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The Role of NGOs in International Law

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ABBREVIATIONS

ONG- Non-governmental Organisation

GSO- Grassroots Support Organization

IGO- Intergovernmental Organization

INGO- International Non-governmental Organization

UN- United Nations

UNC- United Nations Charter

UNEP- United Nations Environmental Programme

UNDP- United Nations Development Programme

ILP- International legal process

IL- International Law

WTO- World Trade Organization

ECOSOC- Economic and Social Council

MSF- Médecins Sans Frontières

UNICEF- Fonds des Nations Unies pour l'Enfance

ICRC- International Committee of the Red Cross

UNHCR- United Nations High Commissioner for Refugees

HR- Human Rights

ICJ- International Court of justice

ILO- International Labour Organization

BRAC- Bangladesh Rural Advancement Committee

NAFTA- North American Free Trade Agreement

EU- European Union

EENCA- European Expert Network on Culture and Audio-visual

H2020- Horizon 2020

CBR- Community-Based Rehab

UK- United Kingdom

RIASSUNTO

Il ruolo delle organizzazioni non governative (ONG) negli ultimi anni si è rivelato sempre più di fondamentale importanza all'interno del diritto internazionale pur avendo un ruolo informale. Per capire lo status legale delle ONG all'interno del diritto internazionale è necessario definire prima che cosa siano le ONG.

Le ONG sono un gruppo eterogeneo di organizzazioni che possono spaziare da piccoli gruppi informali a grandi agenzie formali, e possono includere ONG del Nord (NONG) e ONG del Sud (SNGO), organizzazioni basate sulla comunità o sugli individui, e organizzazioni di supporto di base (GSO)". Le ONG variano per risorse, personale, motivazioni e valori e possono mirare a soddisfare bisogni immediati o a sviluppare approcci alternativi ai problemi. Si differenziano anche per quanto riguarda i finanziamenti: molte fanno affidamento su fondi esterni, mentre altre si basano su risorse mobilitate a livello locale.

La classificazione delle ONG è complessa e poco chiara, e porta a dibattiti su cosa si possa qualificare come ONG e sui metodi più appropriati per analizzarne il ruolo. Il termine "organizzazioni non governative" è entrato nell'uso comune attraverso l'articolo 71 della Carta delle Nazioni Unite e una definizione strutturale/operativa delle organizzazioni del terzo settore, comprese le ONG, è stata sviluppata nel 1992 da Salamon e Anheier. Questa definizione aiuta a chiarire cosa si intende per ONG, che è tipicamente intesa come un'organizzazione privata, autogestita e senza scopo di lucro, che mira a migliorare la qualità della vita delle persone svantaggiate, impegnata principalmente nello sviluppo o nell'azione umanitaria a livello locale, nazionale e internazionale.

Fondamentale per analizzare il ruolo delle ONG è delineare il loro sviluppo storico, che ha determinato le caratteristiche fondamentali che hanno, oggi come oggi, le ONG. Dagli anni Settanta dell'Ottocento alla Prima guerra mondiale, il numero e la varietà delle ONG internazionali è aumentato fino a circa 400, con diversi campi di attività. L'importanza di una rete transnazionale fu presa in considerazione negli anni precedenti la Prima guerra mondiale e nel 1910 fu fondata l'Unione delle associazioni internazionali.

La guerra ebbe effetti sia positivi che negativi sulle ONG e, mentre alcune andarono disgregandosi a causa del conflitto, altre organizzazioni tra le più importanti anche oggi, furono create, come Save the Children, la Federazione Internazionale della Croce Rossa e della Mezzaluna Rossa. Anche l'istituzione della Società delle Nazioni nel 1920 ha avuto un ruolo importante nell'evoluzione dell'attività delle ONG. Negli anni '20 e '30, le ONG hanno lavorato insieme su diversi problemi internazionali importanti, che hanno gettato le basi per il ruolo che le ONG hanno ancora oggi nel sistema delle Nazioni Unite.

Le ONG, pur continuando a fornire aiuti e servizi caritatevoli, hanno ampliato il loro ruolo, includendo la promozione dello sviluppo economico e sociale, l'attività di advocacy, la definizione di programmi, l'educazione pubblica, il monitoraggio degli accordi internazionali e la collaborazione con le organizzazioni intergovernative. Alcune delle ONG più conosciute sono state fondate durante o dopo grandi conflitti, e il lavoro di beneficenza e soccorso rimane un obiettivo centrale per molte organizzazioni. Tuttavia, le ONG hanno riconosciuto che i soccorsi e le opere di carità rispondono solo a bisogni a breve termine e hanno spostato la loro attenzione sulla riabilitazione delle comunità a lungo termine e sulla promozione dello sviluppo sociale ed economico nei Paesi in via di sviluppo per affrontare la povertà e le disuguaglianze. Le ONG si impegnano in attività di advocacy, lobbying ed educazione pubblica per influenzare i decisori a livello locale, nazionale e internazionale e perorare determinate questioni per ottenere la loro attenzione. Le ONG sono riuscite a convincere l'opinione pubblica, i governi e le organizzazioni intergovernative a considerare in modo diverso i problemi persistenti, compresi quelli relativi alle politiche di protezione ambientale.

Per stabilire se le ONG sono soggetti di diritto internazionale, è necessario valutare la loro personalità giuridica e il loro status rispetto agli Stati e alle organizzazioni internazionali, nonché le funzioni che svolgono nel sistema giuridico internazionale. Sebbene il diritto internazionale contemporaneo riconosca un'ampia gamma di partecipanti, non tutte le entità possono essere considerate soggetti di diritto internazionale. La personalità giuridica sulla scena internazionale richiede una partecipazione di fatto e l'accettazione da parte della comunità attraverso la concessione di diritti e doveri ai sensi del diritto internazionale. Un soggetto di diritto internazionale è quindi definito come una persona fisica o giuridica che partecipa attivamente agli affari internazionali e ha diritti o doveri in base al diritto internazionale. Le ONG

partecipano sempre più spesso al processo decisionale internazionale e al monitoraggio del rispetto del diritto internazionale da parte degli Stati.

Esistono tre principali teorie che definiscono se un attore può essere considerato o meno dotato di status giuridico ai sensi del diritto internazionale: l'approccio orientato alle regole, l'approccio orientato ai processi e l'approccio del diritto internazionale-relazioni internazionali.

L'approccio al diritto internazionale orientato alle regole sostiene che solo gli Stati possono essere considerati persone giuridiche internazionali in possesso della gamma completa di diritti, doveri e capacità. Gli Stati possono creare nuovi soggetti "imperfetti" di diritto internazionale e tutti gli enti dotati di personalità internazionale possiedono diversi elementi di capacità giuridica. Gli attori non statali non possono possedere tutti i pezzi e la capacità giuridica varia a seconda della loro funzione nell'ordinamento giuridico internazionale. A questo proposito Mosler distingue tra soggetti primari e secondari del diritto internazionale: solo gli Stati sono soggetti primari, mentre gli individui non sono considerati soggetti del diritto internazionale in senso proprio. Brownlie distingue tra entità che hanno una personalità giuridica di tipo generale e quelle che hanno personalità giuridica solo in contesti limitati, e il contesto del problema rimane un fattore critico nel determinare lo status giuridico di un'entità.

L'approccio processuale al diritto internazionale è un metodo di studio del diritto internazionale che considera il diritto come un processo di decisioni individuali piuttosto che come un insieme di regole. È composto da un gruppo variegato di autori che presentano linee di ragionamento distinte e può essere classificato in due categorie principali: l'orientamento politico e il processo giuridico internazionale. L'orientamento politico nel diritto internazionale considera il diritto come un processo di decisioni individuali e per gli autori orientati alla politica la distinzione tra diritto e politica non è particolarmente significativa. Il processo giuridico internazionale (ILP) enfatizza l'incorporazione del diritto internazionale nelle decisioni all'interno degli uffici esteri, mentre il nuovo ILP ha una portata più ampia e include un elemento normativo. L'orientamento al processo nel diritto internazionale riguarda principalmente la partecipazione ai processi decisionali, enfatizzando il ruolo degli attori non statali che partecipano sempre più spesso a questo processo.

L'attenzione dominante nella teoria delle relazioni internazionali è stata tradizionalmente rivolta agli Stati nazionali: il realismo e il neorealismo sono le teorie dominanti che danno la priorità agli Stati come attori primari della politica internazionale. Il realismo vede gli Stati come attori unificati impegnati in una lotta per il potere per salvaguardare i propri interessi, mentre il neorealismo sottolinea gli Stati come unità interagenti in un sistema globale anarchico. Il liberalismo, invece, adotta un approccio più inclusivo e ritiene che gli individui e i gruppi privati siano gli attori principali delle relazioni internazionali, con lo Stato che rappresenta gli interessi di questi attori non statali. Altre teorie, come l'istituzionalismo e il costruttivismo, danno anch'esse la priorità allo Stato, ma possono riconoscere il ruolo degli attori non statali in misura variabile.

Ad eccezione di alcuni tradizionali attori non statali nelle relazioni internazionali, come la Santa Sede, il Comitato Internazionale della Croce Rossa e il Sovrano Ordine di Malta, la maggior parte degli esperti di diritto internazionale ritiene che le ONG non possano essere generalmente considerate soggetti di diritto internazionale. Questa opinione si basa sul fatto che le ONG sono create da persone fisiche o giuridiche di diritto nazionale, mentre le organizzazioni internazionali sono istituite con un atto giuridico degli Stati di diritto internazionale. Tuttavia, questo non è un ostacolo insormontabile alla personalità giuridica delle ONG secondo il diritto internazionale. Con la crescente partecipazione delle ONG al sistema internazionale e agli scopi dell'ordinamento giuridico internazionale come sistema aperto, la questione se le ONG debbano essere riconosciute come soggetti di diritto internazionale diventa sempre più necessaria e ragionevole. Per stabilire se le ONG possano essere considerate soggetti parziali del diritto internazionale, è importante esaminare le attuali normative internazionali che si occupano di queste entità non statali, nonostante l'assenza di un accordo internazionale che stabilisca uno status giuridico internazionale uniforme per le ONG. Tuttavia, esistono diversi regolamenti internazionali che disciplinano la posizione giuridica delle ONG in specifiche aree del diritto internazionale e saranno valutati per verificare se le ONG soddisfano i criteri di accettazione della comunità necessari per essere considerate soggetti di diritto internazionale, sia dal punto di vista quantitativo che qualitativo.

Alla luce di quanto detto precedentemente può essere interessante l'analisi di un caso studio inerente ad un progetto attuato con finanziamenti europei da un ONG belga.

L'analisi in questione tratta del progetto MigrArt, a cui ho avuto la possibilità di prendere parte durante il mio stage a Bruxelles presso "The European Centre for Economic and Policy Analysis and Affairs" (ECEPAA). In quanto assistente di progetto sono anche l'autrice della pubblicazione presa in analisi. È un programma sviluppato nell'ambito "Erasmus+ Key Action 2" e finalizzato all'utilizzo di forme d'arte per favorire l'integrazione di giovani immigrati e rifugiati. La pubblicazione è strutturata in modo da fornire informazioni sulle migliori pratiche agli operatori che lavorano con giovani migranti, rifugiati e locali. Include una descrizione del progetto e dei suoi partner, uno studio sul ruolo della cultura e delle arti nell'integrazione di rifugiati e migranti e un focus su come le "best practices" (migliori pratiche) possano essere identificate e selezionate utilizzando la metodologia impiegata nel progetto stesso. La pubblicazione presenta anche cinque buone pratiche selezionate e descritte da ciascun partner, con le loro caratteristiche e una breve descrizione dell'attività e dell'organizzazione. Il documento si conclude con un riepilogo dei risultati attesi e con la spiegazione di come leggere le tabelle sulle "best practices" presentate.

In conclusione, le ONG possono essere considerate organizzazioni private, autogestite e senza scopo di lucro, impegnate principalmente nello sviluppo o nell'azione umanitaria. Esse vanno da piccoli gruppi informali a grandi agenzie formali e possono differire per risorse, personale, motivazioni e valori. Nonostante le difficoltà nel definire le ONG, la loro importanza nella società è innegabile e svolgono un ruolo fondamentale nel migliorare la qualità della vita delle persone svantaggiate a livello locale, nazionale e internazionale. Le ONG si sono evolute nel tempo e, con la crescente enfasi sulla globalizzazione e sulle questioni sociali, hanno ottenuto un riconoscimento internazionale e hanno ampliato il loro raggio d'azione per affrontare aree diverse come la protezione dell'ambiente, i diritti delle donne, l'assistenza sanitaria, la riduzione della povertà e i diritti umani. Le ONG hanno anche acquisito un'influenza significativa nella definizione delle politiche e nella creazione di consapevolezza su questioni critiche che i governi spesso faticano ad affrontare. Tuttavia, le ONG devono affrontare diverse critiche e sfide, come la questione di quali interessi privilegiare, la garanzia della loro sopravvivenza e la forte dipendenza dai finanziamenti pubblici, che può compromettere il loro legame con gli elettori. Inoltre, lo status delle ONG nel diritto internazionale è ancora troppo poco sviluppato. Ciononostante, le ONG svolgono un ruolo significativo nel diritto internazionale secondario, poiché spesso le organizzazioni internazionali

concedono loro diritti di partecipazione, il che indica il riconoscimento delle ONG come importanti attori nei processi decisionali internazionali pur non essendo riconosciuti come soggetti del diritto internazionale.

INTRODUCTION

In recent years, non-governmental organisations (NGOs) have started to gain an increasingly important role in the international scene, especially on a political level, and their position concerning international law has started to be considered more and more important, almost an essential component of the procedures and frameworks of the global governance, even if still informal. They have played a critical role in shaping the international agenda, influencing the creation of global regulations, and contributing to the implementation of international norms. Their involvement has been a driving force behind major innovations in the international system, such as the establishment of a permanent International Criminal Court, as well as a crucial partner in the enforcement of international standards and programs on a daily basis.

Furthermore, especially after the creation of the League of Nations, NGOs have always engaged with intergovernmental organizations as a significant part of their international activities. Over time, the cooperation between NGOs and IGOs has evolved in response to their shared interests. IGOs provide NGOs with a platform to voice their concerns beyond national borders and an opportunity for non-governmental diplomacy. In turn, IGOs increasingly view NGOs as important allies in the implementation of their policies and programs through information dissemination and direct action.

Especially for this reason, NGOs are a fundamental part in the United Nations (UN) actions and achievements, because they regularly provide advice to U.N. commissions and committees, collaborate with U.N. agencies to implement projects, and offer assistance to U.N. institutions by providing necessary information. Secretary General Kofi Annan emphasized in his Millennium report¹ the importance of strengthening the relationship between the United Nations and private actors. He aims to provide opportunities for non-governmental organizations and other non-state actors to contribute to the work of the United Nations. Also Antonio Donini made an observation about the United Nations, stating that "the Temple of States would be a rather dull place without nongovernmental organisations."² This remark is quite fitting and implies a

¹ Report of the Secretary General, *We the Peoples: The Role of the United Nations in the TwentyFirst Century*, U.N. Doc. A/54/2000 (2000).

