the accused torturer based on the “principle of territoriality” and the “principle of nationality”.<sup>248</sup>

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<sup>246</sup> Willets , Peter. 1996. *The Consience of the World: The Influence of Non-Governmental Organizations in the UN*

<sup>247</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.* Pg. 58.

<sup>248</sup> The “principle of territory” states that a state has criminal jurisdiction when the offence was committed within their territory. The “principle of nationality” means that a state also has jurisdiction when the accused torturer (Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the*

Negotiations in the working group on this issue occurred between 1978 and 1983. Between 1978 and 1979, the working group requested that the SG invite governments to express their opinions on the Swedish draft. The Secretary General received comments from 17 governments, which he subsequently compiled into a summary document and presented to the working group.<sup>249</sup> Many states were reluctant to allow universal jurisdiction for fear of losing some degree of national sovereignty. The leaders of those states using torture feared that they could be extradited and tried in a foreign court. Similarly, other nations such as the United States feared that their soldiers could be held accountable for following orders. The Soviet Union was concerned that universal jurisdiction could lead to increased conflict if a state did not recognize jurisdiction based on the principles of "nationality" or "territoriality".<sup>250</sup> Italy concurred, stating that it would be desirable to establish an order of precedence for the different categories of jurisdiction.<sup>251</sup>

At this point in negotiations, NGOs were limited in their involvement in negotiations. They could observe proceedings, but had to be invited by a member state to participate directly. For example, in 1979 AI was invited to speculate about how human rights would fare at the UN.<sup>252</sup> Nigel Rodley was rather pessimistic, stating, "the best that could be hoped for was the

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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)  
<sup>249</sup> The Swedish draft was most well received by Austria, Denmark, the Federal Republic of Germany, Norway, Portugal, Somalia, Switzerland, and the US (E/CN.4/1314 with Addenda 1, 2, 3).

<sup>250</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 57-59.

<sup>251</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 58.

<sup>252</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: "A Curious Grapevine"*. Chapter 11.



prevention of ‘erosion of such gains as have already been achieved’.<sup>253</sup> Further, he found that the 1503 procedure “has not even yielded...one thorough study or investigation.”<sup>254</sup> Concerning the Campaign Against Torture, he cited the same problem that many states found with earlier drafts: that they did not do enough to secure compliance by member states.

Progress on the issue of sovereignty was not really made until 1982. The working group tried a new strategy: instead of focusing on achieving consensus, it would identify certain key issues and explore different solutions.<sup>255</sup> It would then present all these solutions to either the CHR or the General Assembly, who did not have to reach consensus, but could instead bring each issue to vote.<sup>256</sup> By this point, Swedish draft (which had undergone multiple revisions) gained the support of the Netherlands, France, the United States, and, finally Australia.<sup>257</sup>

However, countries such as Brazil were still concerned that universal jurisdiction could be used for political reasons. States could hold trials accusing Brazilian citizens on false evidence in order to pressure the Brazilian government. The delegation suggested a similar proposal to an earlier one withdrawn by the Netherlands that makes the exercise of universal jurisdiction dependent on the refusal of a request for extradition.<sup>258</sup>

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<sup>253</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”* Chapter 11.

<sup>254</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”*

<sup>255</sup> E/CN.4/1982/L.40

<sup>256</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 77.

<sup>257</sup> Given the U.S. position on previous international issues and concerns that its soldiers could be tried in international courts, its sudden support of the CAT was extremely surprising. It felt that leaving enforcement up to individual states and not the international community would effectively accomplish nothing to limit the amount of torture in the world (CAT Pgs. 78-79).

<sup>258</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 78.

Brazil was eventually satisfied by a chairman recommendation that proposed a slight change to article 7. The change ensured that the evidence required to invoke universal jurisdiction would match that necessary for jurisdiction based on nationality or territoriality.<sup>259</sup> With this addition, the remaining articles referring to universal jurisdiction of the Swedish draft would remain the same.<sup>260</sup> However, Brazil did submit the proposal that universal jurisdiction would apply under certain conditions only if “the states of territorial or national jurisdiction did not request extradition with a set period or if such a request were denied.”<sup>261</sup>

In 1984 AI once again conducted a worldwide survey to update its findings from its survey.<sup>262</sup> The survey found that torture was still very much a problem in the world.<sup>263</sup> Following this pressure, the working group was able to achieve consensus on almost all the provisions of the draft convention, including universal jurisdiction. Scholars assert that this progress was made for four separate reasons: “(1) radical change in the Argentine position after the end of the Pinochet military rule; (2) active support of the Senegalese delegation; (3) the constructive role of the Indian delegation; and (4) the flexible and cooperative attitude of the Soviet delegation.”<sup>264</sup> The only major remaining points of contention involved article 20 and the second half of article 19, both of which concerned implementation of the treaty.

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<sup>259</sup> E/CN.4/1982/WG.2/WP.5

<sup>260</sup> The relative clauses are article 5, paragraph 2, and article 6, paragraph 4 (Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 79).

<sup>261</sup> E/CN.4/1983/WG.2/WP.12

<sup>262</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”*. Chapter 11.

<sup>263</sup> Korey, William. 1998. *NGOS and the Universal Declaration of Human Rights: “A Curious Grapevine”*. Chapter 11.

<sup>264</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 92.

At this point the Chairman concluded, “the work of the Group had reached a stage which made it desirable that the Commission itself should devote a substantial debate to the draft convention well before the close of the session.”<sup>265</sup> NGOs were once again able to participate during the debate in the Commission. Statements were made on the behalf of AI, the IAPL, and the ICJ. The SG of AI, Thomas Hammarberg, even made a statement before the entire CHR. The CHR decided to submit the draft through ECOSOC to the General Assembly, and assigned them the task of resolving the remaining points of contention.<sup>266</sup> The CHR also included the report of the Working Group and the summary records of the Commissions debate.

During this session of the General Assembly, states that had previously been absent from the debate began to participate in negotiations. More than 30 governments responded to the request of the SG to comment on the submitted draft convention, with almost half of these comments from states that did not participate in the working group.<sup>267</sup> Support for the draft was not as large in the Assembly as the CHR, since many African and Asian states had misgivings about the current draft convention.<sup>268</sup> Most had difficulties with the inquiry and implementation system of article 20, and some went as far as to state that the article should be eliminated entirely. A compromise was reached by making certain changes to the two articles based on a Byelorussian proposal. Furthermore, Article 28 was added, allowing amendments in case the

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<sup>265</sup> This would differ from the CHR’s traditional approach of holding a procedural debate at the closing of its annual session (Burgers, J.H. 1998 Pg. 91).

<sup>266</sup> Finland and the Netherlands consulted with other delegations to draw up the draft resolution. It was submitted on February 28<sup>th</sup> by Argentina, Finland, India, the Netherlands, Senegal and Yugoslavia. (Commission Resolution 1984/12).

<sup>267</sup> This was the reason behind the CHR decision to submit the resolution to the General Assembly, as they felt that only a limited number of members had participated in the working group.

<sup>268</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 103.

political landscape changed after a state has ratified the convention.<sup>269</sup> Still, delegations such as Syria, Turkey, Japan, Tunisia, Bangladesh, and Romania thought that the convention required further discussion to reach complete consensus on all provisions.<sup>270</sup> On December 10, 1994 the General Assembly adopted without vote the draft resolution as submitted by the third committee and opened it for “signature, ratification, and accession.”<sup>271</sup>

In the last analysis, nearly every sticking point in international negotiations revolves around the issue of sovereignty. States are concerned that outside influences may complicate the drafting process and lead to a final treaty that does not match their preferences. This limits the role of NGOs once negotiations have begun compared to the awareness raising stage. Banning torture is an issue that would likely have an effect on the domestic legislation of most states. However, while independent influence may be lower than in earlier stages, that does not mean it is nonexistent once negotiations have begun.

My earlier analysis on the work of previous scholars discussed how interest groups lobby governments in order to get their preferences represented in domestic legislation. This case study supports my initial hypothesis that this theory could be applied to international relations was correct. Not only do NGOs work in the domestic sphere, but also they take this a step further by lobbying state delegations in order to get their preferences included in treaties. One of the major roles of interest groups is the provision of information. As seen in the discussion above, the work of NGOs was regularly referenced by state delegations during negotiations in the working group.