² Donini Antonio, *The Bureaucracy and the Free Spirits: Stagnation and Innovation in the Relationship Between the UN and NGOs*, (1995)

broader idea: without the presence of NGOs, international law would not have played such a fundamental role in advancing human progress.

NGOs have not only influenced the international reality but also the national one. At first NGOs were seen by national government as adversaries of governmental institutions and as contestant to their policies, due especially to the self-driven nature of NGOs that sets them apart from typical intergovernmental organizations whose mandates are determined and restricted by states themselves. NGOs do not obtain their influence through delegation from states, rather, their influence is derived from the appeal of their ideas and values that's why no NGO is guaranteed influence, not even the most established NGOs, the influence need to be gained with valuable actions and valuable ethical and moral to which an NGOs need to be founded on. NGOs have the power to try to bring changes in state behaviour, but they usually fail to do so.

Actually, NGOs have helped states in various field, especially, thanks to globalization, to recognize the international significance of issues that were once considered solely domestic. As new concerns emerged in global affairs, NGOs with a shared interest formed alliances or networks with organizations in other nations. This transnational collaboration has provided NGOs with a strong foundation for their dealings with governments. NGOs serve as a dissolving agent against the limitations of sovereignty. To find immediate solutions to these transnational problems, it has been developed an important inter-individual and global partnership in which NGOs have played a crucial role. Consequently, they have become more professional, specialized in various fields, and expanded their word-serving expertise. Globalization has also brought today to the presence of NGOs not only in developed countries, but also in developing countries where they were underrepresented in the past.

Lately, not only the influence of NGOs has risen, but also their number. The growth of NGOs in terms of quantity and quality has created new challenges for the existing participatory tools. NGOs are demanding greater involvement in the intergovernmental process, which they criticize for being self-referential and undemocratic. Conversely, as civil society gains more power, it is being held to higher standards of accountability and transparency. Additionally, increased participation necessitates more efficient patterns of relationship to avoid duplication, loss of information, and resource wastage.

In fact, despite the growing involvement of NGOs in global politics and international law, there is still no clear understanding of the features and functions of this "new player." The term "NGO" is often defined and interpreted differently, leading to confusion and contradictions. Some use the term to describe a broad range of non-governmental organizations, including corporations and national liberation groups. Others reserve it for non-profit organizations promoting higher societal values within their legal scope. In international law, the application of the term "NGO" is equally unclear.

This lack of clear regulation for NGOs in international law provides an opportunity to maintain a diverse range of civil society voices in the international arena. However, it also creates problems, especially with regards to the representativeness and legitimacy of NGOs. As NGOs increasingly participate in international political processes, the lack of regulation raises questions about their role and legitimacy.

This study aim is based precisely on the controversial question about NGOs legal status under International Law, to see if NGOs can be legally considered subjects of International Law or not.

To find an answer to this question, the analysis of this paper starts with the first chapter in which an historical background of how NGOs has become the type of organizations that are known today is outlined, then their role and limits on a national level are taken into consideration, in order to see how they influence positively and negatively states and which are the humanitarian fields in which NGOs work majorly and have the biggest influence that are Human Rights, Environmental preservation and Healthcare Service.

In the second chapter the relation between NGOs and International Law is taken into account starting to define if NGOs can be considered as actors of international law taking into account three different types of theories and approaches on this topic. Then is taken into consideration the legal status and role of NGOs, both under primary law and secondary law. Despite their informal status on a legal level, it is fundamental to see how NGOs influences IL on a practical level, a fundamental condition to be considered actor of IL.

To conclude, since NGOs carry out a diverse range of projects across various fields, to gain a more practical insight into how NGOs collaborate with multiple partners across

different countries to implement projects, it may be helpful to examine the structure of a project-specific publication and a research study on the best practices on the project taken into consideration, that was a project called MigrART that I had the chance to be project assistance during my Internship in Brussels for the organisation European Centre for Economic and Policy Analysis and Affairs (ECEPAA).

CHAPTER 1: NGOs

Defining what constitutes an NGO precisely remains a challenge, and analysing the phenomenon of NGOs is surprisingly difficult. One of the reasons for this is that there is a diverse range of organizations that fall under the umbrella of NGOs, which vary from small, informal groups to large, formal agencies, starting with Northern NGOs (NNGOs) that originated in industrialized countries and Southern NGOs (SNGOs) from less developed areas. There are also membership forms of NGOs, such as community-based or people's organizations, as well as intermediary forms that work with communities, called grassroots support organizations (GSOs). Additionally, there are bogus NGOs, including GONGOs established as government fronts and "briefcase" NGOs created for personal gain. These organizations assume different roles and take various forms within and across different societies, making the analytical category of "NGO" complex and unclear. NGOs can vary in resources, staff, motivations, and values, and may aim to meet immediate needs or develop alternative approaches to problems. They also differ in funding, with many relying on external funding, while others rely on locally mobilized resources. Although many NGOs receive funds from and are part of the development industry, which includes bilateral and multilateral aid donors, the United Nations system, and the Bretton Woods institutions, some NGOs choose to operate outside the world of aid as much as possible. Given that the boundaries are unclear, and the classification of NGOs emphasizes what they are not, rather than what they are, they are difficult to define analytically, leading to complex debates about what qualifies as an NGO and the most appropriate methods for analysing their roles.³

Furthermore, there are also different terms to indicate NGOs, that is the most used, such as "non-profit", "voluntary" and "civil society" organizations. The different use of these terms is not based on meaning or differences on a practical level, it just depends on the experience and the historical background where the different NGOs have been developed. The first term "non-profit" is commonly used in the USA where organisations working not for financial gain but only for the sake of society are

³ Lewis, D. (PDF) *nongovernmental organizations, definition and history*. London School of Economics and Political Science. (2010) Available at: https://www.researchgate.net/publication/302391474_Nongovernmental_Organizations_Definition_and_History.

compensated with financial aid from the state. The “voluntary” term is mostly used in the UK where there is an ancient legacy of charity coming from the Christian tradition, but the condition to use this term is also due to the “apolitical” status of the organization, such as Oxfam working only on a humanitarian level, unlike Amnesty International which work is considered more political.⁴

Despite that, it is possible to affirm that the term “non-governmental organizations” entered common usage via the Article 71 of the UN Charter at the end of World War II:

“The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned”.⁵

After this first definition came out, in 1992, Salamon and Anheier developed a structural/operational definition of third-sector organizations, including NGOs, based on observable features such as formality, privacy from the government, non-profit distribution, self-governance, and voluntary participation. This definition helps to clarify what constitutes an NGO, which is typically understood as a self-governing, private, not-for-profit organization aimed at improving the quality of life for disadvantaged people, primarily engaged in the development or humanitarian action at local, national, and international levels. NGOs can be contrasted with other types of third-sector groups such as trade unions, arts or sports organizations, and professional associations.⁶

1.1 Historical Background

⁴ Lewis, D. (*PDF*) *nongovernmental organizations, definition and history* . London School of Economics and Political Science. (2010) Available at: https://www.researchgate.net/publication/302391474_Nongovernmental_Organizations_Definition_and_History.

⁵ *Chapter X — The Economic and Social Council Article 71 United Nations*. United Nations. Available at: <https://legal.un.org/repertory/art71.shtml>.

⁶ Lewis, D. (*PDF*) *nongovernmental organizations, definition and history* . London School of Economics and Political Science. (2010) Available at: https://www.researchgate.net/publication/302391474_Nongovernmental_Organizations_Definition_and_History.

The fact that the term NGOs was first used in the UN Charter does not mean that they were not existing before that, obviously not as the modern one that we all know, but with very similar aims, like the engagement in actions crossing continents and not only in one country. Before the 18th century, the organization doing that were mainly religious orders, commercial companies, mission groups and societies with a scientific field of interest and a significant number of these organisations are still present today.

After the 18th century, the domain of international NGOs started to be transformed and to be more similar to the one we know today, especially thanks to the ideas of the Enlightenment, which doctrine was centred on individual liberty and religious tolerance, with the birth of a general revolutionary feeling and with the beginning of real and consistent contacts between oriental and occidental worlds.

The revolutionary feeling that has characterised that period both in the Atlantic world, with the Haitian, American and French revolutions, but also those happened in the Muslim territories, has been a big inspirer for the different protests that have taken place in 2011 like the Arab Spring, the Indian anti-corruption and Occupy Wall Street movements. Despite in the 18th century the connection between the countries was different and more difficult to create, compared to 2011, what helped to sustain revolution across the borders was the work of International Activists and networks of Masonic and secret societies.⁷

One of the most important organizations at that time declaring that their goals were conceived as universal was the Universal Confederation of the Friends of Truth. It was settled in Paris in 1790 and since its aim was international its membership was necessarily transnational the participants were not only French but also British, from London, American, from Philadelphia, German, from Hamburg, Italian from Genoa, Swiss from Geneva and Dutch from Utrecht.⁸

The most recent humanitarian organization have been inspired not only by the Enlightenment but also by the Chinese experience where humanitarian associations have been operative along the rivers in Chinese territory since the 13th century. The Society for the Recovery of the Drowned established in 1767 in Amsterdam can be seen

⁷ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at:

<https://theglobaljournal.net/article/view/981/>.

⁸ *ibid*

as an example of this inspiration, following the establishment of the Royale Humane Societies in 1774 in England, which specialized in rescuing and reanimating drowning and wreck victims, setting the stage for the creation of different Human Societies with the aim of disseminate new reanimation techniques, all around the globe at the beginning of the 19th Century. Another important humanitarian association based on the Chinese example is the Royal Jennerian Society which was constituted in 1803 to erase the smallpox virus through vaccination.⁹

In the late 18th century and early 19th century, the most important NGOs were the ones dealing with slavery, which were present majorly in the transatlantic territory, to abolish it such as the Pennsylvania Society for the Relief of Free Negroes Unlawfully Held in Bondage established in 1775 in Philadelphia. The impact of these types of organizations was both on national legislation and it influenced the Parliament of the United Kingdom to adopt the British Slave Trade Act of 1807, and on international negotiations and declarations during the congress of Vienna in 1815 where the slave trade was declared to be against the principles of humanity.

Determinant for the abolitionist movement was the Quakers, a group whose members were part of the protestant Christian Church, which played a significant role also in the creation of some of the first peace societies claiming themselves as international both in Great Britain and the United States, such as the International Association that was born in 1834 in Scotland, which membership was composed of people who aim to identify valid reasons for mutual admiration and respect, value peacefulness, and are committed to collecting and spreading information that can enhance the well-being of both individuals and society at large.¹⁰

At the same time in Italy, new important and international realities were springing up, such as the Young Europe established by Giuseppe Mazzini, a republican, for the promotion of nationalist thought and in France with the League of the Just was a Christian communist international revolutionary organization based in Paris. In 1835 another important society was founded the International Shipwreck Society by the French Caliste-Auguste Godde, based on the model of the Humane Societies, to connect

⁹ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

¹⁰ Davies, T. (2014) *NGOs - A new history of transnational civil society*. C Hurst & Co Publishers Ltd.

all the charitable present across the countries. Thanks to this society further than 150 lifesaving societies were created at the international level, but unfortunately, this society did not last long: firstly because it came out that Godde, claiming himself as a count, was, in reality, a small-town doctor, and secondly because he was using this society only to enrich himself and not really with benevolent aims. The only international association founded in the United Kingdom in 1839 that lasted long and survived until today is the British and Foreign Anti-Slavery Society which is considered the oldest international human rights organization, called today Anti- Slavery International.

The British anti-slavery sentiment that was present in this period not only helped the abolishment of slavery in the United States in the 1860s but also, thanks to the Anti-Slavery Convention held in London in 1840, started the creation of different private international congresses that brought to the founding of NGOs operating in a different domain in the following years. In this period also the rights of Women started to be taken into consideration, starting from the fact that they were not allowed during the Convention in 1848 this brought a very important moment for the international movement for women's suffrage the Women's Rights Convention at Seneca Falls where religious, civil, social and rights state of women were discussed.¹¹

Henri Dunant, a Swiss philanthropist, played a very important role in the creation of international NGOs since he was the founder of the World Alliance of Young Men's Christian Association born in 1855 in London and its importance is given by the fact that it was between the first association that was organised as an international federation of national NGOs. Furthermore in 1859, at the battle of Solferino, Dunant aided injured soldiers and then urged political leaders to take action to protect war victims. He proposed two key ideas: a treaty that would compel armies to care for all wounded soldiers and the creation of national societies to aid military medical services. In his book, *A Souvenir of Solferino*, published in 1862, Dunant outlined his concepts, which were then taken up by the Public Welfare Committee in his hometown of Geneva. The committee formed a working group (the precursor to the ICRC), with Dunant as secretary, that convened in February 1863. The subsequent international conference in October formalized the concept of national societies and adopted the red cross on a

¹¹ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

white background as the emblem to identify medical personnel on the battlefield. In August 1864, a dozen countries adopted the first Geneva Convention, which made it mandatory for armies to care for all wounded soldiers, regardless of their side. These developments laid the groundwork for the International Red Cross and Red Crescent Movement and modern international humanitarian law. The ICRC's initial mission was to promote the establishment of national societies and act as an intermediary between them. In 1864, the ICRC sent delegates to work on each side of the front line during the war between Germany and Denmark, marking the beginning of its operational role as a neutral intermediary between belligerents. By the end of the 19th century, the Red Cross and Geneva Conventions had taken hold across Europe, North and South America, Asia, and Africa. Despite Dunant's vision having started the entire process, he was living in obscurity by the end of the century. Nonetheless, he and Frédéric Passy were awarded the Nobel peace prize in 1901. The Red Cross and Geneva Conventions were tested during the First World War.¹²

From the 1870s to World War I, the biggest number and variety of international NGOs started to be founded, they were around 400, and they were all very different in their field of activities as the most important were the International Council of Women (1888), the Universal Scientific Alliance (1890), the International Olympic Committee (1894), the International Cooperative Alliance (1895), the World League for Protection of Animals (1898), the International Socialist Bureau (1900), the Rotary International (1905) and the International Federation of Trade Unions (1910). Before the war NGOs accomplishments were mainly related to a fruitful operation in favour of new treaties like the International Literary and Artistic Association founded by Victor Hugo in 1878, dealing with the respectfulness of international copyright and the International Abolitionist Federation founded by Josephine Butler in 1875 dealing with the issue of sex trafficking.