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<sup>269</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 99.

<sup>270</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 106.

<sup>271</sup> A/C.3/39/L.40

Still, ignoring the effects of framing as discussed in the previous chapter, it was the states themselves that were determining what to do with this information. For instance, Norway's Foreign Minister, during discussions, took the time to acknowledge, "the work carried out by AI and the campaign against torture."<sup>272</sup>

However, I would argue that the information distributed by NGOs provided the necessary momentum to move negotiations forward. The catalysts of this movement, states such as Denmark, Sweden and the Netherlands, lack the political clout of larger states such as the US or China. Nonetheless, they do possess a characteristic that during negotiations in the CAT seemed just as important, a good reputation in international relations. There are many comparisons that can be drawn from the relationship between large vs. middle sized states and interest groups vs. NGOs. In both categories, the latter lacks either the military or economic resources necessary to coerce states towards a given action. Therefore, they have to rely on persuasion to sway member states towards their preferences.

Once negotiations have begun, from the preceding discussion, it appears that NGOs possess two main interrelated resources of persuasion at their disposal. The first, as discussed in the previous chapter, is the power of the information they can provide. The second is their ability to "name and shame" states into compliance with this information. Not only does the information NGOs provide grant them access to negotiations, it more importantly acts as the capital necessary for medium-sized states to gain access to the time of their larger counterparts, thereby moving negotiations forward. To illustrate, Bulgaria, a state with a less than stellar human rights record, referred to the report issued by AI after it sent a delegation to Chile.

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<sup>272</sup> The Foreign Ministers of Belgium and Luxembourg all referred to continuing reports of torture around the world (A/PV.2241,83).

A lot of the momentum in the CAT can be attributed to changing political dynamics, especially in Latin America. However, it was the monitoring done by NGOs that brought this problem to light. For example, the information that AI provided in its second worldwide survey in 1984 showed that torture was still a problem. This caused the working group to realize that the longer they delayed, the worse the situation would become and drove them to reach consensus on almost all issues that very year. The delegations of Argentina, the Netherlands and Sweden decided they could no longer delay and submitted a proposal to adopt the convention before the Third Committee. They felt pushed towards this action when they heard rumors that certain states planned on a draft resolution that would delay the examination of the draft convention by the GA until the following session next year.<sup>273</sup>

Moreover, interest group theory from other scholars emphasizes that these groups often help to solve a principal-agent problem, where the agent may not understand the preferences of the principals it represents. Interest groups serve as the connector between a state and its citizens, thus solving this problem. My case study on the CAT shows how NGOs serve a similar function by gaining an understanding of negotiations. Through their established networks, NGOs can pass on information to their domestic constituents. One of the ways that NGOs serve as the connector, as seen above, is by hosting of parallel conferences. A large portion of AI's success in the CAT can be attributed to its ability to take grassroots campaigns and apply them to a flexible international agenda. This can be seen in AI's regional conference in New Delhi. These conferences can also help to streamline negotiations by assisting states in drafting certain

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<sup>273</sup> This proposal was also sponsored by: Bolivia, Colombia, Costa Rica, Denmark, the Dominican Republic, Finland, Gambia, Greece, Norway, Samoa, Spain, Australia, Austria, Belgium, France, Iceland, Panama, Portugal, Singapore and the UK.

clauses. For instance, the AI seminar in the Hague in 19XX led directly to the creation of a code of ethics for police officials.

This ability to serve as connectors did give NGOs some degree of influence during negotiations in the working group. Once NGOs have informed domestic constituents of events occurring during negotiations, they can then in turn pass on the domestic audiences' opinion to state delegations. This domestic opinion can often pressure states to move in a certain direction. Ambassador Levitsky emphasizes that one of the most difficult parts of negotiations is striking a balance between the secrecy required for delicate compromise and the ultimate ratification necessary in dualist countries. Therefore, he asserts, "NGOs can make something very hard to ratify by exposing its duplicity."<sup>274</sup>

This can be seen by the certain degree of success that NGOs had in lobbying for the inclusion of certain textual provisions in the CAT. In the case of the issue of universal jurisdiction, while most of the political pressure was accomplished by states without the assistance of NGOs, this provision would most likely have not been included in the final convention without their efforts. For example, the United Kingdom was extremely reluctant to consider even the smallest degree of extraterritorial jurisdiction until domestic AI offices began to pressure members of parliament.<sup>275</sup>

The inclusion of universal jurisdiction was actually successful in combating the situation in Chile, which as discussed earlier in the chapter was one of the major motivating factors leading to the CAT. In October 1998, a Spanish magistrate "indicted Augusto Pinochet on a

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<sup>274</sup> Interview with Melvyn Levitsky, Professor at the Ford School of Public Policy at the University of Michigan. December 21, 2012.

<sup>275</sup> Burgers, J.H. 1998. *The United Nations Convention Against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Pg. 58.

number of human rights violations, including torture committed after his government had ratified the Convention a decade earlier.”<sup>276</sup> Pinochet was placed under house arrest, and when he returned to Chile, he faced prosecution for the remainder of his life.

The next chapter will turn to a discussion of my second case study on Landmines. In both negotiations, NGOs collaborated with states to overcome these difficulties; however, in the Landmines Convention, the work of NGOs was much more visible. It is natural to conclude that NGOs therefore had a greater degree of influence over the proceedings. Further, scholars conclude that the final pushing factor that led to the submission of a draft convention of the CAT was changes in the political landscape, such as the fall of the Pinochet Regime in Chile. This was not the case in Landmines; if anything, the political scene was working against the speedy ratification of a convention. Finally, most scholars agree that the Landmines Convention was the first time that negotiations ended with a treaty stronger than the draft on which negotiations were originally based. The next chapter will compare the CAT to Landmines in order to theorize why NGOs seemed to have a larger degree of influence.

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<sup>276</sup> von Stein, Jana. 2012. *The Autocratic Politics of International Human Rights Agreement Ratification*. Manuscript, University of Michigan



## **Chapter 5: The ICBL Moves Past Basic Interest Group Theory**

This final chapter turns to an examination of my second case study, the Ottawa Convention Banning Landmines. An examination of my second case study revealed that the work of the ICBL is much more visible than AI's work in CAT. This increased visibility seems to correlate with increased influence over state delegations. Therefore, this chapter seeks to answer; why were NGOs in the Landmines Convention able to have a greater amount of influence over negotiation proceedings than in the CAT?

This is not to downplay the work of NGOs during the CAT process. Instead I wish to examine why, despite being allowed to participate in pre-sessional working groups as observers in the CAT, NGOs are almost always mentioned in the negotiation records only once drafting had begun. This compares to the Landmines Convention, where the ICBL not only assisted in drafting actual text, but also assisted states such as Canada in dictating policy for the campaign. Again this chapter will focus on state's positions during negotiations and the strategies employed by NGOs to influence these past a specific sticking point: in this case the actual ban of AP mines. I will examine whether the ICBL employed different strategies from those used in the CAT, or whether there were other political factors that came into play affecting negotiation proceedings.

At the end of the conference, the ICBL arranged for the Ekos Research Associates to design and conduct a focus group discussion with delegates at the Ottawa Conference.<sup>277</sup> The purpose of this survey was to determine the key aspects that led to the success of the Ottawa Conference. I have narrowed down the results of this comprehensive survey into three points: (1) using a multidisciplinary approach to frame the ban as a humanitarian and not a security issue,

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<sup>277</sup> Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

(2) joining a coalition of like-minded states, and (3) moving negotiations outside the traditional disarmament method in the UN.

In the previous chapter I compared the work of NGOs to that done by domestic interest groups. I conclude that the survey fails to make the connection between the success ICBL via its ability able to move past the typical interest group theory consisting of providing information and lobbying individual delegates as seen the CAT. The ICBL, to an even greater degree than AI, recognized even though it did not possess the military or economic resource of a state, it had plenty to bring to the table.