In the late 19th Century new NGOs such as the Pan-African Association (1900), the World Zionist Organization (1897), the Pan-Islamic Society (1896), the Asia Association (1893) and the Pan-German League (1891) started to support the pan-nationalist doctrine, that started to gain importance internationally on a political level,

¹² *Founding and early years of the ICRC (1863-1914)* (2020) *International Committee of the Red Cross*. Available at: <https://www.icrc.org/en/document/founding-and-early-years-icrc-1863-1914>.

especially in the 20th Century. Furthermore, in 1911 a Central Office of Nationalities was created to guarantee a durable and global peace, starting from the assumption that the political and economic independence of the countries would help to reach and maintain this goal. Other important Organizations were gaining ground at that time, revealing the increasing popularity of theories of racism and eugenics, such as the International Society for Racial Hygiene founded in 1905, and the International Eugenics Committee founded in 1912.¹³

The importance of a transnational network started to be taken really into consideration in the years before World War I: Mass campaigns started thanks to the Hague Peace Conferences in 1899 and 1907, and also to a worldwide petition distributed by women's organizations in the same year of the first Conference collecting approximately one million signatures. International languages started to be introduced and theorized like the “Esperanto” language, invented by Lejzer Ludwik Zamhenhof, and therefore a lot of NGOs dealing with people with different backgrounds who wanted to learn this language like teachers, bankers, police employees and postal workers, was founded and even one for vegetarians named International Union of Esperantist Vegetarians that is still present today.¹⁴

In 1907 the Union of International Associations was founded, and it was, among the NGOs born in that period, the one with the biggest aspirational aim to include in one organisation all the international associations existent, having as a base an international palace, unfortunately, this was not possible to realise since the World War I happened in European territory. The only thing that they succeeded in realising was a common base in Brussels, that now is not used for that purpose anymore, but the Union is still operative and present and is considered the main repository of data on international civil society organisations and every year it publishes the Annual Directory of International Organisations.¹⁵

World War I had both positive and negative effects on the NGOs: some disappeared since they were not able to sustain a war, but at the same time others were founded

¹³ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal, NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

¹⁴ Davies, T. (2014) *NGOs - A new history of transnational civil society*. C Hurst & Co Publishers Ltd.

¹⁵ *Union of International Associations UIA*. Available at: <https://uia.org/>.

exactly in that period to face the consequences of a such devastating event. Save the Children (Save The Children Fund) which is one of the most important NGOs operating today, was created with this purpose in 1919, especially to help children who may die of hunger because of food lacking caused by war. In the same year also the International Federation of Red Cross and Red Crescent Societies was created, and it had the same aim, but it was addressed not only to children but to all the population in need.

During the war, it was almost impossible to be regular with the international meeting as it was before, in fact, the majority of NGOs failed to do so, but one international conference was able to be held in 1915, the Women at the Hague, where over than 1000 women participated and established an International Committee of Women for Permanent Peace which would then form the International Women's League for Peace and Liberty to create a “world of permanent peace built on feminist foundations of freedom, justice, nonviolence, human rights, and equality for all, where people, the planet, and all its other inhabitants coexist and flourish in harmony”.¹⁶

The establishment of the League of Nations in 1920, the world's first intergovernmental organization whose primary aim was to maintain peace worldwide, had an important role in the evolution of the NGO's activeness. In the 20s and 30s, they worked together on different important international problems such as economic reconstruction, sex trafficking, children's rights and refugees. This collaboration marked the basis for the role that NGOs still have now in the United Nations system. In the 20s the double of NGOs was founded compared to the number of NGOs founded in the 19th century, and what happened was that the aim to stop international disarmament to prevent another terrible war like the one that just happened, brought groups that were completely different to work together, like the Muslim Brotherhood and the Labour and Socialist International. Other NGOs were created with the same aim: associations of women, peace, Christians, ex-servicemen, labour and students. In the early 1930s, women's NGOs circulated the most important international petition for disarmament, but this operation was not successful, on the contrary, Winston Churchill declared that it was

¹⁶ *Vision, values and approach WILPF*. Available at: <https://www.wilpf.org/who-we-are/vision-values-and-approach/>

responsible for the lack of preparation of Western Europe to face the later Fascist challenge.¹⁷

World War II had the same consequences on the creation of new NGOs that World War I had, leading to the foundation of some of the biggest NGOs today such as Oxfam (1942), Catholic Relief Services (1943) and CARE International (1945). This is the time where NGOs started to become influent on decision-making in the international domain, starting with the post-war agreements and, especially, on the importance of human rights and the need for a charter dealing with this topic, leading to the inclusion of some references on human rights question in the United Nation Charter and consequently to the elaboration of the Universal Declaration of Human Rights (1948), made with the cooperation and support of different NGOs becoming one of their main field of action.

Despite the unprecedented growth in the number of NGOs during the Cold War period, starting in 1940 with 427, becoming 755 in 1950, 1321 in 1960 until reaching 2296 in 1970, the quintuple compared to 1940, for NGOs action it was not an easy period. What was not helping their development was the division of the world in two leading to the missing of the willing to cooperate, both internationally and on a local level, something that was necessary to establish and maintain peace after the tragedy of World War II. However, this political and global situation did not stop NGOs' work but only did not help them to reach their aims. International NGOs started to be divided into North-South and East-West ways and this was caused also by the decolonization outbreaks in Asia and Africa leading to the foundation of organizations on a regional level like the Afro-Asian People's Solidarity Organization in 1958. This became evident also with the acquisition of self-consciousness in the groups with base in Europe, which at the beginning were considering themselves on an international scale, but now we're starting to consider themselves as "European" based changing the name of the International Broadcasting Union In the European Broadcasting Union.¹⁸

Amnesty International, founded in 1961, was one of the first NGOs that tried to be universal and not fit in the "East-West" and "North-South" divisions thanks to its creation of the "threes network" declaring their neutrality in dealing with cases from the

¹⁷ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

¹⁸ Davies, T. (2014) *NGOs - A new history of transnational civil society*. C Hurst & Co Publishers Ltd.

first, second and third world without making any differences. This NGO was part of other NGOs that started to catch on during the 60s considered “new social movements” like women’s rights and the preservation of the environment.¹⁹

After the end of the Cold War, during the 70s, due also to the progressive intensification in globalisation and the consequent change in societies, NGOs were starting to have an increasingly international footprint, in particular, after the Stockholm Conference in 1972, the first global conference to put the accent on the environment issue, and the World Conference on Women that took place in Mexico City in 1975 to remark the fact that discrimination against women was a persistent issue in most parts of the world.

The big change in the NGOs of the 70s was also the internal structure, going from a hierarchical one to a more horizontal and networked one, an example of that is the International Feminist Network, whose purpose was to provide access to information on the evolution of women's rights organizations and the International Women’s Tribune Centre, which aim was to guarantee the participation of southern women in the redefinition and realization of just, equal, pacific and inclusive development processes for all people. In the same period, another big development in the NGOs field was their diversification, the new organisations started to deal with a very different domain such as Africare, founded in 1971, specialized in the commercialization and distribution of medical devices and health-related products in Africa, the BRAC, founded in 1972, which aim still is to fight the poverty of the world, operating principally in Bangladesh and the Islamic Relief Worldwide, founded in 1984, to save and transform the living conditions of the most vulnerable individuals in specific areas of the world.²⁰

In the 80s it started to be evident how NGOs were starting to have more importance in bringing concrete changes in the countries, even more than governments, such as the Consumers Association of Penang (1969) that had a key role in the establishment of different networks still present in the southern part of the world, as the Baby Food Action Network (1979) which main action was to boycott Nestlé. Very influential was also the International Physician for Prevention of Nuclear War (1980) influenced the negotiation of the Intermediate Nuclear Forces Treaty which was an arms control treaty

¹⁹ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

²⁰ Davies, T. (2014) *NGOs - A new history of transnational civil society*. C Hurst & Co Publishers Ltd.

between the US and the SU signed in 1987 or the now-named Human Rights Watch (1978), previously “Helsinki Watch”, that denounced the human rights violation present in the Soviet-bloc countries playing a key role in the eastern Europe revolution in 1989 against the communist's governments.²¹

After the end of the Cold War, governments started to have difficulties dealing with globalization and this opened different opportunities for civil societies and NGOs to gain more power and position in the international reality. An interesting turning point happened in 1997 with the Ottawa Landmines Convention where NGOs were defined as “superpowers” due to the growing influence in the economic development domain that the NGOs were having. The term “superpower” was used also because some of the most important international NGOs, as of today, have more financial aid than some developing countries, for instance, the World Vision International (1950) budget was higher than the funds for the development of Italy and Australia in 2008 and the same situation happened with Save the Children budget compared to the one of Austria. Another fundamental action that the international NGOs, especially the Internet Society (1992), did in the last twenty years was the communication revolution without which some other organizations like Wikimedia Foundation and Avaaz would have never been able to develop or even exist.

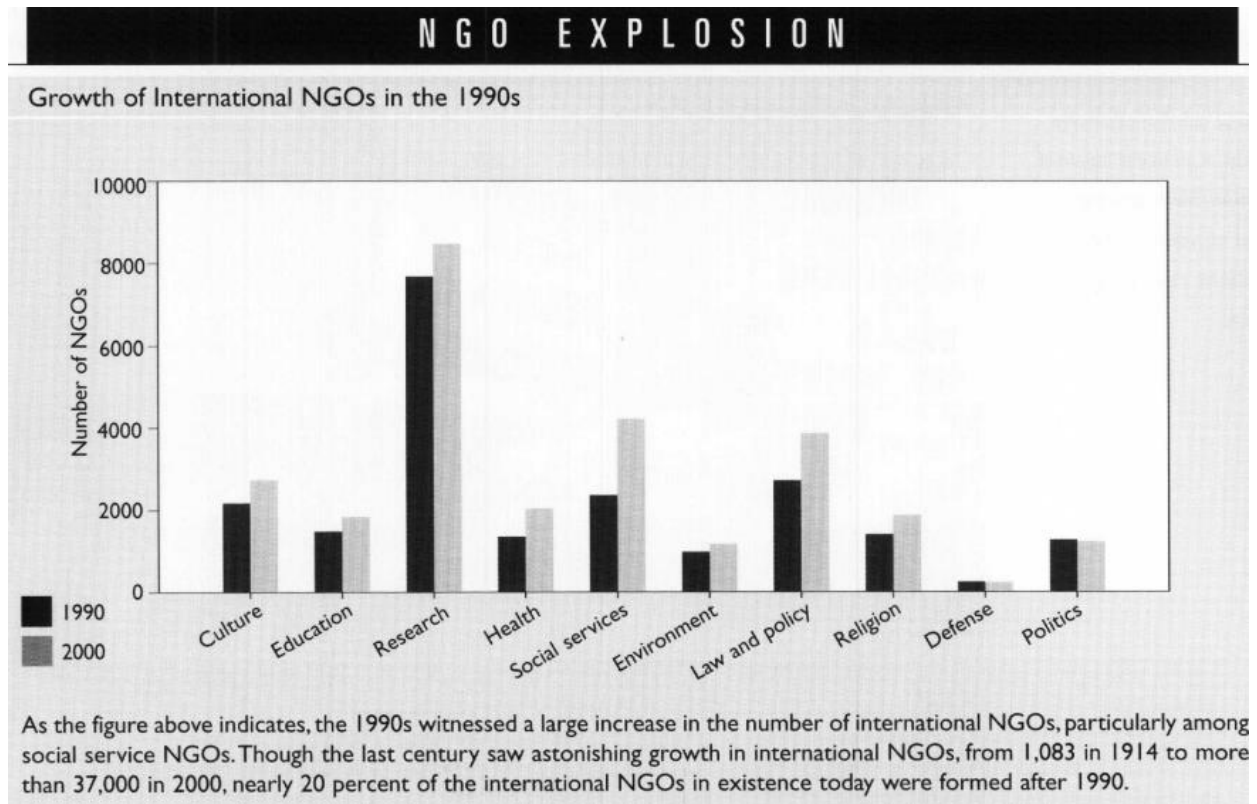
The foundation of CIVICUS, an umbrella body of NGOs, in 1993 can be perceived as similar to the aim of the Union of International Associations, founded in 1907, to have global cooperation before the First World War, or with the disarmament movement before the Second World War, but there are big differences between that two periods of time because today there is more interest in developing new organizations with a horizontal structure rather than a hierarchical one and also that today the NGOs know better their limits of action and are trying to face them thanks also to the International NGO Accountability Charter (2014).²²

NGOs' numbers have increased exponentially after the 1990s, especially in the latest year, to the point that today is difficult to determine their number. In 2000 their number

²¹ Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

²² Davies, T.R. (2013) *NGOs: A long and turbulent history: The Global Journal*, *NGOs: A Long and Turbulent History | The Global Journal*. Available at: <https://theglobaljournal.net/article/view/981/>.

was estimated to be about 35000, but today there is no precise number is estimated to be around a million, including both formal and informal organisations, instead, the number of NGOs receiving international aid is closer to a few hundred thousand.²³



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NGO's role and form have changed throughout the century and for the historical events occurring, in particular, starting from the 18th century with the revolutionary ideas, to deal with the side effects of two world wars and the Cold war division of the globe. These historical events have been both a challenge and an occasion for INGOs because some did not stand these crises to survive, but some others have only taken these situations to develop and start to deal with new issues. The history and development of NGOs should be understood as a global interaction between different countries that have worked and improved together, not as a single part of the world developing outwards. With the economic and authority crisis today, NGOs are still developing and evolving to find new shapes for organizations.

²³ Davies, T. (2014) *NGOs - A new history of transnational civil society*. C Hurst & Co Publishers Ltd.

²⁴ Growth of international NGO's in the 1990's (source: UN Human Development Report 2002)

1.2 Role and limits

NGOs have long been associated with providing aid and charitable services, but while these activities remain central to many organizations, NGOs have increasingly taken on broader roles such as promoting economic and social development, engaging in advocacy, setting agendas, providing public education, monitoring international agreements, and collaborating with intergovernmental organizations. To better understand the role of NGOs, it is important to analyse which are their different functions.²⁵

As concerning providing aid and charitable services NGOs, including some of the most well-known ones such as the International Committee of the Red Cross, have roots in war and conflict. Many NGOs, such as Save the Children, Foster Parents Plan, Oxfam, and CARE, were founded during or shortly after major conflicts, with charity and relief work remaining a core focus for many organizations. The fact that Doctors Without Borders was awarded the Nobel Peace Prize in 1999 highlights the ongoing importance of humanitarian relief work for NGOs. Throughout the 20th century, NGOs have been involved in distributing resources such as food, clothing, shelter, and healthcare during natural disasters, conflicts, and other emergencies. Japan is one example of a country where NGOs played a significant role in providing relief throughout the 1900s, with both Buddhist and Christian organizations, including the YMCA (Young Men's Christian Association), Red Cross, and Women's Christian Temperance Union, involved in providing aid. Most recently, Haiti has once again demonstrated the importance of NGO relief work in response to the devastation caused by Hurricane Matthew.²⁶

NGOs have recognized that relief and charity work only address short-term needs and fail to address long-term development issues. As a result, many NGOs have shifted their focus to rehabilitating communities in the long run and promoting social and economic development in developing countries to address poverty and inequality. Some NGOs provide technical support for development, while others operate their development programs. Education of young children is also a crucial service provided by NGOs, particularly in countries such as Uganda where the population is young and growing

²⁵ Ahmed, S. and Potter, D.M. (2006) *NGOs in international politics*. Bloomfield, CT: Kumarian Press, Inc.