There were two key events before the Landmine issue even began to build momentum in civil society and the UN. Additional protocols were added to the Geneva Convention through the 1980 Convention on the Prohibition or Restrictions on the Use of Certain Weapons (CCW). Restrictions on the use of AP mines are defined in the CCW's Protocol II. The Protocol was designed to reduce civilian casualties by reducing the way AP mines could be used.<sup>278</sup> The second event did not occur until almost a decade later in 1992 when the United States, through the efforts of Senator Patrick Leahy, passed a bill in the Senate that established a one-year moratorium on the export and transfer of AP mines (WWF-Wareham). During this time, the United States Campaign to Ban Landmines (USCBL), a subset of the ICBL, worked closely with the offices of Senator Leahy.<sup>279</sup> During an early meeting, the senator's staffer Tim Rieser, informed ICBL director Jody Williams that Leahy would be willing to enter the campaign into

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<sup>278</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>279</sup> His involvement with the landmine issue dated back to the 1980s when he visited a field hospital on the Honduran border. There he met a boy who had lost a leg to landmines (Wareham, Mary. "Rhetoric and Policy Realities in the United States).

the congressional record.<sup>280</sup> This established a partnership between Leahy and the ICBL that would last the entire campaign.

Momentum in the UN increased because of an effective campaign by the ICBL requesting a reevaluation of the CCW.<sup>281</sup> The campaign directly resulted in Francois Mitterrand's call for a review of the CCW on an official visit to Cambodia.<sup>282</sup> In an interview, Ms. Williams claimed that President Mitterrand called for this review to get “the NGOs and the French public...off his back.”<sup>283</sup> On December 16, 1993, the General Assembly adopted the French resolution calling on the SG, in his role as CCW expository, to organize a review conference.<sup>284</sup> A Mexican amendment to this Resolution called on the Review conference to establish an outright ban on AP mines. A year earlier this position would have been unachievable, but the movement towards an outright ban had gained the support of states such as Austria, Belgium, Cambodia, Colombia, Estonia, Ireland, Mexico, Norway, Sweden and Switzerland.

The US was one of only three countries to abstain from the resolution. Despite support from Leahy and UN Ambassador Madeline Albright, the Pentagon actively campaigned against the resolution.<sup>285</sup> At this point, the Pentagon's position against an outright ban of AP mines was strengthened by the release of a report from all seven of the U.S. regional Commanders-In Chiefs

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<sup>280</sup> Jody Williams, ‘Notes on meeting with Tim Rieser, Leahy’s aid’, memorandum to Bobby Muller, John Terzano, Tom Cardamone, and VVAF staff, 5 Dec. 1991.

<sup>281</sup> The previous release of SG Boutros Boutros Ghali’s paper, “An Agenda for Peace”, designated The Department of Humanitarian Affairs as the focal point for mine-related activities.

<sup>282</sup> Part of this pressure included an updated edition of the Coward’s War which it distributed to all European Parliament members (Rutherford). The United States was unable to call a review on the conference since it was not a part of protocol II (Rutherford).

<sup>283</sup> Mitterrand had received a number letters from HI alerting him to the urgent need for action on the landmines issue (Chabasse, Philippe “The French Campaign”).

<sup>284</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*

<sup>285</sup> Albright wrote a confidential letter to President Clinton informing him that current US policy would not lead to the elimination of landmines “in our lifetime”. This letter was eventually leaked to the New York Times. (Raymond Bonner, ‘Pentagon Weighs Ending Opposition to a Ban on Mines’, *New York Time*, 17 March. 1996).

(CINC) analyzing the perceived utility of landmines. Only the CINC responsible for Korea argued for the retention of AP mines, but this location was deemed too strategic to support an outright ban.<sup>286</sup> Nonetheless President Clinton maintained that the US was committed to combating the problem of landmines. On October 7, 1994, the US State Department held a briefing to outline their proposed “Landmine Control Regime” (WWF-Wareham). This regime proposed a four-track system focused on demining, export moratoriums, development of an AP landmine control regime, and strengthening the CCW (CCF-McNamara).

In response to increased resistance from the US, ICBL members organized the international conference “The Human and Socio-Economic Impact of Landmines: Towards an International Ban” in Cambodia. Here the ICBL established its “Phnom Penh” formula that would serve as the basis of the ICBL strategy for the remainder of the Landmine campaign.<sup>287</sup> The formula recognized that while a cohesive overall strategy is necessary, it needs to be flexible enough to adjust to cultural and regional differences. On-site missions to collect information should continue, but they should also focus on educating local populations on advocacy techniques.<sup>288</sup>

The Phnom Penh formula marked a turning point in Landmine negotiations, whereby the ICBL came to a realization that a multidisciplinary approach was needed. Most scholars, and the survey conducted by the Ekos research division, conclude that the crux of this approach was

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<sup>286</sup> Wareham, Mary. “Rhetoric and Policy Realities in the United States” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>287</sup> The “Phnom Penh” formula was based on non-violent peace walks known as Cambodian Dhammayietras where 4,000-7,000 Buddhist monks walked through local Cambodian communities promoting peace (Rutherford).

<sup>288</sup> Examples of these training sessions included: Using the Media and Campaign Awareness, How to Write a Media Release, How to Be Informed About Landmines, How to Start a Country Campaign, and a Case Study of a Successful Campaign.

seeking out the support of specialists in a variety of fields (such as medical and economic development), and not just foreign affair experts (Clearing, Cahill). However, from my analysis I conclude that there are two components towards a multidisciplinary approach that scholars are neglecting to consider: (1) victims representing themselves in negotiations and (2) the use of other media besides reports to highlight the brutality of landmines. Both of these characteristics can be seen in the strategy behind the Phnom Penh formula that was applied to the CCW review conference.

The official Review Conference of the CCW occurred three years after the original resolution, between April 22-May 3, 1996 in Vienna, Austria. The ICBL sent a team of organizers to Vienna weeks in advance to assist the Austrian government in its preparations. This review conference was the first time that victims were physically able to testify before delegates. Ken Rutherford discussed his experience working in Somalia with the International Rescue Committee.<sup>289</sup> He vividly described how “after the explosion, I saw my foot lying on the floorboard of the car. I thought, ‘Is it mine?’ I kept trying to put it back on. I dragged myself out of the car and called for help on my radio.”<sup>290</sup>

Further, sticking with the Phnom Penh formula that I highlight, Pax Chrisiti, a member of Save the Children Austria, arranged for six tons of shoes to be delivered to the Austrian

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<sup>289</sup> White and Rutherford. “The Role of Landmine Survivors Network” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Pg. 99-100

<sup>290</sup> White and Rutherford. “The Role of Landmine Survivors Network” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Toronto, Canada: Oxford University Press.

parliament. Each pair represented a child affected by AP mines.<sup>291</sup> The ICBL published a weekly “CCW News” which ran stories on particular activists, delegations and regularly reported on state positions. One of the most popular columns, “The Good, The Bad and the Ugly”, caused a lot of anger among states because of its criticism, but “it also pressured them to bring their public statements in line with the realities of their negotiating positions or vice versa.”<sup>292</sup> A member of the USBCL, Lora Lumpe, described the work done at the two CCW conferences as something that had never been seen before: “they had a newsletter, mines laid on the floor, videos showing between delegates’ meetings and very aggressive lobbying, pigeonholing, and brow beating of delegates.”<sup>293</sup>

It was not just the ICBL who began to take this approach; the ICRC realized the stigmatization of the use AP mines in the public conscience could not be achieved by merely relying on written reports. The ICRC began to release a series of TV spots and print announcements that focused on the humanitarian costs of AP mines.<sup>294</sup> Jerry White, working with the Landmines Victim Assistance (LVA), organized the “We Are Outraged” Conference so that survivors from Cambodia, Afghanistan, Mozambique, England, Bosnia, and the United States could come together to express their anger at the lack of action by diplomats. One by one,

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<sup>291</sup> A similar effort was made by HI in its “One Mine, One victim, One Shoe to Say No” public campaign. Individuals were invited to place one shoe on a pyramid of protest, which would then be sent to Vienna (Chabasse, Phillippe “The French Campaign”).

<sup>292</sup> The “CCW News” was not only distributed to delegates, but through fax and email was distributed to the ICBL’s network around the world. (Chabasse, Phillippe “The French Campaign”).