²⁶ *ibid*

rapidly. The Kasiisi Project, established by Elizabeth Ross and Lydia Kasenene in the late 1980s, is an example of an NGO that successfully addressed the challenges of managing high dropout rates and providing quality education. The project has resulted in increased teacher and staff attendance, higher academic standards, and improved performance by both girls and boys.²⁷

The role played by NGOs in social and economic development in South Korea, Thailand, and Indonesia varies depending on factors such as the presence or absence of political pluralism and democracy, the developmental welfare state, and the historical development of civil society. In South Korea, where there is a consolidated democracy and a strong developmental welfare state, NGOs tend to focus on indirect pressure for social protection. In Thailand, where democracy is fragile and the developmental welfare state is immature, NGOs are active in both the direct provision of social protection and indirect pressure on the government to pay greater attention to welfare issues. In Indonesia, where civil society is strong, but the developmental welfare state is not well-established, NGOs focus mainly on the direct provision of social protection to those in need, rather than challenging or pressuring the government.²⁸

Their engagement in advocacy is fundamental because advocacy networks unite numerous NGOs to address global issues. These networks engage in various activities such as information politics, which involves disseminating information about issues being considered, symbolic politics, which entails using symbols to raise awareness about specific issues, leverage politics, which involves gaining influence over powerful actors and accountability politics, which entails holding states accountable. Also, lobbying is another critical activity for NGOs. It is not surprising that NGOs seek to influence their government, other governments, and various organizations and institutions.²⁹ Cornelia Beyer argues that NGOs possess significant decisional power, which they can exercise throughout the political process, including agenda-setting, policy formulation, implementation, and monitoring. NGOs are particularly effective in influencing agenda-setting and monitoring, but less so in actual decision-making, which

²⁷ Ross, E. (2013) *The Role of Small NGOs: Building Quality International Education*, *Harvard International Review*. Available at: <https://www.jstor.org/stable/i40104472>.

²⁸ Sunhyuk, K. (2014) *NGOs and Social Protection in East Asia: Korea, Thailand and Indonesia*, *Taylor & Francis*. Available at: <https://www.tandfonline.com/doi/full/10.1080/02185377.2014.988277>.

²⁹ Ahmed, S. and Potter, D.M. (2006) *NGOs in international politics*. Bloomfield, CT: Kumarian Press, Inc.

remains the domain of state actors. NGOs exert their decisional power through lobbying, advocacy, monitoring, protest, and participation.³⁰

NGOs often engage in public education and consciousness-raising as a key part of their activities, given their limited resources compared to states and corporations. In the realm of political socialization, NGOs conduct outreach activities to educate governments and organizations at local, national, and international levels. For instance, Greenpeace disseminates information through various media channels to raise awareness about environmental issues. Baogang He and Hannah Murphy, two important experts on International Relations, note that the absence of a global-level set of contracts between citizens and international organizations prompted INGOs to organize protests against the economic policies of the World Trade Organization (WTO) and formulate a global social contract involving civil society, governments, and international organizations. The urgent need for such action is highlighted by the various threats of globalization, including the social, political, and economic effects of neoliberal policies, income inequality, lack of labour standards, and environmental degradation. He and Murphy analysed two NGO campaigns against the World Trade Organization, one on enforceable labour standards linked to economic liberalization and the other on Trade-Related Intellectual Property Rights (TRIPS) to improve access to affordable medicines in developing countries. While the first campaign had limited success, the second campaign achieved greater success.³¹

NGOs utilize advocacy, lobbying and public education as activities to influence decision-makers at local, national, and international levels and to advocate for certain issues to gain their attention. An essential aspect of this process is framing the issue and consequently setting the agenda, which is a crucial public education activity undertaken by NGOs. NGOs have been successful in convincing the public, governments, and IGO members such as the International Monetary Fund (IMF), the World Bank, and the WTO to view persistent problems differently. Greenpeace is an example of an NGO that has been involved in issue framing, particularly related to environmental protection policies. As a result of their efforts, millions of people and many governments

³⁰ Beyer, C. (2007) *Non-governmental organizations as motors of change*. Available at: <https://www.jstor.org/stable/44484110>.

³¹ Baogang, H. and Hannah, M. (2007) *Global Social Justice at the WTO? The Role of NGOs in Constructing Global Social Contracts*. Available at: <https://www.jstor.org/stable/4541806>

worldwide have taken steps to protect the environment. Think-tank NGOs, on the other hand, complement the activities of activist NGOs by collecting information through research for public education and advocacy. The Institute for Agriculture and Trade Policy and the Rural Advancement Foundation International are two examples of such NGOs.³²

NGOs work also to ensure that both governments and multinational corporations comply with laws and international treaties. They also pressure international financial institutions such as the World Bank and the International Monetary Fund for greater transparency and accountability through advocacy networks. In recent years, NGOs have gained acceptance by states and intergovernmental organizations like the United Nations, which has allowed their participation in deliberations and accredited them with the Economic and Social Council (ECOSOC), granting them some rights. This increased participation of NGOs has extended participatory democracy and made it easier for them to monitor transnational actors. NGOs have been involved in the formulation and implementation of laws since the early 1990s, enabling them to influence representatives of various organizations and institutions at conferences and negotiation processes. Regarding human rights, NGOs have significantly contributed to the advancement of such rights, including the establishment and drafting of human rights conventions. However, there have been failures in promoting human rights, as demonstrated in the Arab Spring, where hopes for significant and lasting human rights reforms in the region had receded. In the area of the environment, NGOs such as the Earth Island Institute, Rainforest Action Network, and Greenpeace have played a crucial role in informing the public and holding various actors accountable. These NGOs develop and support projects that promote conservation, preservation, and restoration of the Earth's biological and cultural diversity, educate the public about rainforest protection issues, and draw attention to environmental abuse through nonviolent strategies.³³

³²Ahmed, S. and Potter, D.M. (2006) *NGOs in international politics*. Bloomfield, CT: Kumarian Press, Inc.

³³ Kaloudis, G. (1970) *Non-governmental organizations: Mostly a force for good: Semantic scholar, International Journal on World Peace*. Available at: <https://www.semanticscholar.org/paper/Non-Governmental-Organizations%3A-Mostly-a-Force-for-Kaloudis/ae6397e0b7f8bde9274c8a4056fcc43d396bea25>.

NGOs have played, and still play, a significant role in driving the increasing importance of the Internet in the lives of people in both developed and developing nations. Two NGOs that have been active in this area are the Institute for Global Communications and OneWorld. These NGOs function as online resource networks, serving as a common Internet gateway to NGOs focused on human rights and development. They offer their members Internet-based tools and services, facilitate communication between members, and serve as a source of information for the public. The Institute for Global Communications, which originated in Palo Alto, California, has thousands of clients worldwide and is a non-profit organization committed to promoting peace. Although it maintains a physical presence in San Francisco, it is essentially a virtual organization built around four networks (PeaceNet, EcoNet, WomensNet, and Anti-RacismNet), each offering issue-specific feature stories, action alerts, discussion forums, and other resources. OneWorld, on the other hand, was founded in England by Peter Armstrong, a former BBC producer who wanted to focus on sustainable global development and global justice. It began as the Internet arm of the OneWorld Broadcasting Trust, a UK-based charity that promotes the effective use of media to raise awareness of human rights and global development issues. Today, OneWorld is the world's leading portal on global justice and serves as a gateway to over 700 NGOs worldwide.³⁴

NGOs serve many more functions that complement and overlap with the previously discussed roles, including establishing new standards, promoting transparency, offering expertise and information, and reducing the North-South division. They also assist in the formation of international institutions and reinforce the norms advocated by these organizations by educating the public and holding states accountable, while lowering the costs of implementing international initiatives. NGOs promote norm compliance by pressuring target actors to adopt new policies and monitoring adherence to international standards. They play an essential role in the democratization or re-democratization of international politics by creating transparency through educating the public about decision-making processes and conducting effective campaigns against illegal or unethical practices. Despite any controversy surrounding their mission, exposing the

³⁴ Warkentin, C. (2001) *Reshaping world politics: Ngos, the internet, and Global Civil Society*. Available at: https://books.google.com/books/about/Reshaping_World_Politics.html?id=QJYR5_9SZJkC

misconduct of individuals and institutions is one of the key functions of organizations like WikiLeaks.

NGOs possess a unique advantage in international politics as they are situated close to the issues and populations they serve and can be of service to governments and international institutions. NGO leaders are experts in their fields and are often more reliable than journalists or government officials in presenting the information. They also contribute to the expansion of civil society both domestically and globally by offering a new and different perspective on international politics. They can link the micro and macro levels by using their experiences in the South to inform their advocacy and policy work in the North, thereby strengthening Southern voices and reducing the North-South division.³⁵ By performing their diverse functions, NGOs have helped create an emerging global civil society.

To better understand this last NGOs unique role, it is fundamental to define the term civil society. Civil society has been associated with development policy since the 1980s and is linked to debates on politics, democratization, public participation, improved service delivery, and NGO campaigning and advocacy at the international level. The concept of civil society dates back to Scottish Enlightenment thinkers such as David Hume and Adam Ferguson, as well as German thinker G.W.F. Hegel in the 19th century. French thinker Alexis de Tocqueville admired Americans and their association-building culture, viewing it as a source of democratic strength and economic power. Italian theorist Antonio Gramsci saw civil society as a site for the projection and consolidation of state power in capitalist societies, but also as a location for contestation and resistance to hegemonic power. Scholars have defined civil society as a realm or space of organizational actors that are not part of the household, state, or market, including associations, people's movements, citizens' groups, consumer associations, small producer associations, women's organizations, indigenous peoples' organizations, and NGOs.³⁶ However, there are differences among scholars on which groups comprise civil society, the institutional boundary of civil society as a social space, and whether civil society should describe the society we have or the society to which we aspire.

³⁵ Beyer, C. (2007) *Non-governmental organizations as motors of change*. Available at: <https://www.jstor.org/stable/44484110>.

³⁶ David, N. and Lewis, K. (2009) *Non-Governmental Organizations and Development*. Available at: <https://www.taylorfrancis.com/books/mono/10.4324/9780203877074/non-governmental-organizations-development-david-lewis-nazneen-kanji>.

NGOs have played a crucial role in post-war Bosnia-Herzegovina, contributing significantly to the construction and development of civil society. However, NGOs and grassroots organizations have come under pressure in recent years due to the securitization of aid and the backlash on civil society.³⁷

NGOs have a significant role also in addressing various societal issues, such as civil wars, failed states, financial problems, and the need for representation of the voiceless. Despite their positive impact, it is important to critically evaluate their performance as many organizations have certain deficiencies. NGOs can improve global governance and enhance global civil society, however, a lack of coordination between NGOs can lead to a democratic deficit and the waste of resources. Furthermore, collaboration among NGOs is necessary to achieve successful campaigns, but it can be complex and challenging, especially when pursuing different campaigning styles and strategies.³⁸ Unhealthy competition, overlapping services, and waste can result from the abundance of NGOs an example of misguided actions can be seen in the role of some NGOs in Haiti, such as CARE, which began community development activities in the northwest of Haiti in 1966 that primarily consisted of the Food for Work program, which aimed to decrease Haiti's reliance on subsistence agriculture and cash crops. The program was part of a strategy by the government of Jean Claude Duvalier and NGOs to encourage Haitian peasants to migrate to Port-au-Prince, the capital of Haiti, for employment in assembly industries. Under the program, peasants were paid for building roads and installing drinkable water systems in rural communities, and in return, they received surplus food donated by countries like the United States and Canada. However, the program's impact in the northwest region of Haiti was the massive exodus of peasants from rural areas to urban centres. The abundance of surplus food made it cheaper than locally produced food, leading to the abandonment of farmland and many peasants also sought employment in Port-au-Prince's factories instead of farming. Despite being innovative at the time, the Food for Work program could not employ all those in need of

³⁷ Mulalic Muhidin, (2014), *Fostering of Civil Society by Muslim Women's NGOs in Bosnia and Herzegovina*, " *Journal of Muslim Minority Affairs*.

³⁸ Beyer, C. (2007) *Non-governmental organizations as motors of change*. Available at: <https://www.jstor.org/stable/44484110>.

a job, resulting in the abandonment of land in the northwest and the migration of peasants to other countries.³⁹

Western scholars have argued that a strong civil society is crucial for democratization since the late twentieth century. However, NGOs have not always been beneficial in this regard: for instance, Grugel's analysis of NGOs and democratization in Latin America shows that NGOs have either failed to improve the well-being of the people they aim to help or have had minimal impact on their lives. The reasons for this limited success are often due to inadequate consultation with local communities and, additionally, NGOs face challenges when attempting to balance their policy agendas with those of their funders, the agenda of the latter that is mainly focused on capitalist modernization and liberalization, could undermine social cohesion and lead to social unrest. Moreover, there are specific issues associated with assistance strategies aimed at building civil societies such as limits to how much civil society can be built from outside, like the values and organizations that constitute civil society need time to develop within communities.⁴⁰

1.2.1 Limits

It is also possible that NGOs are not always the best tools to effect change. In the Arab world, NGOs and other organizations and institutions have failed to fulfil their assigned roles since 2011, according to Joel Beinin. One of the reasons for this failure is that building civil society as a strategy for promoting democracy has been overstated. Additionally, Arab advocacy NGOs tend to be staffed by cosmopolitan, middle-class professionals who are socially distant from the majority of the population. International advocates of building civil society have also promoted neoliberal economic policies, which can be problematic for Arab countries.⁴¹

³⁹ Kaloudis, G. (1970) *Non-governmental organizations: Mostly a force for good: Semantic scholar, International Journal on World Peace*. Available at: <https://www.semanticscholar.org/paper/Non-Governmental-Organizations%3A-Mostly-a-Force-for-Kaloudis/ae6397e0b7f8bde9274c8a4056fcc43d396bea25>.

⁴⁰ Grugel, J. (2000) *Romancing civil society: European ngos in Latin America, Jstor*. Available at: <https://www.jstor.org/stable/166283>

⁴¹ Beinin, J. (2014) *Civil Society, Ngos, and Egypt's 2011 Popular Uprising*. Available at: <https://read.dukeupress.edu/south-atlantic-quarterly/article-abstract/113/2/396/30396/Civil-Society-Ngos-and-Egypt-s-2011-Popular>.

NGOs have been criticized for exhibiting a North-South bias, as scholars have observed that power, influence, and resources are often distributed unequally in transnational cooperation among NGOs. According to some experts, transnational civil society is primarily a project of the North and is therefore more reflective of Western economic and political power than of global perspectives. US-based NGOs, in particular, have been accused of being unrepresentative, drowning out the voices of more "legitimate" NGOs, and being too closely tied to the US government in their advocacy efforts. As a result, some view NGOs as a means for Westerners to impose their values on non-Western societies.⁴²

Furthermore, NGOs often face a significant obstacle in their heavy reliance on government funding, which can compromise their connection with their constituents. This is because NGOs may be perceived as an extension of the state and therefore feel pressured to meet the expectations and demands of their government funders, which can ultimately put their legitimacy at risk. In her article on Muslim women's NGOs in Bosnia-Herzegovina, Mulalic⁴³ notes that these NGOs, being religious, were not targeting Western donors and were forced to seek support from Islamic donors instead. However, these donors also have their agendas and may promote specific objectives through the NGOs they support. To address this problem, Anna Qhanyan suggests in her article on the microfinance sector in Bosnia-Herzegovina⁴⁴ after the 1995 Dayton Peace Accords that NGOs can only pursue their policy directions if they operate within certain well-defined network conditions. This can lead to a disconnect between donors' preferences and the final policy outcomes realized by the NGOs, as donors' financial and political power is attenuated within such networks.