<sup>293</sup> Interview with Lumpe contained in WWF- Wareham

<sup>294</sup> Maslen, Stuart. “The Role of the International Committee of the Red Cross” in in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*

survivors came before the group removing their prosthetic limbs, and then described their personal stories to conference attendees.<sup>295</sup>

A comparison to my previous case illustrates the difference in approach taken by the ICBL. While AI in the CAT also emphasized that torture should be addressed because of moral concerns, they did not move beyond the traditional lobbying techniques of providing reports and lobbying for textual provisions associated with existing interest group theory. Moving beyond this theory was how the ICBL shifted the debate from one based on security, a topic where sovereignty concerns dominate debate, to a humanitarian framework, where it is much easier to condemn state behavior. This significantly increased the pace of negotiations, since it highlighted the paradox that while delegates were haggling over minor textual points, nameless civilians were dying en masse because of landmines. While the use of specialists added increased legitimacy to the NGO campaign, an analysis of this case study shows that it was the additional two conditions that I identified earlier in the chapter that really allowed the ICBL to move beyond the traditional interest group theory.

In the CAT, victims were represented by NGOs, such as AI, whose workers in most cases were not actual victims, but third party advocates. I still maintain that the conduit role that AI served between domestic constituents and states was extremely important to move negotiations past sovereignty concerns. What I would argue instead is that the ICBL took this a step further through the Ottawa Process. For the first time, victims held positions of power in NGOs (such as the work of Ken Rutherford, or Jerry White in LVA) and were thus able to represent themselves in negotiations. There was now a direct link between the victims of Landmines and the state

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<sup>295</sup> White and Rutherford. "The Role of Landmine Survivors Network" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

delegations that represented them in negotiations. Again, as presented in the last chapter, it is very difficult for state delegations to completely ignore the opinion of their constituents.

Further, instead of relying upon reports, the ICBL decided to combine this method with additional visual methods (such as pyramids of shoes, the “CCW News, or the release of ICRC television spots) to present information to delegates. It hoped that painting the personal story behind the statistics would attract delegate’s attention -- a visual image can quickly elicit an emotional response, while a report may just be pushed aside during a busy schedule.

It seems that this approach was relatively successful; since progress was made when Swedish parliament, under pressure from the ICBL, followed France’s lead and voted that the government should publicly declare its support of a total ban.<sup>296</sup> Australia’s Minister for Defense, Science and Personnel announced that his country was replacing its AP mines with self-destructing mines as the “technology in producing and self-destructing and deactivating is readily available.”<sup>297</sup> However, there were still other countries besides the United States who favored the continued use of AP mines. Li Change, the Chinese delegate, reminded his peers “mines are effective defensive weapons for many countries, especially the larger number of developing countries, to resist foreign aggression.”<sup>298</sup>

The ICBL stumbled when, towards the end of the conference, without NGO support, the US and Britain presented a 12-point program that would bind signatories to cut stocks and stop exports of conventional mines, but would then replace them with “smart mines.”<sup>299</sup> Smart mines were included in this plan because of an intense lobbying campaign by American business

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<sup>296</sup> Williams, Jody and Stephen Goose. “The International Campaign to Ban Landmines” in Cahill, Keven. (ed.). *Clearing the Fields: Solutions to the Global Landmine Crisis*.

<sup>297</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>298</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*. Pg.

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<sup>299</sup> Williams, *Landmine Update* 11 (1995):7



experts. For example, C.M. Welch, the chairman of Delaware-based Mohawk Electrical Systems, wrote Leahy to protest his moratorium, claiming that its extension could result in the loss of as many as 2,000 positions among the U.S. contractors.”<sup>300</sup> Through this program, the US and UK made clear that they believed the original CCW conclusion that casualties of AP mines were merely the result of improper usage.<sup>301</sup>

The release of this report, combined with the fact the convention relied on consensus voting, stalled negotiations, leading to a second review conference held in Geneva in January 1996. This session was extended to a third and final review between April 22 and May 3. During this final conference, the ICBL worked hard to recapture the momentum found at the beginning of the first review. It continued its strategy of using visual images to guilt the conscience of member delegates. For instance, landmine survivors (many in wheelchairs) greeted delegates on the first day of the second review conference with red roses that were marked with the name of a landmine victim.<sup>302</sup> Further, Ken Rutherford and Un Channareth introduced the “Wall of Remembrance”, a photographic collection of mine victims from Battambang Province, Cambodia. The wall also included a timer that clicked every 20 minutes, signaling that another individual had become a victim of landmines. A staggering 250,000 Cambodians were injured between the closing of the Vienna Review Conference and the beginning of the Geneva Conference.

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<sup>300</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*. Pg. 98

<sup>301</sup> Hubert, Don. 2004. “‘New’ Humanitarian Advocacy? Civil Society and the Landmines Treaty.”

<sup>302</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

The second and third review conferences also marked an increased focus on regional strategy that established mine-free zones as the building blocks for an outright ban.<sup>303</sup> For example, a major part of the regional strategy in the United States consisted of organizing protests against mine producing companies. The USCBL worked with a religious order, the School of Sisters of Notre Dame, to purchase shares in Alliant Tech, a major AP mine producer. As owners of shares, the Sisters were able to elicit discussions of the humanitarian costs of AP mines during shareholder meetings.<sup>304</sup> The USCBL even assisted Ariel Brugger in taking a 1,600-mile interfaith pilgrimage through the US calling for a ban on landmines. One of the most interesting visual examples used to target a wide audience was a Batman and Superman comic about AP mines that included an introduction by Senator Leahy. It is estimated that these comics reached thousands of American children and adults.<sup>305</sup>

Despite this advocacy work, the conference continued to only make minor adjustments to the existing CCW treaty. The definition of an AP mine moved backwards since it was now defined as a weapon “primarily designed to be exploded by the presence, proximity or contact of person.”<sup>306</sup> The purpose of this was so anti-vehicles (AV) mines or mines that have more than one use (hybrid mines) do not fall under the definition.<sup>307</sup> However, the use of “primarily”

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<sup>303</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>304</sup> Wareham, Mary. “Rhetoric and Policy Realities in the United States” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>305</sup> Wareham, Mary. “Rhetoric and Policy Realities in the United States” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>306</sup> Hubert, Don. 2004. “‘New’ Humanitarian Advocacy? Civil Society and the Landmines Treaty.” *And CCW Amended Protocol II*

<sup>307</sup> Hajnoczi, Thomas et. al. “The Ban Treaty” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

allowed for many loopholes.<sup>308</sup> Furthermore, the amended CCW Protocol II would give countries up to 9 years to get rid of stockpiles of “dumb” mines, but did not specify how this should be achieved. Senator Leahy classified the final result of the review conference as a “deplorable failure”.<sup>309</sup>

Following the failure of the CCW Review Conference, the ICBL realized that a reliance on the Phnom formula was not enough. As the ICRC stated, it was “convinced that the ‘public conscience’ of people throughout the world is revolted by the indiscriminate nature of AP mines... or [T]he question now before us is whether there is sufficient political will to establish an absolute prohibition on these weapons and to ensure respect for such a norm.”<sup>310</sup> This leads to the somewhat paradoxical result of the Ekon survey, that when moving towards a treaty a partnership with other like-minded states is necessary if NGOs hope to have independent influence. More importantly, this partnership allowed the ICBL to apply the momentum civil society built in earlier stages to push states towards action. One activist stated this “decision turned out to be of pivotal importance...as the only way to maintain movement...and (move) the issue forward.”<sup>311</sup>

Therefore, the ICBL decided to focus on getting a group of pro-ban states together to work as bloc to push an AP mine ban through the UN. Pieter van Rossem of Paxi Christi Netherlands proposed the idea, wanting to bring together the ICBL with governments on his

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<sup>308</sup> Short, N. "The Role of NGOs in the Ottawa Process to Ban Landmines."

<sup>309</sup> Short, N. "The Role of NGOs in the Ottawa Process to Ban Landmines."

<sup>310</sup> Maslen, Stuart. “The Role of the International Committee of the Red Cross” in in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines* Pg. 90.

<sup>311</sup> Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Pg. 25.