The legitimacy of NGOs is impacted by their reliance on government funding, which raises the question of whose interests they truly represent. The question is if they prioritize the needs of the people they serve, who often lack a voice, or if they cater to the interests of their donors. This issue is particularly severe in countries like Greece, where the government has close ties with certain NGOs and even promotes their

⁴² Beyer, C. (2007) *Non-governmental organizations as motors of change*. Available at: <https://www.jstor.org/stable/44484110>.

⁴³ Mulalic Muhidin, (2014), *Fostering of Civil Society by Muslim Women's NGOs in Bosnia and Herzegovina*, " *Journal of Muslim Minority Affairs*.

⁴⁴ Ohanyan Anna, (2009) *Policy Wars for Peace: Network Model of NGO Behavior*, *International Studies Review*.

members to run for parliament. It is even more problematic in non-democratic nations, where governments may establish their NGOs or impose strict guidelines on those founded by individuals. In such cases, many of these organizations do not qualify as legitimate NGOs and may be considered "private organizations" or "hybrid" NGOs, as per the definitions provided earlier.

When funding from the government and other sources is unavailable, some NGOs turn to for-profit ventures as a means of sustaining themselves, as noted by Khieng and Dahles in their article on NGOs in Cambodia.⁴⁵ They suggest that relying on external sources of revenue can lead to dependence, reduced organizational autonomy, and goal displacement with a top-down accountability structure. On the other hand, funding from commercial activities can provide more predictability and potentially promote bottom-up accountability, while also increasing organizational autonomy. However, this approach may conflict with NGOs' missions and result in mission drift.

Nezhina and Ibrayeva's study of Western-style⁴⁶ NGOs in Kazakhstan and other Central Asian countries suggests that these organizations are weak and unsustainable. Many of them rely on foreign donors for financial support and fail to establish local networks for sustenance. The study identifies several factors contributing to the ineffectiveness of NGOs in this region: for instance, people in Kazakhstan tend to rely on the government and family as their primary providers of social assistance, and local culture may not be conducive to the smooth functioning of new institutions. Additionally, the study suggests that Western societal models may not be suitable for Kazakhstan's societal models, and that cultural incompetence and arrogance may contribute to institutional failure. Overall, the study emphasizes the need for NGOs to adapt to local contexts and cultural values to be effective.

NGOs also face the challenge of ensuring their survival, which often results in multiple mandates. However, this approach may reduce their sense of mission and effectiveness in providing services to their clients in developing countries. Furthermore, by taking on multiple mandates, NGOs can expand their roles to the point of becoming contractors for the government, which poses a risk to their independence. The greater their

⁴⁵ Soithy, K. and Dahles, H. (2015) *Resource Dependence and Effects of Funding Diversification Strategies Among NGOs in Cambodia*. Available at: https://www.jstor.org/stable/pdf/43654660.pdf?ab_segments=

⁴⁶ Nezhina Tamara G. and Ibrayeva Aigerim R., (2013), *Explaining the Role of Culture and Traditions in Functioning of Civil Society Organizations in Kazakhstan*.

dependence on external financial resources, the more fragile their independence becomes.

In conclusion, despite the criticisms and shortcomings of NGOs, they can and often do play a valuable role and many of them contribute to the betterment of society. Since the end of the Cold War, NGOs have been instrumental in various areas, including providing relief during disasters, promoting social and economic development, improving education standards, monitoring transnational actors, bridging the gap between the North and the South, increasing transparency, providing expertise and information, and strengthening civil society. It is undeniable that NGOs such as Doctors without Borders, Oxfam, the International Red Cross, and organizations working to ban and remove landmines have made a positive impact. Consider the conditions of refugees and displaced people in various regions around the world, including Turkey, the Middle East, Greece, Italy, Africa, Asia, and the Americas. Without the help of NGOs, their lives would be even more difficult. Therefore, there is a significant need for grassroots organizations like NGOs. To address their limitations and enhance their effectiveness, NGOs must establish connections with governmental power while avoiding becoming overly dependent on them. They should also foster solidarity and trust among other NGOs, and ensure their agendas are clearly defined. NGOs must remain committed to their mission and adhere to the WANGOs Code of Ethics and Conduct. This means being responsible and public service-oriented, prioritizing human rights and the dignity of all individuals, being transparent and honest, and avoiding any focus on profit.

1.3 Main fields of occupation

Non-governmental organisations have been considered fundamental in different fields of action, as it has already been underlined throughout their history and analysing their role, but three fields, in particular, are those that have been influenced the most by their presence and without their action their importance would not be taken into consideration. These three fields are: the enforcement of human rights, the dealing with environmental issues, that are considered fundamental also because the rights and recognition under International Law of NGOs in these two fields is not only informal since it is strictly correlated to the UN, and the promotion of health care in developing

countries, which NGOs action have been fundamental especially thanks to the introduction of the primary health care plan, meaning to grant health care ad a human rights, something that without NGOs would not have been possible.

1.3.1 Human Rights

The NGO's work in the human rights field is strictly connected to the one of the United Nations, starting with the influence exercised after World War II, in 1945, to include the question of Human Rights in the UN Charter. Also, after the adoption of the Universal Declaration of Human Rights, in 1948, the NGOs have been actively engaged in strengthening the UN human rights system playing a significant role in shaping the formulation of various U.N. treaties and conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). NGOs have also proposed new institutional arrangements to address human rights abuses, resulting in the establishment of mechanisms such as the U.N. expert body for disappearances, the working group on arbitrary detention, Special Rapporteurs, and the U.N. High Commissioner for Human Rights.

NGOs' involvement in the development of the U.N. system of human rights can be categorized into three functions: standard-setting, monitoring, and implementation. Their influence is expanding beyond the U.N. to include other international organizations and the transnational private sector. A crucial role played by NGOs in this field is to have the tools necessary to expose human rights abuses and, as a consequence, to address the gaps in local, national, and international systems of governance and justice. These violations may slip through the cracks, but NGOs seek to fill in these gaps by invoking international human rights standards.⁴⁷

In recent years, NGOs have been involved in similar functions with other international organizations. For instance, the creation of the World Bank's Inspection Panel in 1993,

⁴⁷ Goel, V. and Tripathi, M.K. (2010) *The role of ngos in the enforcement of human rights: An overview - indian political science, Jstore*. Indian Political Science Association. Available at: <https://www.studocu.com/es-mx/document/universidad-de-guadalajara/organismos-internacionales/the-role-of-ngos-in-the-enforcement-of-human-rights-an-overview/12319021>.

which investigates complaints related to World Bank-financed projects, was influenced by NGOs. The panel's mandate has explicit human rights implications, making it possible for those impacted by the World Bank's actions or inactions to participate and seek reparation. Despite NGOs' strategies being grounded in U.N. human rights principles they also advocate for changes in situations where local and regional realities intersect with international policy and decision-making processes, whether it concerns a loan from the World Bank or the participation of a multinational corporation in a developing country.

The increasing interdependence has driven NGOs to advocate for the implementation or enforcement of human rights standards, even in situations where there are no immediate organizational channels to validate them. Globalization has resulted in governments violating basic freedoms, creating struggles for political space within civil society. This space provides an arena for non-state actors to undertake independent initiatives concerning the state. NGOs are not the only entities affected, but they often lead the way in globalizing civil societies, and as a result, they are central to these discussions. With their flexible relationships, NGOs can now develop an organized response.⁴⁸

The number of NGOs working in this field is vast, but there are two of them that are considered the most important, not only concerning numbers but especially concerning achievements, dealing with this issue that is Amnesty International and Human Rights Watch.

Amnesty International was founded in 1961 to the disappointment of Peter Benson, who was a British Lawyer, caused by the imprisoned of a pair of Portuguese students simply for toasting to freedom. In response, he wrote an article for The Observer newspaper and initiated a campaign that garnered a remarkable reaction. His call to action was widely published in newspapers globally, igniting the notion that people from all corners of the world can come together in solidarity for justice and freedom. This momentous event not only spawned a remarkable movement but also marked the beginning of a profound shift in society. Over time, Amnesty has expanded its focus beyond advocating for the release of political prisoners to encompassing the entire range

⁴⁸ Goel, V. and Tripathi, M.K. (2010) *The role of ngos in the enforcement of human rights: An overview - indian political science, Jstore*. Indian Political Science Association. Available at: <https://www.studocu.com/es-mx/document/universidad-de-guadalajara/organismos-internacionales/the-role-of-ngos-in-the-enforcement-of-human-rights-an-overview/12319021>.

of human rights. The efforts of the organisation are now on safeguarding and empowering individuals, whether it's through ending the death penalty, safeguarding sexual and reproductive rights, fighting against discrimination, or protecting the rights of refugees and migrants. The principal role of the organisation is to be a voice for all individuals who may face threats to their freedom and dignity, speaking out on their behalf and working to ensure that their rights are upheld.⁴⁹

The organisation has achieved different fundamental goals for the promotion and defence of human rights throughout the year, starting in 1963 when the Ukrainian Archbishop Josyf Slipyi was released from a Siberian prison, becoming Amnesty's first prisoner of conscience to be freed. This event sparked decades of tireless campaigning on behalf of individuals who were persecuted for their beliefs. In 1972 the first Amnesty campaign against torture was launched and in 1984, 12 years later, the United Nations adopted the Convention against Torture to combat torture globally. In 1977, Amnesty was awarded the Nobel Peace Prize in recognition of the hard work and determination of its supporters worldwide in securing the foundation for freedom, justice, and peace in the world. In 1980 the organization launched its first campaign against the death penalty arriving after 34 years, in 2014, to 140 countries abolished executions starting from nine countries at the time of the campaign. In 1993, Amnesty launched a campaign for the establishment of an International Criminal Court (ICC) to bring those responsible for genocides and war crimes to justice. The ICC was finally established in 2002. In 2007, Amnesty's longstanding fight for freedom of expression worldwide moved to the internet when Ali Sayed al-Shihabi was released from jail after being imprisoned for posting pro-democracy articles online in Syria and after 20 years of pressure from Amnesty's supporters, a life-saving global Arms Trade Treaty (ATT) was established on December 24, 2014, to help prevent the flow of weapons that fuel atrocities around the world.⁵⁰

Human Rights Watch was founded in 1978 as Helsinki Watch to support citizen groups throughout the Soviet bloc in monitoring government compliance with the Helsinki Accords of 1975. Helsinki Watch utilized a methodology of public exposure of abusive governments through media coverage and direct engagement with policymakers, which helped to bring attention to human rights violations in the Soviet Union and Eastern

⁴⁹ *Amnesty International*. Available at: <https://www.amnesty.org/en/>

⁵⁰ *What we Do-Amnesty International*. Available at: <https://www.amnesty.org/en/what-we-do/>

Europe, contributing to the democratic transformations of the late 1980s. Americas Watch was established in 1981 during the civil wars in Central America and focused on exposing abuses by both government forces and rebel groups using international humanitarian law. Soon after, Asia Watch (1985), Africa Watch (1988), and Middle East Watch (1989) were added to what was then called The Watch Committees, leading to the adoption of the all-inclusive name Human Rights Watch in 1988.⁵¹

New human rights challenges in the 1990s resulted in innovations in Human Rights Watch's work, including the reporting on the 1991 Persian Gulf War, which for the first time addressed violations of the laws of war in bombing campaigns and advocacy targets that expanded to give greater attention to the United Nations and regional bodies such as the European Union. The organization also played a significant role in pressing for international prosecutions of war crimes in Rwanda and the Balkans and played a prominent role in the creation of the International Criminal Court. Human Rights Watch expanded its work on the rights of women, children, refugees, and migrant workers and investigated rights abuses in closed societies and the role of businesses in human rights. In 1997, it shared the Nobel Peace Prize as a founding member of the International Campaign to Ban Landmines and played a leading role in the 2008 treaty banning cluster munitions.

In the 21st century, Human Rights Watch faced new challenges, including the need for new forms of pressure on terrorist groups and their supporters after the September 11, 2001, attacks and the creation of a program devoted to human rights and health in response to the HIV/AIDS pandemic. The organization is increasingly using its research methodology to address economic, social, and cultural rights, particularly in education and housing, and is adopting new technologies such as statistical research, satellite photography, and bomb-data analysis to supplement its traditional on-the-ground fact-finding and advocacy.⁵²

1.3.2 Environment preservation

⁵¹ *Human Rights Watch | Defending Human Rights Worldwide*. Available at: <https://www.hrw.org/>

⁵² *About Us-Human Rights Watch*. Available at: <https://www.hrw.org/about/about-us>

Environmental issues such as air pollution and loss of biodiversity can have local and global impacts. Human activity has always affected the environment, but with technological advances and globalization since the Industrial Revolution, the scale and scope of these impacts have increased. As many environmental problems are transnational, international cooperation is necessary to address them. Multilateral environmental agreements are one way in which countries work together to tackle environmental problems and non-governmental organizations have played a significant role in implementing them, but also in raising awareness, influencing outcomes, and monitoring commitments related to these agreements.⁵³

NGOs have been involved in global environmental governance since the 1972 UN Conference on the Human Environment in Stockholm where the foundation for modern global environmental governance was established, and NGOs played a significant role during the conference for a few reasons. Firstly, they were involved as experts during the conference's preparatory phase, allowing them to influence the documents that were key to the conference's success. Secondly, forty-seven countries included NGOs in their official delegation, which enabled them to gain new insights into interstate negotiations. Thirdly, the conference featured an open forum called the Environment Forum, where NGOs could express their views and draw attention to various causes. These discussions proved to be vital, as they allowed the issue of whaling to be added to the official conference's diplomatic agenda.

Since then, NGOs have continued to be an integral part of international environmental policy discussions. They have been involved in subsequent conferences, such as the Earth Summit in Rio de Janeiro in 1992, in which it was acknowledged that sustainable development could only be achieved through the involvement of a broad range of actors, leading to the development of a system for organizing interactions with different types of NGOs and the World Summit on Sustainable Development in Johannesburg in 2002 and have also played, and continues to play, a crucial role in implementing the 2030 Agenda for Sustainable Development and its Sustainable Development Goals.⁵⁴

⁵³ Nasiritousi, N. *NGOs and the environment*, *Routledge Handbook of NGOs and International Relations*, edited by Thomas Davies. (2019) Available at: <https://www.diva-portal.org/smash/get/diva2:1380853/FULLTEXT01.pdf>.

⁵⁴ *ibid*

NGOs have become an essential component of global environmental governance and there are two of them that have made a difference in achieving sustainable goals that are Greenpeace and the World Wildlife Fund (WWF).

Greenpeace was founded in 1971 in Vancouver when a ship was sailed to the Arctic to prevent the explosion of a nuclear bomb that would have had some disastrous consequences at the environmental level. In fact, after this action, in 1972 the US abandoned completely nuclear testing on the Amchitka Island in Alaska, conquering their first big achievement for the newborn organisation. Greenpeace is comprised of multiple autonomous organizations that employ non-violent and imaginative tactics to bring attention to worldwide ecological issues and work towards creating resolutions that promote an environmentally sound and peaceful tomorrow. Their objective is to safeguard the earth's capacity to sustain life in all its varied forms and this includes preserving biodiversity in all its manifestations, preventing the abuse and contamination of the earth's oceans, land, air, and freshwater, and eliminating all nuclear threats. The organization is also dedicated to promoting peace, global disarmament, and nonviolent conflict resolution.⁵⁵

With all these different objectives to be engaged with, also the achievements that the organisation has achieved are numerous, after the one in 1972 concerning nuclear testing in 1995 Greenpeace's efforts to halt French nuclear testing garnered significant global attention, resulting in over seven million individuals signing petitions to terminate the testing in fact, consequently, France, the UK, the US, Russia, and China pledged to sign the Comprehensive Test Ban Treaty that was adopted by the United Nations in 1996. Concerning the preservation of diversity and preventing the abuse and contamination of the earth's oceans in 1994 after several years of Greenpeace's campaigning against whaling, the International Whaling Commission granted approval for the Antarctic whale sanctuary, a region of 50 million square kilometre where whaling was prohibited, which was initially proposed by France and supported by Greenpeace, further more in 1988 after engaging in at-sea activism and submitting proposals, Greenpeace was successful in convincing the London Dumping Convention to implement a global prohibition on incinerating organochlorine waste in the ocean.

⁵⁵ *Greenpeace International*. Available at: <https://www.greenpeace.org/international/>

Concerning the climate Greenpeace, in collaboration with other organizations, has been advocating for urgent measures to safeguard the climate since 1988. As a result of their persistent campaigning, one of the biggest achievements was that ministers from industrialized nations agreed to adopt the Kyoto Protocol in 1997, which stipulated legally-binding greenhouse gas reduction targets.

Concerning agriculture in 2000, a growing number of European retailers, food producers, and subsidiaries of multinational companies were responding to consumer pressure by ensuring that genetically engineered ingredients were kept out of their products. Greenpeace, with consumer networks in 15 countries, played a significant role in testing products, gathering information about food products and policies, and exposing cases of contamination.

In 2007, after four years of campaigning by Greenpeace to stop deep-sea bottom trawling, representatives from around the world met in Chile to establish a fisheries agreement for the South Pacific region that would protect it from this destructive fishing method. Starting in September 2007, bottom trawling vessels in the region would be prohibited from fishing in areas with vulnerable marine ecosystems unless they could demonstrate through an assessment that no harm would be caused. In 2018, Greenpeace's scientific research using submarines in the Antarctic identified and confirmed four sites as "Vulnerable Marine Ecosystems (VMEs)," which would soon receive special protection as a direct result of their efforts.⁵⁶

The World Wildlife Fund (WWF) was founded in 1961 by a group of passionate individuals to raise funds to protect endangered places and species affected by human development. This initiative was inspired by a series of articles written by Sir Julian Huxley in a UK newspaper about the loss of habitat and wildlife in East Africa. Victor Stolan, a businessman, recognized the need for an international organization to raise funds for conservation and shared the idea with Max Nicholson, the Director General of the British government agency Nature Conservancy.

Nicholson drafted a plan in April 1961, which became the basis for WWF's establishment and was endorsed by the executive board of the International Union for Conservation of Nature (IUCN) in a document known as the Morges Manifesto.

⁵⁶ *About US-Greenpeace International*. Available at: <https://www.greenpeace.org/international/explore/about/about-us/>

Nicholson, along with approximately two dozen others, including Sir Peter Scott, a member of IUCN's executive board who later became WWF's first vice president, developed the organization's structure and adopted the famous panda logo.⁵⁷

WWF aims to engage with individuals worldwide to establish effective partnerships and devise and implement pioneering solutions aimed at safeguarding communities, wildlife, and their respective habitats at every level, it also aims to combat the increasing pressure that human activities place on nature.

The action taken by WWF to gain its aim is done by assisting local communities in safeguarding their reliance on natural resources, promoting sustainability through the transformation of markets and policies, and safeguarding and restoring species and their habitats. Their action is to ensure that nature's value is considered in decision-making processes, spanning from local to global scales. Some of the biggest achievements for WWF started in 1973 with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) that was negotiated with Russell E. Train, one of the founders of WWF, serving as the Chairman of the White House Council on Environmental Quality and leading the U.S. government delegation. Another important achievement occurred when the International Union for Conservation of Nature (IUCN) published the World Conservation Strategy in 1980 with crucial support from WWF and the United Nations Environment Program (UNEP), acknowledging that human existence is interconnected with nature and that natural resources must be conserved for the future of humanity. The WWF launched the Wildlands and Human Needs program in 1985 to demonstrate how rural communities can improve their economic circumstances without harming natural habitats. In fact, in 1993, WWF helped establish the Forest Stewardship Council (FSC) to promote responsible stewardship of the world's forests, which has since grown into a global network of over 40 offices. Two of the most important and recent achievements concerning the climate and the preservation of species happened in 2007 when WWF collaborated with Google, IBM, Dell, Intel, and other companies to establish the Climate Savers Computing Initiative, which introduced new efficiency standards for computers that reduce greenhouse gas emissions by 54

⁵⁷ WWF. Available at: <https://www.wwf.eu/>

million tons per year, and in 2016 when WWF and the Global Tiger Forum announced that the number of wild tigers had increased for the first time in over 100 years.⁵⁸

1.3.3 Healthcare Service

Over the past few years, non-governmental organizations (NGOs) have emerged as key players in promoting health, mainly in developing nations. Due to being perceived as less hampered by bureaucratic constraints and inefficiencies than government-run health care services, health NGOs are viewed as alternatives to them. Health NGOs have diverse origins, motivations, and overall contributions to health, offering a range of services, such as basic health services, provision of medical or health supplies, health promotion and exchange, health policy setting, resource mobilization and allocation, health advocacy, and monitoring the quality of health care services.⁵⁹

The primary objective of many health NGOs is to improve access to and coverage of health services for underprivileged communities, serving as the primary service providers for vulnerable groups, such as disabled individuals, women, and children. NGOs often provide local healthcare systems with resources, including healthcare training, financial support, medical supplies, and drugs. Additionally, they may establish and operate local health clinics or hospitals.

The last two decades have brought changes to the role of NGOs in the health sector due to shifts in development and health policies. One such shift is the introduction of primary health care policy, which was launched in the 1987 Alma Ata declaration by the World Health Organization to improve health for all by 2000. The Alma Ata declaration transformed the traditional understanding of health by recognizing health as a human right and restructuring the service delivery system to involve all stakeholders in health.

Primary healthcare policies aim to combat all causes of poor health by engaging sectors outside of healthcare, prioritizing community participation, and promoting inter-sectoral

⁵⁸ *History-WWF*. Available at: <https://www.worldwildlife.org/about/history>

⁵⁹ Johnson, L. (2009) *The contributions of NGOs to Health in developing world*. Available at: https://rc.library.uta.edu/uta-ir/bitstream/handle/10106/1666/Johnson_uta_2502D_10215.pdf?sequence=1.

coordination. This approach recognizes that health is affected by social determinants such as poverty, illiteracy, and sanitation and that improvements in health require social, economic, and cultural changes in a community. Therefore, primary health care policies emphasize community involvement and development as a means of improving health, as well as giving people more control over the determinants of their health for long-term improvements.

Additionally, primary health care policies aim to address resource wastage in the health sector by shifting funding from large urban hospitals that focus primarily on curative care to primary care facilities that prioritize both curative and preventative measures. Although the Alma Ata declaration did not single out NGOs, many health NGOs have quickly incorporated these principles into their operations. NGOs are now considered key players in the implementation of primary healthcare policies due to their experience working within communities and collaborating with organizations in other sectors.⁶⁰

Although there are numerous NGOs operating in this area, there are two in particular, Médecins Sans Frontières (MSF) and EMERGENCY, that are widely regarded as the most significant due to their important action undertaken especially in the developing country.

Médecins Sans Frontières (MSF) is a non-profit, self-governed, and member-based organization that was founded in 1971 in France in response to the war and famine in Biafra, Nigeria by a group of doctors and journalists. The organization's primary objective was to establish a non-partisan group that could provide emergency medical aid promptly and fairly. The founding members included 13 doctors and journalists, along with 300 volunteers comprising doctors, nurses, and other personnel. MSF was established with the belief that every individual should have access to healthcare, regardless of gender, race, religion, creed, or political affiliation, and that national borders should not hinder the provision of medical care. Their work is guided by the principles of impartiality, independence, and neutrality, as well as medical ethics.

MSF is an organization that provides medical aid to individuals affected by conflict, epidemics, disasters, or those excluded from healthcare. To determine the medical

⁶⁰ Johnson, L. (2009) *The contributions of NGOs to Health in developing world*. Available at: https://rc.library.uta.edu/uta-ir/bitstream/handle/10106/1666/Johnson_uta_2502D_10215.pdf?sequence=1.

requirements and determine the type of assistance needed, their teams which comprise tens of health professionals, logistics experts, and administrative personnel carry out autonomous evaluations. Various factors influence their decision-making process, including the extent of a particular crisis, the levels of illness and mortality in the population, the degree of healthcare exclusion, and the value we can provide to those affected.⁶¹

Numerous are the mission undertaken by MSF throughout the years, the first was in 1972 following an earthquake that devastated the majority of Managua, the capital of Nicaragua, and claimed the lives of between 10,000 and 30,000 people. Between 1976 and 1984, MSF had a presence in Beirut and other cities in Lebanon, providing medical assistance to all those wounded during the war. Despite the insufficient and inadequate materials and tools, their presence made a difference in saving an important number of people that otherwise would not make it. An important recognition for the organisation was the Nobel Peace Prize received in 1999 in recognition of its innovative humanitarian work across multiple continents. Other important and most recent missions were those undertaken in 2014 in Guinea with the outbreak of Ebola and in 2020 with the outbreak of COVID MSF teams worked tirelessly to preserve access to healthcare for people and respond to the pandemic's impact, both in the countries where they operate and those that they had never previously assisted. They also advocated for fair and equitable vaccine distribution and invited pharmaceutical companies to refrain from profiting from the pandemic.⁶²

EMERGENCY was founded in Italy, in 1994 by Gino Strada, an Italian doctor to offer high-quality medical and surgical care without charge to individuals affected by war, landmines, and poverty. It attained NGO status in 1999 and 2006, it was acknowledged as an official partner of the UN Department of Public Information, and in 2015, it was granted Associate status with Special Consultative Status by the United Nations Economic and Social Council (ECOSOC). As of January 2018, the organisation has been an official partner of the EU Civil Protection & Humanitarian Aid (ECHO). Furthermore, in November 2020, EMERGENCY received the EU Humanitarian

⁶¹ *Médecins Sans Frontières (MSF) International*. Available at: <https://www.msf.org/>

⁶² *What We Do-Médecins Sans Frontières (MSF) International*. Available at: <https://www.msf.org/topics-portal>

Partnership Certificate from the European Civil Protection and ECHO following a positive assessment of our partnership application.⁶³

EMERGENCY operates various projects in Afghanistan, Iraq, Italy, Sierra Leone, Sudan, and Uganda, where it provides high-quality healthcare services free of charge at its medical facilities. Its facilities include hospitals, first aid posts, health centres, paediatric centres, rehabilitation centres, maternity centres, centres of excellence, outpatient clinics, and mobile clinics. Additionally, in Eritrea, it supports the cardiology outpatient clinic's efforts at the Orotta Medical Surgical National Referral Hospital in Asmara. Moreover, its ship, Life Support, is stationed in the Central Mediterranean for search and rescue (SAR) operations.

Some of the most important actions in the countries where EMERGENCY is operative are the medical assistance provided in Afghanistan since 1999 and the treating of over 8 million individuals, and local medical staff through various centres such as two Surgical Centres for War Victims in Kabul and Lashkar-Gah, a Surgical & Paediatric Centre, a Maternity Centre in Anabah, Panshir Valley, and a network of 44 First Aid Posts. Furthermore, in 2021 the organization Children's Surgical Hospital in Entebbe, Uganda, offered free paediatric surgical care in a nation where over half the population is under 15, and the child mortality rate is 43 per 1,000 live births. In Sierra Leone after the civil war, the already weak healthcare infrastructure of the country was destroyed, so the organization began its work in 2001 with a Surgical Centre initially aimed at war victims, but it was later expanded to cover orthopaedic patients and all surgical emergencies. To conclude EMERGENCY has been involved also in various initiatives to aid victims of the conflict in Ukraine, including supporting refugees in Moldova and Italy and distributing medicine and medical equipment to hospitals in Kyiv.⁶⁴

⁶³ *EMERGENCY*. Available at: <https://en.emergency.it/>

⁶⁴ *Our projects-EMERGENCY*. Available at: <https://en.emergency.it/what-we-do/humanitarian-programmes/>

CHAPTER 2: NGOs and IL

The legal personality and role of NGOs under national law, as it was analysed in the first chapter, was easier to define since NGOs are usually established through the right of association, which is recognized in many national constitutions and human rights agreement in fact NGOs, under national law, are typically considered private associations and are subject to rules governing their establishment and operation. To assess if NGOs are subjects of international law, it involves assessing their legal personality and status in relation to states and international organizations, but also in relation to the functions they have in this system. In order to do this, it is necessary to establish the requirements that entities must meet to be considered subjects of international law and see if NGOs do satisfy these criteria.

Unlike in the past, when only States were the main actors in international relations and the sole subjects of international law, contemporary international law recognizes a wide range of participants. It is widely accepted that at least States, international organizations, and individuals have rights and duties under international law. However, since there are no restrictions on non-State entities participating in the international legal system, new actors may emerge and achieve international legal status in accordance with the needs of the international community. Nonetheless, not all entities participating in contemporary international relations can be considered subjects of international law.⁶⁵

Legal personality on the international stage requires factual participation and community acceptance through the granting of rights and duties under international law. A subject of international law is therefore defined as a natural or legal person that is actively participating in international affairs and has rights or duties under international law. NGOs are increasingly participating in the international decision-making process and the monitoring of State compliance with international law. Before analysing more deeply the legal status of the NGOs and their functions in International Law, it is

⁶⁵ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

fundamental to see which the bodies are considered subjects of international law and which are the different theories and methods about this question.

2.1 Actors of International Law

There are three main theories to define if an actor can be considered to have legal status under international law or not, that are the rule-oriented approach, the process-oriented approach, and the international law-international relations approach. However, it should be noted that this categorization only provides a simplified picture, as the number of views on theoretical and methodological issues is almost as varied as the scholars themselves. Different theories serve different purposes and may deal with different issues, so placing them beside each other can be somewhat synthetic. It is not uncommon for a scholar who argues for a process-oriented approach to use a rule-oriented method when solving a concrete legal problem. Additionally, most writings within the field of international law-international relations do not attempt to answer specific legal problems.