“good guys list”.<sup>312</sup> Just before the end of the CCW process, when it was realized that a desired outcome would not be reached, Quaker Activist Doug Atwood held a meeting at his house to discuss what steps ban proponents should take next.<sup>313</sup> Besides the ICBL, Atwood invited the following states: Austria, Australia, Belgium, Canada, Norway, New Zealand and Peru. At this meeting Canadian Ambassador Mark Moher announced Canada’s intention to hold a strategy conference in Ottawa later that year for all states that were in support of ban against AP mines.<sup>314</sup>

This announcement came somewhat as a surprise, as prior to the Ottawa Conference the Canadian government had been in favor of the use of landmines because of their military utility. Although the Canadian government had not used landmines since Korea, it still felt that its soldiers would be in jeopardy without their use.<sup>315</sup> This changed in 1993 with the election of a liberal government, and when Canadian Foreign Affairs Minister Andre Ouellet took up the issue. Ouellet argued that landmines should not only be banned in Canada, but the rest of the world.<sup>316</sup> Nonetheless, NGOs were extremely concerned that a government seemed to separate the humanitarian and military aspects of the issue by only sending a representative of the Defense and the Arms Control Division, without a member from the human Security Division, to negotiations.

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<sup>312</sup> Rutherford, Kenneth. *Disarming States: The International Movement to Ban Landmines*.

<sup>313</sup> Short, N. "The Role of NGOs in the Ottawa Process to Ban Landmines."

<sup>314</sup> Canada hesitated to push for stronger restrictions during the CCW conference because they felt that it would damage Canada’s reputation in the international arms control community (Warmington, Valerie and Celina Tuttle. “The Canadian Campaign”).

<sup>315</sup> Warmington, Valerie and Celina Tuttle “The Canadian Campaign” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>316</sup> Tomlin, Brian. “On A Fast Track to A Ban: The Canadian Policy Process”. In Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

Much of the change in Canadian policy can be attributed to the work of the NGO Mines Action Canada (MAC). MAC realized that it needed motivate Canadian citizens to pressure their government towards a ban. To do this, MAC emphasized the indiscriminate nature of landmines by providing informational brochures filled with statistics from mine-affected states. It combined this with various presentations by individuals who told the story of how they became victims. It even arranged the unorthodox cross-Canada tour to raise awareness about the issue of landmines by Canadian musician Bruce Cockburn and Mozambican singer Chude Mondlane.<sup>317</sup> On the other hand, the Department of National Defense also lobbied citizens, arguing that changes in minefield mapping and marking would ensure the safety of civilians.

Canada was placed on Christi's "good guys" list following Ambassador Moher's announcement that Canada had placed a moratorium on the production, transfer, and operation of AP mines.<sup>318</sup> At the end of the CCW review conference, Canada fulfilled Moher's earlier promise by holding a joint conference with the UN Department of Humanitarian Affairs, UNICEF and the ICBL to officially call on pro-ban states to discuss banning the use of landmines.<sup>319</sup> This began the Ottawa Process, a real movement towards progress in negotiations marked by the Canadian government's partnership with the ICBL. The process would follow

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<sup>317</sup> Warmington, Valerie and Celina Tuttle "The Canadian Campaign" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>318</sup> This had actually been an accident: the UN had made a mistake by placing Canada on a list of countries for export moratorium. Fearing the repercussions for its reputation in the international community by backtracking led to Moher's announcement (Tomlin, Brian "On a Fast Track to A Ban: The Canadian Policy Process").

<sup>319</sup> The idea to only include states in the Ottawa Process that were pro-ban was developed by Canadian Robert Lysyshyn and based on the Open Skies concept during the Eishenhower administration (Tomlin). Axworthy's speech was also actually developed by Lysyshyn, including the decision to keep other states in the dark (Tomlin).

two-track negotiations, where a series of meetings would be held to prepare and consult on the text of the treaty concurrently with intense campaigning efforts to build support for a ban.<sup>320</sup>

In addition to forging a partnership with Canada, both the ICBL and the ICRC established partnerships with regional blocs. For example, in collaboration with the government of Zimbabwe, the ICBL sponsored a meeting in Harare that was attended by officials from the 12 states of the Southern African Development Community. Additionally, in July 1997 the ICRC hosted a regional conference in collaboration with the Philippine government for experts in Asian military and strategic studies to examine the use of AP mines in Asia.<sup>321</sup> States partnered with the ICBL also understood the importance of forging links with strong regional coalitions. Canadian consultations with the Organization for African Unity (OAU) led to the agreement that Canada would partner with the OAU and the ICBL to host an Africa-wide landmines conference in Kempton Park, South Africa.<sup>322</sup>

Not only did the ICBL seek collaboration with states, but it also attempted to forge partnerships with important political and celebrity figures. For instance, Princess Diana of Wales was enlisted by the ICBL as an important advocate after her visit to Angola as a guest of the British ICRC. Both the ICRC and ICBL distributed through their networks pictures of her walking through minefields and meeting with victims. While Diana received much criticism from her Tory government for critiquing their position against a complete ban, she continued her

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<sup>320</sup> Hubert, Don. 2004. “‘New’ Humanitarian Advocacy? Civil Society and the Landmines Treaty.”

<sup>321</sup> Maslen, Stuart. “The Role of the International Committee of the Red Cross” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>322</sup> Lawson et al. “The Ottawa Process and International Movement to Ban Anti-Personnel Mines” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

efforts stating: “I am not a political figure. I’d like to reiterate now, my intentions are humanitarian. That is why I felt drawn to this human tragedy.”<sup>323</sup>

By the time negotiations were ready to begin again, the ICBL had established partnerships with states and other actors representing diverse issues and views. The ICBL would rely on these states to lobby other delegations during negotiations. From these partnerships, one could ascertain that the work of Deardorff concerning interest groups would be accurate. Again, according to this strain of thought, interest groups will lobby their strongest allies and then assist them in achieving their goals. This would be a logical conclusion, considering access to negotiation is granted by states in the Committee on NGOs. However, I conclude that the two conflicting interest group theories are actually interrelated. The ICBL unknowingly combined these two theories to move past the existing literature concerning traditional interest group theory.

Again this movement away from typical interest group theory is best captured by a comparison between the CAT and Landmines. While AI was included in many discussions during CAT negotiations, it was unable to completely integrate itself into a strong coalition of like-minded states, where its role would be greater than just providing specific expertise. Nonetheless, the pro-ban states that the ICBL partnered with are similar to the ones that AI had involvement with in the CAT. These states were typically medium-sized and did not have a lot of political clout within the UN, but did possess a good reputation within the international community. The provision of information, combined with the reputation of these medium states (who already have greater resources at their disposal than NGOs), provides the necessary capital

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<sup>323</sup> White and Rutherford. “The Role of Landmine Survivors Network” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Pg. 103.

to overcome great power opposition. The process of exchanging information was greatly simplified when the ICBL decided to partner with pro-ban states, which follows Deardorff's theory that interest groups can streamline proceedings. However, relative to independent influence in negotiations, this partnership allowed the ICBL to dictate what would be done with the information, whereas in the CAT, AI lost a significant amount of power once they distributed their information (again ignoring framing effects).

Not only was the ICBL able to integrate itself within a coalition of member states, but it also created new coalitions itself bringing together NGOs with differing mission statements under one banner. A majority of the success of the ICBL can be attributed to the flexibility of its organization to adapt different regional circumstances to an overall mission. In the CAT, AI and other NGOs merely used their connections to domestic constituents to pressure abusive states themselves. Once partnered with member states, this broad coalition allowed the ICBL to connect its pro-ban state partners to a variety of domestic constituents. States, who typically have more success than NGOs, can in turn pressure other states toward a ban using this domestic pressure. This is why I conclude a partnership between states and NGOs with similar preferences can actually strengthen the ties between the international community and grassroots movements.

The U.S. was not pleased with Axworthy's announcement at Ottawa, claiming that it would not join this process. Instead, with backing from the UK and France, it would follow procedure and focus its negotiation efforts through the Conference on Disarmament (CD).<sup>324</sup> Additional supporters of the CD were Australia, Germany, Spain, and Finland. Supporters of the

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<sup>324</sup> While both the UK and France were in support of a ban, they felt that the Ottawa Conference would not keep states from using mines against their citizens.



CD argued a ban was within itself a disarmament treaty: and therefore, the CD was the proper location in the UN for negotiations to occur.<sup>325</sup>

The publication of “An Open Letter Clinton” in the *New York Times* forced the Clinton administration to make some concessions to appease the USBL.<sup>326</sup> First, it would eventually support a permanent ban, but only an immediate ban would be placed on the use of ‘dumb’ or non-self destructing AP mines. An exception would be made for mine use in the Korean Peninsula until the situation between North and South Korea was resolved.<sup>327</sup> Furthermore, the US reserved the right to use ‘smart’, or self-destruct and/or self-deactivating AP mines, until the ban takes place.<sup>328</sup>

Despite these minor concessions by the US, progress in the CD was limited due to consensus voting. This leads me to the Ekos’s survey third conclusion of how the ICBL was able to influence negotiations. When the ICBL and pro-ban states realized that a ban would not emerge out of the CD, they moved negotiations away from this process. This allowed the ICBL and core groups to no longer worry about achieving consensus with all of the major military powers. This compares to the traditional state-centered approach used in the CAT, where drafting sessions occurred in closed door working groups attended by member states and NGOs by invitation only. The closest that AI came to moving negotiations away from the traditional UN forum was hosting parallel conferences.

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<sup>325</sup> Hubert, Don. 2004. “‘New’ Humanitarian Advocacy? Civil Society and the Landmines Treaty.”

<sup>326</sup> This document contained important signatures from military experts, such as general Norman Schwarzkopf, arguing that an AP mine ban would not be detrimental to US military interests. It stated that ban was not only humane, but a military responsibility (WWF- Wareham and Maslem).

<sup>327</sup> USCBL, “New” Clinton landmines policy rejected by Campaign’ press statement, 15 May 1996.

<sup>328</sup> USCBL, ‘Clinton Announcement Sends “mistaken” Signal on Landmines’, press statement, 17. Jan. 1997.

In early October 1996, Canada hosted the “Conference Towards a Global Ban on AP Landmines” in Ottawa.<sup>329</sup> The Ottawa Conference was one of the first where access depended upon self-selection; in other words actors were only granted full participation rights if they were in favor of ban. This privilege was extended to the ICBL, which was allowed to serve as a full participant. The key point of this conference was the adoption of the Declaration of the Ottawa Conference, a plan outlining the steps states and NGOs were willing to take to achieve a ban. It was agreed that a follow-up conference would be hosted in Brussels.

Lloyd Axworthy once again caused controversy by inviting attendees of the Ottawa Conference to return in less than a year to sign a ban treaty. From this point the Ottawa Conference became known as a “fast-track” diplomatic initiative, since it called for an international treaty to ban the use, stockpiling, production and transfer of AP mines in an unheard of time of less than 14 months. The Declaration of the Ottawa Conference was annexed through the UN First Committee on Disarmament to the SG, who circulated it as an official document on October 16, 1996. The First Committee adopted the draft resolution, and then sent it to the General Assembly. The General Assembly then adopted the resolution calling on states to “pursue vigorously an effective, legally binding, international agreement to ban the use, stockpiling, production, and transfers of AP mines with a view to completing the negotiation as soon as possible.”<sup>330</sup>

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<sup>329</sup> The conference was attended by 50 participating states, 24 observer states, dozens of NGOs from the ICBL, various UN agencies and the ICRC (Cameron). The core group or originators of the ban movement, going into the conference were Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway and Switzerland. Eventually South Africa, Germany, Philippines and the Netherlands joined.

<sup>330</sup> Canada let the US take the lead negotiator role on this resolution under the condition that it did not reference the CD (Resolution 51/45).

The next formal meeting of the Ottawa Process took place in February 1997 in Vienna and was attended by Austria, Belgium, Canada, Germany, Ireland, Mexico, the Netherlands, Norway, the Philippines, and South Africa.<sup>331</sup> Negotiations were “closed”, but the ICBL was allowed to send two representatives who could participate as non-voting delegates.<sup>332</sup> The government of Austria hosted this meeting to begin consultations with other states on a draft convention that it had developed. The Austrian delegation, having learned from the CCW process, made sure the point of the draft was short and straightforward in order to avoid long, drawn-out negotiations.<sup>333</sup> The draft was named the Belgium Declaration in recognition that the next global conference would be hosted in Brussels. On March 14, 1997, Austria once again invited the core group of states back to Vienna to revise the text from the first meeting. When the final draft of this text was circulated throughout the UN, it represented the collaborative efforts of over 70 countries, which had either submitted comments or participated directly in the drafting.<sup>334</sup>

It is important to note that not all NGOs in the ICBL were satisfied with the first draft of the treaty. Landmine Survivors Network (LSN), Jesuit Refugee Service and HI discovered that the draft contained no provisions on victim assistance. In response, the LSN utilized the services of the Washington-based law firm of Arnold & Porter to draft a list of provisions on victim

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<sup>331</sup> South Africa was an important member because of its position of being in the most mine-affected region in the world. Mexico was off strategic position because its proximity to the US allowed it to lobby the government. The Philippines was considered to be the Ottawa Process’s eyes and ears in Asia.

<sup>332</sup> Short, N. "The Role of NGOs in the Ottawa Process to Ban Landmines."

<sup>333</sup> Hajnoczi, Thomas et. al. “The Ban Treaty” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>334</sup> Hajnoczi, Thomas et. al. “The Ban Treaty” in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

assistance that could be included in a treaty.<sup>335</sup> Several governments, including South Africa, had stated that they would not support a final treaty that did not include victim's assistance in some form. The LSN met with Axworthy, but were accused of pursuing their own agenda to the detriment of international efforts.

Leading up to the conference in Brussels, the ICBL focused on building support for the Austrian draft. In four months, support for the Ottawa Conference had increased from approximately 30 countries to more than 70. A majority of African states were on board thanks to regional conferences hosted by NGOs. More importantly, the UK and France now supported a ban.<sup>336</sup> Progress was even made in the United States, where a bipartisan bill on 'Landmine Elimination' was introduced in both houses of Congress.<sup>337</sup> The bill never came to vote. Senator Leahy stated he and Senator Charles Hagel delayed the bill in order to give the administration a chance to change its mind and participate in the Ottawa Process.

In late April 1997, Germany hosted The International Meeting on Possible Verification Measures to Ban AP mines in Bonn. The main purpose of the conference was to address verification procedures in the Austrian draft, which had emerged as a major point of contention. At this conference the ICBL played a less visible role, since their participation was dependent on invitations from the Austrian and German delegations. This limited access did not frustrate the

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<sup>335</sup> White and Rutherford. "The Role of Landmine Survivors Network" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>336</sup> Work done by NGOs had made landmines one of many election issues, and newly elected governments in both countries reversed the policies of their predecessors (Long, David and Laird Hindle. "Europe and the Ottawa Process: An Overview").

<sup>337</sup> Wareham, Mary. "Rhetoric and Policy Realities in the United States" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

ICBL because the conference was an expert meeting; therefore no major policy decisions were made.

Almost a year later in late June the official follow-up conference to the International Conference for a Global Ban on AP mines was held in Brussels, Belgium. The ICBL and ICRC used this conference to launch an aggressive campaign, focusing on previous strategies that target both the media and delegates. At this conference Jody William coined the phrase that would serve as the ICBL's motto for the remainder of the Ottawa Process: "no exceptions, no reservations and no loop-holes."<sup>338</sup> The ICBL seemed to be successful in its mission; states that had previously supported the US in the CD began to shift towards the Ottawa Process, including Italy, Spain, Czech Republic, Hungary and Bosnia.<sup>339</sup> Many large producers, most notably Italy, decided that the humanitarian costs significantly outweighed the economic gain.<sup>340</sup> The conference produced the Declaration for the Brussels Conference on AP mines that served as a political commitment that locked state signatories into the remainder of the Ottawa process. On July 9, 1997 the Brussels Declaration was submitted to the CD by the Belgium delegation.

In August core group members met in Vienna to make final edits to the Austrian draft that would be presented as the basis of further negotiation in Oslo, Norway. Minister Axworthy was able to begin a dialogue with US Secretary of State Madeleine Albright on the issue of

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<sup>338</sup> Hubert, Don. 2004. "New' Humanitarian Advocacy? Civil Society and the Landmines Treaty."

<sup>339</sup> Hubert, Don. 2004. "New' Humanitarian Advocacy? Civil Society and the Landmines Treaty."