Although there are problems with categorizing theories and methods, a simplified categorization can still be useful for illustrating alternative theoretical views on the actors of international law. The rule-oriented approach and the process-oriented approach can be seen as representatives of the two ends of a scale in international legal argument, which is useful for clarifying the discussion. The international law-international relations approach is interesting because it attempts to reshape legal tools to deal with new phenomena, such as non-state actors.⁶⁶

It should be noted that even the descriptions and categorizations of these views are diverse and varied. For example, some would prefer to describe rule-oriented lawyers as "positivists." The rule approach is essentially the same thing as positivism, which holds that there are international legal rules that are "ready" to apply and that legal decisions should be taken through their application. However, a "process-oriented" approach to international law is different, as it views international law as being created by a complex

⁶⁶ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

process of decisions, not just in courts but also within foreign ministries, IGOs, and potentially non-state actors. Rules are seen as "accumulated past decisions," and there are few situations where a rule is simply "applied."⁶⁷

2.1.1 The rule approach

The main objective of the rule approach to international law is to provide judges or decision-makers with a method for dealing with concrete legal problems, rather than delving into the nature of international law or its societal role. As such, it is more of a technique than a theory. Some proponents of the rule-oriented approach argue for the importance of maintaining a clear distinction between law and politics to avoid the dangers of non-legal factors influencing legal decisions. The focus on problem-solving does not necessarily exclude non-traditional or internal legal methods, as exemplified by Anthony Clark Arend's incorporation of international relations theory into his method for determining when an international legal rule applies.

In the rule-oriented approach, the question of the relevant actors in international law pertains to its subjects, with non-subject actors having no relevance in the legal system. Dichotomies such as public vs. private, international vs. national, and law vs. politics structure the rule-oriented view of international law. Classical legal concepts such as "capacity," "personality," "subject," and "object" are commonly used in this approach, with the impression of clear definitions derived from their usage in national legal systems. The rule approach is favoured by lawyers who require a technique for using legal sources to solve legal problems, even when the line between law and politics is blurred.⁶⁸

The field of international law lacks clear definitions for the concepts of "subject of law" and "legal personality," despite a common understanding that these concepts relate to rights, obligations, and legal capacity. While being a legal person does not necessarily

⁶⁷Higgins Rosalyn, (1994), *Problems and Process: International Law and How We Use It*, Oxford: Clarendon Press.

⁶⁸ Schemers, H.G. and Blokker, N. (2018) *International Institutional Law: Unity within Diversity*. Available at:https://books.google.nl/books/about/International_Institutional_Law.html?id=I2dUuQEACA-AJ&redir_esc=y.

entail a fixed set of powers or capacities, it is similar to a jigsaw puzzle in which different entities possess different pieces. Non-state actors cannot possess all the pieces, as legal capacity varies depending on their function in the international legal order. Only independent states with sovereign equality possess all-round legal capacity, while other subjects of international law possess a limited capacity. The traditional international legal paradigm excludes non-state actors from having any substantial role, as public international law governs state-to-state relations rather than private actors within national jurisdictions. The question of how a new actor becomes part of the legal system is the question of the existence of a new international legal person for the rule-oriented lawyer. The ICJ used a teleological method in the Reparations for Injuries case to determine the legal personality of the United Nations, which involved considering the organization's functions, rights, and practices. Ultimately, the intention of member states is central to determining the legal personality of IGOs, which need not be explicitly stated but can be implied from their actions. The Reparation opinion may provide some insight into the Court's overall stance on legal personality, which is derived from observable facts rather than a preconceived notion of international law and its subjects. Oppenheim's *International Law*⁶⁹, the most recent edition, expresses a similar view on the issue of international legal personality, stating that entities possessing international personality are those that directly hold rights, powers, and duties in international law. The determination of legal personality involves investigating the extent to which a particular entity possesses such attributes. However, some rule-oriented writers argue that recognition by states is a separate criterion for legal personality in addition to the possession of rights and capacities. This view seems complicated and can be interpreted as a conferral of rights and duties being equivalent to recognition.⁷⁰

Mosler, in his article on the "Subjects of International Law,"⁷¹ distinguishes between primary and secondary subjects of international law, with only states being primary subjects. The position of the individual in international law is also discussed, with Mosler asserting that although international law acknowledges the individual, they are

⁶⁹ Oppenheim Lassa, (1928), *International Law: A Treatise*, I, 4th edn., London: Longmans, Green & Co..

⁷⁰ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

⁷¹ Mosler Hermann, (2000) *Subjects of International Law*, EPIL, 4, Amsterdam: North-Holland.

not considered subjects of international law in the proper sense. On the contrary, while Mosler acknowledges the individual's "important position" in relation to human rights conventions, he remains hesitant to classify individuals as "subjects" of international law, even with respect to these treaties. Mosler draws a clear distinction between states and other actors, and this distinction seems to preclude individuals from being subjects of international law in the proper sense. However, Mosler recognizes that states can create new subjects of international law, even though they are not states themselves. Mosler is not alone in distinguishing between recognition and actual possession of rights, duties, and capacities: Brownlie⁷² also distinguishes between entities that have a legal personality of a general kind and those that have legal personality only in limited contexts. According to Brownlie, an entity recognized by customary law as capable of possessing rights and duties may have a legal personality of a restricted kind, dependent on the agreement or acquiescence of recognized legal persons, and valid only for those who agree or acquiesce. The context of the problem remains a critical factor in determining an entity's legal status, according to Brownlie. The rule-oriented lawyer sees legal status and personality as distinct and non-contagious phenomena different instances of legal status for non-state actors under treaty law are seen as individual exceptions to the general rule of non-personality. Furthermore, Mosler⁷³ argues that the individual's procedural rights to enforce substantive rights must be characterized as special treaty law rather than as prescribed by general international law. According to this perspective, a new legal entity is not considered to exist until it is endowed with some form of legal status by a significant number or range of treaty provisions, or until it is recognized through customary law by states in general. Based on the writings, the rule-oriented approach to international legal personality can be summarized as follows: The possession of rights, duties, and powers is relevant to legal status and personality and can be considered equivalent to legal personality. Only states are considered international legal persons possessing the complete range of rights, duties, and capacities, and are the only entities capable of enjoying such attributes under current international law. States can create new, "imperfect" subjects of international law, and all non-state international legal persons derive their legal personality from states.

⁷² Brownlie Ian, (1998) *Principles of Public International Law*, 5th edn., Oxford University Press.

⁷³ Hermann Mosler, (2000), *Subjects of International Law*, EPIL, 4, Amsterdam: North-Holland.

2.1.2 The process approach

The process approach to international law is comprised of a varied group of writers who present distinct lines of reasoning and can be classified into two main categories: the first category, referred to as the policy orientation, is represented by scholars such as Chen, Lasswell, McDougal, and Reisman, who is associated with the New Haven school, the second category is the international legal process and its successor, the new international legal process (also known as “transnational legal process”). This category is represented by scholars such as Chayes, Erlich, and Lowenfeld for international legal process, and Harold Koh and Mary Ellen O'Connell for new international legal process.⁷⁴

The policy orientation in international law views law as a process of individual decisions, rather than a set of rules. For policy-oriented writers, the distinction between law and politics is not particularly significant since the law is linked to authority and power, they also consider the difference between law to be a false dichotomy.⁷⁵ According to Chen, when authorized persons or organs make decisions within established practices and norms, it is considered legal decision-making, making international law a continuing process of authoritative decisions.

Since the policy orientation does not strictly differentiate between law and politics or between existing law and potential future law, defining the actors in international law is not as crucial as it is for other approaches. Instead, the policy orientation takes a broad view of the processes that shape law and policy in the world, observing power systems, threats to humanity, and global community values. While the policy orientation may not offer practical tools for determining which actors possess direct rights under international law, it provides general observations on the actors involved in the world community process.

⁷⁴ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

⁷⁵ Higgins Rosalyn, (1994), *Problems and Process: International Law and How We Use It*, Oxford: Clarendon Press.

The New Haven school categorizes the world community process that generates policy and law into two interconnected groups and identifies relevant actors for each category. The first is the global process of effective power, where nation-states are considered to be the primary participants, but the power of many "functional groups" is growing, and ultimately, the individual is the ultimate actor in all groups. The second is the "global process of authoritative decision," in which officials from nation-states remain important decision-makers, but they are joined by officials from IGOs, NGOs, and other non-territorial entities.⁷⁶

The policy orientation is both a theory and a methodology that advocates for genuine pluralization and broader access to participation in decision-making.⁷⁷ To become more relevant, jurisprudence should adopt a policy-oriented method that can assess the transnational legal system and clarify goals and policy alternatives for the future. Such jurisprudence recognizes that humankind constitutes a community and broadens its focus of inquiry to include it. In the policy-oriented jurisprudence, there is a comprehensive inventory of possible modes of participation in decision-making, including traditional nation-states, intergovernmental organizations, non-self-governing territories, autonomous regions, indigenous and other peoples, as well as private entities like multinational corporations, media, NGOs, private armies, gangs, and individuals. Any actor with actual or potential influence can participate in the decision-making process.

The policy-oriented lawyer believes that the most significant actors in international law are the authorized decision-makers, mainly state officials but also officials of other organizations and entities. However, from the perspective of jurisprudence, the scope should be broader, encompassing all actors with influence. In her book *Problems and Process*, Judge Rosalyn Higgins⁷⁸ presents a different version of the policy orientation that focuses on the decision-making process rather than the subject-object dichotomy. According to Higgins, international law is a dynamic decision-making process involving a variety of participants, including individuals, states, international

⁷⁶ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

⁷⁷ MacDougal, M. and Reisman, M.W. (1986) *International Law in Policy-Oriented Perspective*.

⁷⁸ Higgins Rosalyn, (1994), *Problems and Process: International Law and How We Use It*, Oxford: Clarendon Press.

organizations, multinational corporations, and private non-governmental groups. Although Higgins acknowledges that international law is primarily applicable to states, she emphasizes the importance of recognizing all participants.

Concerning the international legal process (ILP), the focus of the protagonists was more on how international legal rules were utilized by foreign policy makers, rather than on the actual content of legal rules. They observed that international legal issues primarily arose during the policy decision-making process and emphasized the incorporation of international law into decisions within foreign offices. This perspective aligns with the policy orientation's view that international law is a continuous process of decision-making.

The new ILP has a broader scope and includes a normative element that was lacking in classical ILP. It promotes dynamic decision-making and takes a non-legalistic approach to the question of actors of international law. New ILP views law-making as a process of value-creation, in which courts, agencies, and the people engage in a process of the democratic dialogue.⁷⁹

According to Koh⁸⁰, who describes New ILP as a transnational legal process, it has four distinct features: first, it breaks down the traditional dichotomies between domestic and international, public and private; second, the actors in this process are not just nation-states but also non-state actors; the third, transnational legal process is dynamic, transforming, mutating, and percolating up and down, from the public to the private, from the domestic to the international level and back down again and finally, it is normative, as new rules of law emerge from the process of interaction and are interpreted, internalized, and enforced, thus beginning the process all over again.

The issue of the actors of international law can be divided into two aspects: participation in decision-making processes and application of rules to different actors. The process orientation is mainly concerned with the aspect of participation. While state officials are typically seen as the primary authorized decision-makers in the law-creating process, the approach also emphasizes the role of non-state actors who

⁷⁹ O'Connell, M.E. (2017) *New International Legal Process: American Journal of International Law*. Available at: <https://doi.org/10.2307/2997993>.

⁸⁰ Hongju Koh Harald, *Transnational Legal Process*, (1996), The 1994 Roscoe Pound Lecture, 75 Nebraska Law Review.

increasingly participate in this process. Koh⁸¹ observes that NGOs are helping shape the direction of governmental policies, and Teubner⁸² notes how the law has emerged from standard-making procedures in technical areas and professional rule production.

The process orientation rejects classical concepts related to the issue of whether international law applies to non-state actors, such as legal subjects and legal personality. It also rejects the traditional dichotomization of law and the a priori exclusion of entire fields of society through categorizations such as domestic, private or object. While this more inclusive approach is not totally discussed in terms of the concrete application of rules, Higgins⁸³ observes that states are still at the heart of the international system, but individuals possess international rights. Policy-oriented Wiessner and Willard⁸⁴ note that certain participants are authorized to invoke human rights prescriptions in some contexts, but they conclude that policy-oriented jurisprudence does not promise or guarantee one correct, single answer. Instead, it offers a detailed and self-aware approach to any problem.

Higgins argues that the individual's position in international law cannot be attributed to the classical concepts of subject and object or the general nature of international law. She claims that the individual can invoke international law and that rights are relevant in discussing actors of international law. However, she admits that the question of how international law applies to individuals remains difficult, and further exploration is required. Policy-oriented writers focus on decision-making rather than law application, emphasizing the dynamic character of the decision-making process and the importance of actors in shaping the law. The question of whether a new actor is accepted into the legal system is closely related to whether a general acceptance can be inferred from their participation, and the process approach has a wider notion of sources and permits greater independence for the lawyer in developing the law.

⁸¹ *ibid*

⁸² Gunther Teubner (ed.), (1997), *Global Law Without a State*, Aldershot: Dartmouth.

⁸³ Higgins Rosalyn, (1994), *Problems and Process: International Law and How We Use It*, Oxford: Clarendon Press.

⁸⁴ Wiessner Siegfried and Willard Andrew R., (1999), *Policy-Oriented Jurisprudence and Human Rights Abuses in International Conflict: Toward a World Public Order of Human Dignity*, 93 AJIL.