<sup>340</sup> Long, David and Laird Hindle. "Europe and the Ottawa Process: An Overview". in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

Landmines.<sup>341</sup> Shortly after these conversations, the US signed the Brussels Declaration, thereby announcing their intention to participate in negotiations.<sup>342</sup> President Clinton stated he felt that the US should join for diplomatic reasons; but to reassure the Joint-Chiefs, he had Albright announce that the US wanted five major changes to the Austrian text: (1) an exception for the US AP mine use in Korea, (2) a substantial change in the definition of an AP mine, (3) a delay in the entry-into-force of the convention, (4) a strengthened verification regime, and (5) the inclusion of a supreme national interest clause.

On September 1, 1997 the Norwegian People's AID (NPA) hosted the Diplomatic Conference on an International Total Ban on AP landmines in Oslo, Norway. The death of Princess Diana significantly increased media attention devoted to Oslo. The NPA developed specific negotiation procedures in order to move quickly past the existing sticking points. Areas of difficulty in the existing Austrian draft would be identified within the first 24-28 hours and then would be divided among six working groups, each of whom would be chaired by a member of the core group.<sup>343</sup> Decisions could be made by a 2/3-majority vote, which should eliminate the difficulties associated with consensus voting. The last week of the conference would then be spent finalizing the draft.

The ICBL was invited to be an official observer, allowing them to be present and make speeches at all sessions, including smaller working groups. While the ICBL could not make formal proposals for treaty language, it did circulate informal documents that included

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<sup>341</sup> Lawson, Robert et al. "The Ottawa Process and International Movement to Ban Anti-Personnel Mines". in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>342</sup> Hubert, Don. 2004. "New' Humanitarian Advocacy? Civil Society and the Landmines Treaty."

<sup>343</sup> Hubert, Don. 2004. "New' Humanitarian Advocacy? Civil Society and the Landmines Treaty."

suggestions for draft text. During the conference the ICBL continued its efforts to influence delegates' sense of moral commitment. When delegates entered the conference, they were greeted by huge banners that read "no loopholes, no exceptions and no reservations."<sup>344</sup> The ICBL developed a slogan for almost every sticking point during negotiations at Oslo. For example, when the US tried to alter the definition of AP mine, the ICBL distributed flyers with the slogan "when is an AP mine not an AP mine? - when it's American."<sup>345</sup>

By the end of the second week, the US had not attained approval on its proposed exemptions. Most states were willing to grant the US requests for deferral, but did want to change the existing definition to include a "mixed-mine" system. The US requested a 24-hour extension to the conference in order to draft an alternative text that would include their exceptions, which was granted by Canada despite fervent objections by the ICBL. When this document could not gain support, the US withdrew its amendments and the delegates approved the revised Austrian text without a vote.<sup>346</sup> During the fifty-second session of the General Assembly, Canada introduced the draft resolution entitled "Convention on the prohibition of the use, stockpiling, production and transfer of AP mines and on their destruction". Under the recommendation of the First Committee, the General Assembly adopted the resolution on December 9, 1997.<sup>347</sup>

Before the treaty returned to Ottawa, the ICRC launched a black-and-white public service announcement that showed the journey of a young female mine victim from her hut in Cambodia

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<sup>344</sup> Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Pg. 41

<sup>345</sup> Williams, Jody and Stephen Goose. "The International Campaign to Ban Landmines" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Pg. 43

<sup>346</sup> Hajnoczi, Thomas et. al. "The Ban Treaty" in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>347</sup> General Assembly Resolution 52/38

to the signing conference in Ottawa.<sup>348</sup> Also, on October 10, 1997 it was announced that Jody Williams and the ICBL were the winners of the 1997 Nobel Peace Prize.<sup>349</sup> Both of these events were designed to lead up to the Ottawa signing convention. For example, just hours after the award was announced, President Boris Yeltsin declared that Russia had decided to sign the convention. The Convention was open for signature for two days in Ottawa starting December 3, and on December 5 the Convention opened for signature at the United Nations Headquarters in New York.

Axworthy stated that the Ottawa process offered “undeniable proof that this coalition of governments, NGOs, international institutions and civil society can set a global agenda and effect change.”<sup>350</sup> However, it is important to note that four of the five largest states in (terms of population) have not ratified the convention- China, India, the US and Russia. With the exception of Russia and the US, none are likely to sign soon. I argue that if pro-ban states did not move negotiations away from the CD, this treaty would have been blocked by these states. Furthermore, the ICBL would have had to play second fiddle to these more powerful states, since they did not allow much participation by civil society during debate.

Jody Williams stated that the “overall message of the campaign against landmines was not only the damage the mines cause, but also the concept that in this post-cold-war world ‘the military cannot operate with impunity.’”<sup>351</sup> The three points found in the Ekos survey explain the

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<sup>348</sup> Lawson, Robert et al. “The Ottawa Process and International Movement to Ban Anti-Personnel Mines”. in Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*.

<sup>349</sup> During interviews, Williams attacked President Clinton stating, “if President Clinton wants the legacy of his administration to be that he did not have the courage to be the Commander in Chief of his military, this is his legacy and I feel sorry for him” (Cameron).

<sup>350</sup> Canada 1997a

<sup>351</sup> Cameron, Maxwell, Robert Lawson, and Brian Tomlin (eds). 1998. *To Walk Without Fear: The Global Movement to Ban Landmines*. Toronto, Canada: Oxford University Press. Pg. 19



basic story, but it is a comparison to the CAT that reveals how the success of the ICBL can be attributed to its movement away from traditional interest group theory. Finally, it is important to note that a large part of ICBL's increased access to negotiations can be merely attributed to their timing. The majority of negotiations in the Landmine Convention took place at the end of the Cold War. As described in Chapter 2, the end of the Cold War marked a movement towards collective and human security. There was a general understanding that international order may trump individual state sovereignty. NGOs as independent third parties not associated with states filled a natural gap in the international community to monitor abusive behavior. The information they gather then grants them a privileged position in negotiations.

## **Conclusion**

Analysis of my two case studies illustrates that to understand the work of NGOs in the UN, one has to move away from traditional IR theory. At the end of the Cold War, the emergence of the idea that states had a responsibility to protect their citizens slowly began to erode the concept that a state is entitled to sovereignty in all matters. This concept of collective security served as a gateway for NGOs to negotiations; while their work often violates sovereignty, this was deemed acceptable since states were unable to protect the newly codified provisions of human security. Negotiations for the CAT occurred near the end of the Cold War, so it is only natural that NGOs, such as AI, had a more limited role than in the Landmines Convention.

Nonetheless, AI still was relatively successful in influencing state delegations through the provision of information. One of the most underestimated sources of power for NGOs is their ability to frame the information they collect in whatever way they deem to be most effective. Further, AI was able to solve a common principal-agent problem in international negotiations by connecting state delegations to their domestic constituents. Besides differing political circumstances from the CAT, the ICBL was able to have more success in influencing state delegations in the Landmines Convention because the strategies it implemented capitalized on the understanding that while NGOs lack the economic and military resources associated with states, they did possess a moral legitimacy. It took the techniques utilized by the CAT and went one step further from traditional interest group theory.

The significance of this work is that it provides a framework of analysis that can be applied to other cases to illuminate the work of NGOs in international negotiations. My two case studies reveal a general pattern that can be used to understand how NGOs attempt to influence

state delegations. In the early stages NGOs should focus on building networks and raising awareness about the issue in the international community. Once these networks are firmly in place, NGOs then move towards gathering information, which will serve as the capital that will grant them access to negotiations. Through this information, NGOs can pressure state delegations and even “name and shame” abusive states into compliance to get their preferences represented in the final treaty. Once negotiations have begun, it is necessary for NGOs to seek a partnership with other member states. Further, success often depends on moving negotiations outside traditional methods.

Admittedly this framework is far from perfect -- as seen in my case studies, political circumstances when negotiations occur often differ significantly. Nevertheless, I would be interested to see if this general framework still holds when transplanted to other recent human rights abuses. One case that comes to mind is the work done by Invisible Children in raising attention to the issue of child soldiers. Ironically, part of the ability to run a successful campaign is to not get caught up in the momentum that you are trying to build. While Invisible Children certainly has its faults, it cannot be denied that its marketing campaign has been incredibly successful. My framework allows an individual to examine a movement such as the one against Joseph Kony, including the techniques used to resonate with individual’s morality, while still being able to evaluate its success in capturing momentum to influence actors objectively.

Of course, there were many frustrating elements to this research. Since negotiations often occur behind closed-doors, information was often difficult to find. I feel like I’ve barely scratched the surface, there is a wealth of information that whether I like or not remains closed to me. A lot of important debate occurs in unofficial sessions or in conversations between delegates during lunch or in the corridors of the UN. Further, it is often difficult to disentangle states’

actual position from what they present during negotiations. Finally, it is often difficult to verify that the information NGOs collect matches the situation on the ground. In essence, it is very difficult to avoid bias in this research. However, this is the same difficulty that all delegates encounter during negotiations. International negotiations are an asymmetric game, where no one truly has all the available information. This experience has illuminated that officials of organizations, both public and private, are often reluctant to cooperate with academic researchers.

That being said, it is the more general overall implications of my research that most excites me. The first implication is that by partnering with member states, NGOs can counter powerful opposition forces in negotiations. Together the two actors compensate for each other's weaknesses. These medium-sized states, such as Canada, possess a good reputation in the international community, but alone do not have the necessary resources or political clout to move negotiations forward. NGOs offer member states legitimacy by (1) representing those who do not typically have a voice in international negotiations i.e., the victims and (2) providing information that is often otherwise unavailable to other state delegations. As previously mentioned, this is a two way street, since partner states give NGOs greater legitimacy in international proceedings as states are seen as the dominant players. The two interest groups described in Chapter 1 may actually not be as conflicting as previously thought. For these movements to be successful, it requires connecting grassroots movement support to international proceedings, something that NGOs can provide states in a partnership. As Nial McDermont, a staff member of the ICJ wrote, "NGOs create the conditions in which governmental pressure can be effective."<sup>352</sup>

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<sup>352</sup> Forsythe, David. 2006. *Human Rights in International Relations*. Pg. 203.

To conclude I return to the work of Elazar Barkan in *Guilt of Nations*. Was Barkan right in his assertion that the end of the Cold War signified a new age of morality where abusive behavior is no longer tolerated? This research certainly shows that the appeal of NGOs to delegate's morality through both the publication of reports and visual elements are an extremely successful tactic when combined with a partnership with states as described above. One theoretical framework that this paper does not explore that could be useful for future research would be to apply marketing theory to the work of NGOs. However, like it or not, sovereignty constraints still dominate the realm of IR. States were never be completely willing to give up control over domestic sovereignty, for the very obvious reason that it is not in their best interests. I concur with the slight skepticism Barkan expresses through his agreement with Michael Walzer's description of IR as "tolerant system with a very weak regime in which some member states (nondemocratic and totalitarian) are intolerant."<sup>353</sup> Nevertheless, the emergence of human rights agreements such as the CAT and Landmines Convention show an increased tendency towards cooperation between states, which in my opinion is certainly a step in the right direction. While, NGOs can never erase what has been done to victims such, as Mr. de la Paz or Mr. Jakic, hopefully their work will prevent future casualties.

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<sup>353</sup> Barkan, Elazar. 2000. *The Guilt of Nations*. Pg. XXV.

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ECOSOC Resolution 728F

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Interview with Susan Waltz, Professor at the Ford School of Public Policy at the University of Michigan. December 14, 2012.

Interview with Melvyn Levitsky, Professor at the Ford School of Public Policy at the University of Michigan. December 21, 2012.

## Appendix 1

AI= Amnesty International  
APL= Anti-Personnel Mines  
CAT= Convention Against Torture  
CD= Conference on Disarmament CRC= Convention on the Rights of the Child  
CCW= Certain Conventional Weapons  
CHR= Commission on Human Rights  
CRC= Convention on the Rights of the Child  
DONGO= Donor Organized NGO  
DPI= Department of Public Information  
ECOSOC= Economic and Social Council  
GONGOS= Government Organized NGO  
HI= Handicap International  
HRW= Human Rights Watch  
IAPL= International Association of Penal Law  
ICBL= International Campaign to Ban Landmines  
ICCPR= International Covenant on Civil and Political Rights  
ICESR= International Covenant on Economic and Social Rights  
ICJ= International Commission of Jurists  
ICRC= International Committee of the Red Cross  
IGO= Intergovernmental Organization  
IR= International Relations  
Landmines Convention= Ottawa Convention for Banning Landmines  
LVA= Landmines Victim Assistance  
MAC= Mines Action Group  
MAG= Mines Advisory Group  
MI= Medico International  
NGO= Nongovernmental Organization  
OAU= Organization for African Unity  
PHR= Physicians for Human Rights  
QUANGO= Quasi Organized NGO  
R2P= Responsibility to Protect Doctrine  
UN= United Nations  
USBCL= United States Campaign to Ban Landmines  
VVAFA= Vietnam Veterans of America Foundation

## **Appendix 2- Interview Questions Delegate/Ambassador Version**

**Background Information:** Does NGO participation within human rights negotiations change the bargaining outcome as seen in the final version of the treaty presented for signature to member states? In other words, I seek to examine whether NGOs are emerging actors in their own right who can do more than just raise awareness and provide expert information. Focusing on human rights agreements (HRAs), my research will examine how the rise of NGOs within the UN affects the bargaining structure once all parties are at the figurative negotiation table during a convention. I will address this issue by conducting detailed case studies of the strategies used by NGOs to influence member states in the Convention Against Torture, Convention on the Rights of the Child, and Ottawa Convention Banning Landmines.

**Firstly I have just a few background questions about your position:**

- 1) *What was/is your role in your delegation (ie daily activities, responsibilities, etc.)?*
- 2) *What was/is your role during the campaign leading up to the \_\_\_\_\_?*

**Next I have more specific questions relating to your delegations role in \_\_\_\_\_:**

- 1) *How did the issue(s) you focused on gain prevalence within the international community and within your own delegation, ie how did it become part of the international agenda?*
- 2) *What did your state hope to accomplish during negotiations?*
- 3) *How did your delegation raise awareness (both with state officials and the general population) about this issue, what techniques did it use?*
- 4) *How did your delegation gather and disseminate information on this subject?*
- 5) *Did your delegation collaborate with any other states or NGOs during this process?*
- 6) *What strategies did your delegation use to influence other member state delegations?*
- 7) *How would you characterize the success of your delegation in achieving its goals during this movement?*

**After answering these questions, if possible, I would appreciate having a 15-20 minutes phone conversation with you to discuss a few follow-up questions. Thank you very much for your time and insights. These interviews will greatly assist me in the process of completing my senior thesis.**

## NGO Official Version

**Background Information:** Does NGO participation within human rights negotiations change the bargaining outcome as seen in the final version of the treaty presented for signature to member states? In other words, I seek to examine whether NGOs are emerging actors in their own right who can do more than just raise awareness and provide expert information. Focusing on human rights agreements (HRAs), my research will examine how the rise of NGOs within the UN affects the bargaining structure once all parties are at the figurative negotiation table during a convention. I will address this issue by conducting detailed case studies of the strategies used by NGOs to influence member states in the Convention Against Torture, Convention on the Rights of the Child, and Ottawa Convention Banning Landmines.

### Firstly I have just a few background questions about your position:

- 1) *What is your role in your organization (ie daily activities, responsibilities, etc.)?*
- 2) *What was your role during the campaign leading up to the \_\_\_\_\_?*

### Next I have more specific questions relating to your organizations role in \_\_\_\_\_:

- 1) *How did the issue(s) you focused on gain prevalence within the international community and within your own organization, ie how did it become part of the international agenda?*
- 2) *What did your organization hope to accomplish during negotiations?*
- 3) *How did your organization raise awareness (both with state officials and the general population) about this issue, what techniques did it use?*
- 4) *How did your organization gather and disseminate information on this subject?*
- 5) *Did your organization collaborate with any other states or NGOs during this process?*
- 6) *What strategies did your organization use to influence other member state delegations?*
- 7) *How would you characterize the success of your organization in achieving its goals during this movement?*

**After answering these questions, if possible, I would appreciate having a 15-20 minutes phone conversation with you to discuss a few follow-up questions. Thank you very much for your time and insights on this subject. These interviews will greatly assist me in the process of completing my senior thesis.**