2.1.3 International Law-International relations approach

In the realm of international relations theory, much like international law, the primary focus has typically been on nation-states. Realism, followed by its successor neo-realism, has dominated the field since the disillusionment of the post-World War II era. According to realism, states are the primary or sole actors in international politics. Within an anarchic global system, states engage in a struggle for power to safeguard their interests, with security being the most crucial among them. Additionally, realism regards states as unified actors, with no need to delve into their internal workings. For this theory, the law is irrelevant and only power matters. On the other hand, neo-realism, as expounded by scholars like Kenneth Waltz, posits that states are the interacting units in the international system. All states carry out the same functions and possess sovereignty, which is intrinsically connected to the anarchical nature of the system. However, neo-realism does not suggest that states are the sole actors in the global arena, but rather the most significant ones.⁸⁵

Amongst the major contemporary theories of international relations, liberalism stands out for its inclusive approach towards non-state actors. Liberalism posits that individuals and private groups are the primary actors in international relations, in contrast to realism, which regards the state as a unified actor. According to liberalism, the black box of sovereignty is transparent, allowing for scrutiny of how national governments represent individuals and groups within domestic and transnational society.⁸⁶ Thus, the dominant group at the national level determines the state's international conduct. Additionally, private groups and individuals create networks and communities and engage in activities that transcend national boundaries. It is important

⁸⁵ Hollis, M. and Smith, S. (1990) *Explaining and understanding international relations*. Available at: <https://global.oup.com/academic/product/explaining-and-understanding-international-relations-9780198275893>

⁸⁶ Burley, A.-M.S. (2017) *International law and international relations theory: A dual agenda: American Journal of International law*. Available at: <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/international-law-and-international-relations-theory-a-dual-agenda/04816F63C68ACF71DEF4555E1C470D27>.

to note, however, that while liberalism describes the box as transparent, it is not open or perforated, as the state is still seen as the representative of non-state actors on the international stage. Transnational liberals go further and stress the blurring of the domestic-international divide, a concept that will be revisited later.⁸⁷

Most other international relations theories also prioritize the state. Institutionalism, for instance, concentrates on the prerequisites for cooperation among states viewed as unified entities, and it is of some interest to international lawyers as it acknowledges that international legal institutions and rules can influence state behaviour in contrast to realism. While some scholars within regime theory do recognize significant roles for non-state actors, such as Robert Cox, who underscores the significance of classes and intellectuals, the theory as a whole remains state-centric. The constructivist theory, on the other hand, refutes the notion that states and other actors possess objectively determined interests and instead underscores the importance of social contexts. Shared values and norms establish and define fundamental concepts such as state, state sovereignty, and national interests. Constructivists argue that actors, their identities, and their interests are shaped through social interactions, based on international norms and ideas. This theory acknowledges the role of non-state actors in international relations, as it argues that foreign policy decisions are determined both by the meanings that the state attaches to social objects and by their self-conceptions.⁸⁸

The theoretical advancements in the fields of international law and international relations have developed in parallel to a great extent. For instance, realism has been a prominent theoretical approach in both international relations and international law, with Hans Morgenthau recognized as a leading figure in both disciplines, even though the term "realism" may not carry the same meaning in each context.⁸⁹ Transnationalism, on the other hand, is a theoretical perspective that pertains to international relations, the interaction between public and private international and national law, as well as

⁸⁷ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

⁸⁸ Arend Anthony Clark, (1999) *Legal Rules and International society*, Oxford University Press

⁸⁹ Hollis, M. and Smith, S. (1990) *Explaining and understanding international relations*. Available at: <https://global.oup.com/academic/product/explaining-and-understanding-international-relations-9780198275893>.

international law on the periphery of international relations, commonly known as the transnational legal process.

Initially, the theoretical discussions surrounding international law and international relations primarily focused on highlighting the significance of each discipline for the other and identifying potential areas of shared research. More recently, international lawyers have begun to develop theoretical and methodological frameworks that enable the incorporation of international relations theory into legal problem-solving. The evolving international landscape and changes within the international legal system, particularly the erosion of state sovereignty in various forms, have been viewed as a situation where the existing legal framework may not offer adequate analytical tools. Consequently, efforts are being made to devise new analytical tools that draw from ideas and concepts of other disciplines.⁹⁰

International lawyers have turned to international relations theory for input because traditional views on international law have been unable to address non-state actors. Anne Marie Slaughter, a liberalist, uses international relations theories to understand the role of state sovereignty in the international system, particularly in relation to non-state actors such as individuals, corporations, and non-governmental organizations. According to Slaughter⁹¹, the primary actors in the international system are individuals and groups in civil society, and the state interacts with these actors in a complex process of representation and regulation. Slaughter argues that international law should be seen in its context and compared with models used by international relations theorists for empirical validation if the primary actors in the international system are not states, international law will become irrelevant. While Slaughter's view is mainly normative, she acknowledges the challenge of non-state actors as both an empirical and conceptual issue and suggests that we need to redraw our conceptual maps to address practical problems.

The liberalist approach to international law and international relations theory acknowledges the importance of non-state actors in the regulation of complex

⁹⁰ Lindblom, A.-K. (2005) *Non-governmental organisations in international law*, Google Libri. Google. Available at: https://books.google.nl/books?hl=it&lr=&id=5-GD7tvLWDgC&oi=fnd&pg=PR15&ots=uatRM3_9A6&sig=BJ9ThgItqY_5GY9wdkohzBmurKU&redir_esc=y#v=onepage&q&f=false

⁹¹ Slaughter Anne-Marie, Tulumello Andrew S. and Wood Stepan, (1998) *International Law and International Relations: A New Generation of Interdisciplinary Scholarship*, 92 AJIL.

relationships between private and governmental entities. However, it does not propose that NGOs or other non-state actors have a recognized status under the current international legal system. Some writers, such as Richard Falk and Thomas Franck, focus on the normative role of civil society and the diminishing role of state sovereignty, without exploring legal possibilities for civil society under the current international legal system.⁹²

On the other hand, some international lawyers have developed interdisciplinary theories that address the current status of non-state actors and the issue of personality. Michael Byers⁹³ has proposed a legal theory that examines the relationship between law and power, with a particular focus on customary law, to explain how judges and lawyers determine the existence and content of individual legal rules and the role of power in that process. Byers notes that personality refers to an individual or entity's capacity to hold rights and be subject to obligations within a particular legal system. He distinguishes between full legal personality and partial legal personality, recognizing that different entities may have varying degrees of personality.

Byers also notes that in a system where the subjects of law are its creators, entities with full legal personality are formally entitled to participate in the process of law creation to the same extent as any other entity. However, in the international legal system, only those entities with international legal personality are entitled to participate in the process of customary international law, and only those with full international legal personality are entitled to participate fully in that process. Byers' perspective is not how power affects law, but rather how the law affects the application of power, with personality as a principle that qualifies power.

According to Byers,⁹⁴ while NGOs have a significant influence on customary international law, they do not have international legal personality and therefore cannot directly participate in the customary process. Although some international organizations allow limited participation by NGOs, it is ultimately the behaviour of states that develops, maintains, or changes customary international law. Similarly, while Transnational Corporations may have a great influence on states, they have limited legal

⁹² Falk, R.A. (1998) *Law in an emerging global village: A post-Westphalian Perspective*.

⁹³ Byers Michael, (1999) *Custom, Power and the Power of Rules: International Relations and Customary International Law*, Cambridge University Press.

⁹⁴ *ibid*

personality on the international plane, rendering them largely incapable of participating in an independent capacity in the formation of customary law. Byers concludes that individuals and non-state entities only have a small portion of rights and obligations under international law.

Anthony Clark Arend⁹⁵ also turns to international relations theory to explain the changing nature of international law, emphasizing the need to examine empirical data and the behaviour of international actors. He believes that non-state actors generally do not participate directly in the law-creating process, with states remaining as the central actors. However, there may be exceptions to this general rule, such as people and Intergovernmental Organizations, which are sometimes capable of concluding international agreements and adopting decisions binding on member states.

To conclude, international lawyers who incorporate international relations theory into their work tend to remain within the confines of traditional international law. This is particularly evident in the approaches of Michael Byers and Anthony Clark Arend, who, despite acknowledging the need to re-evaluate international law in light of new actors, ultimately return to the state-centric paradigm. A similar trend can be observed in Anne-Marie Slaughter's model, which recognizes the significance of non-state actors but fails to provide concrete recommendations for how international law can adapt to this changing reality.

In conclusion, it is not easy to say if non-state actors are considered subject to international law or not. Analysing the different theories it appears that four fundamental assumptions serve as the most basic shared concepts among various legal theories. These assumptions are: firstly that states hold a dominant position in international law, secondly that the political influence of non-state actors on the global stage is growing, and that international law must address this trend, thirdly that states possess the ability to grant legal status to actors in the international arena, and lastly treaties and other commonly recognized sources can provide pertinent information on the existence of international legal rules, though some theories favour a broader interpretation of sources.

⁹⁵ Arend Anthony Clark, (1999) *Legal Rules and International society*, Oxford University Press

2.2 NGO's Legal Status

Except for a few traditional non-State actors in international relations like the Holy See, the International Committee of the Red Cross, and the Sovereign Order of Malta, the prevalent opinion among international legal experts is that NGOs cannot generally be considered subjects of international law. The argument supporting this view is mainly based on the fact that NGOs are established under national law by private individuals or legal entities, unlike international organizations that are created through a legal act by States under international law. However, this cannot be an absolute obstacle to the legal personality of NGOs under international law. Given the increasing participation of NGOs in the international system and the purposes of the international legal order as an open system, the question of whether NGOs should be recognized as subjects of international law are becoming more necessary and reasonable. To determine whether NGOs can be considered partial subjects of international law, it is essential to examine current international regulations concerning these non-State entities, although no international agreement regulating a uniform international legal status for NGOs exists. Nonetheless, various international regulations addressing the legal position of NGOs in specific areas of international law exist, and these will be assessed to determine if NGOs satisfy the criteria of community acceptance required to be considered subjects of international law both quantitatively and qualitatively.⁹⁶

2.2.1 Under Secondary International Law

The term secondary international law pertains to the set of laws that have been established by international organizations and their components through international

⁹⁶ Nowrot, K. (1999) *Legal consequences of globalization: The status of non-governmental organizations under International Law*, Digital Repository @ Maurer Law. Available at: <https://www.repository.law.indiana.edu/ijgls/vol6/iss2/7/>.

agreement systems. These rules can also, to a certain degree, be considered a portion of public international law.⁹⁷

To begin examining the legal status of NGOs under secondary international law, Article 71 of the UNC serves as a starting point. As it has already been analysed to find a definition for NGO, this provision states that the "*Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence.*"⁹⁸ However, the wording of this article suggests that it does not intend to grant any rights to NGOs, as it merely gives the Economic and Social Council (ECOSOC) the option, but not the requirement, to establish consultative arrangements with NGOs.

Despite this, a different conclusion can be reached by examining the UN's practice in implementing Article 71 through ECOSOC Resolution 1996/31. This resolution, which was updated from ECOSOC Resolution 1296 of 1968, was developed by a sub-organ of ECOSOC in close collaboration with the concerned NGOs. It classifies NGOs into three categories based on their level of involvement with ECOSOC activities and each category has different participatory rights:

"22. Organizations that are concerned with most of the activities of the Council and its subsidiary bodies and can demonstrate to the satisfaction of the Council that they have substantive and sustained contributions to make to the achievement of the objectives of the United Nations in fields set out in paragraph I above and are closely involved with the economic and social life of the peoples of the areas they represent and whose membership, which should be considerable, is broadly representative of major segments of society in a large number of countries in different regions of the world shall be known as organizations in general consultative status:

23. Organizations that have a special competence in and are concerned specifically with only a few of the fields of activity covered by the Council and its subsidiary bodies, and that are known within the fields for which they have or seek consultative status shall be known as organizations in special consultative status.

⁹⁷Agarwal, H. (2022) *International law sources: Primary & secondary - IJLMH, International Journal of Law Management & Humanities*. Available at: <https://www.ijlmh.com/paper/international-law-sources-primary-secondary/>

⁹⁸*Chapter X — The Economic and Social Council Article 71-United Nations*. United Nations. Available at: <https://legal.un.org/repertory/art71.shtml>

24. *Other organizations that do not have general or special consultative status but that the Council, or the Secretary General in consultation with the Council or its Committee on Non-Governmental Organizations, considers can make occasional and useful contributions to the work of the Council or its subsidiary bodies or other United Nations bodies within their competence shall be included in a list (to be known as the Roster). This list may also include organizations in consultative status or a similar relationship with a specialized agency or a United Nations body. These organizations shall be available for consultation at the request of the Council or its subsidiary bodies. The fact that an organization is on the Roster shall not in itself be regarded as a qualification for general or special consultative status should an organization seek such status.*”⁹⁹

Only NGOs in the first category are permitted to submit topics for consideration on the provisional agenda, and only NGOs in the first and second categories have the right to send observers to ECOSOC and its sub-organs.

These regulations not only grant participatory rights to NGOs but also impose certain duties and organizational requirements, such as a democratically adopted statute. The internal law of the UN recognizes these participatory rights as some form of entitlement, indicating an indirect legal personality for NGOs under international law. Additionally, many other specialized organs of the UN have similar consultative arrangements with NGOs, which are governed by resolutions of the General Assembly, ECOSOC, or the rules of procedure of the organs themselves.¹⁰⁰

For example, the UN High Commissioner for Refugees (UNHCR) uses the same three-category system as ECOSOC, while organizations like UNICEF, UNEP, and UNDP list NGOs without categorization. Furthermore, other specialized organizations of the UN family have a formalized consultative relationship with NGOs according to their

⁹⁹ 1996/31. *Consultative relationship between the United Nations and non-governmental organizations*, un.org, the Economic and Social Council. Available at: <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/documents/2020/resolution-1996-31.pdf>.

¹⁰⁰ Nowrot, K. (1999) *Legal consequences of globalization: The status of non-governmental organizations under International Law*, Digital Repository @ Maurer Law. Available at: <https://www.repository.law.indiana.edu/ijgls/vol6/iss2/7/>.

constitutions, such as Article 12(4) of the UNESCO Constitution¹⁰¹ and Article 27 of the ITU Convention.¹⁰²

NGOs are granted rights under secondary international law in two significant areas outside of the UN, which has been already analysed in the previous chapter, that are: Human Rights law and International Environmental Law. The Commission on Human Rights grants NGOs status on a universal level in relation to human rights law. On a regional level, NGOs are entitled to an observer and consultative status with Council of Europe organs and collaborate on various activities. However, the Organization of American States and the Organization of African Unity have not institutionalized their relationship with NGOs and only grant observer status to a select few NGOs.¹⁰³

In terms of environmental protection, NGOs are entitled to observer status at the Conference of the Parties under several treaty regimes, and in some cases, they can even actively assist the Secretariat. For instance, the Convention on International Trade in Endangered Species grants observer status and active assistance under Articles 11 and 12.¹⁰⁴

These various rights granted to NGOs under international organizations and treaty regimes indicate their legal status under international law. The institutionalization of NGO rights to participate in conference deliberations and international legal regimes is a significant step towards their effective presentation of views and development towards an international legal status.

2.2.2 Under Primary International Law

¹⁰¹ *Constitution of the United Nations Educational, Scientific and Cultural Organization* [Unesdoc.unesco.org](https://unesdoc.unesco.org). UNESCO. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000382500>.

¹⁰² *Constitution of the International Telecommunication Union-Constitution of the International Telecommunication Union*. Available at: <https://www.itu.int/council/pd/constitution.html>.

¹⁰³ Hufner, K. (1995) *Non-Governmental Organizations, in 2 UNTIED NATIONS: LAW, POLICIES AND PRACTICE*.

¹⁰⁴ *Convention on international trade in endangered species of wild fauna and flora* (1976). Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20993/volume-993-I-14537-English.pdf>.

NGOs can also be granted legal entitlements under primary international law, which refers to rights directly derived from international treaties that have been agreed upon and are binding on States. The legal standing of NGOs is particularly significant in the domains of human rights protection, international humanitarian law, and the regulatory framework of the International Labour Organization.¹⁰⁵

The Constitution of the International Labour Organization (ILO) stipulates in Article 24¹⁰⁶ that labour unions and business associations have the right to file complaints with the ILO regarding treaty violations by its Member States. Furthermore, the ILO's structure, which includes the formal participation of government representatives, labour unions, and business associations in an equal division, reflects a distinctive and robust institutionalized position for NGOs within an international organization and the functioning of an international legal regime.

In Europe, the Americas, and Africa, intergovernmental organizations grant rights to NGOs under primary international law for the protection of human rights on the regional level. For example, according to Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁰⁷, NGOs are entitled to submit applications to the European Commission of Human Rights, claiming a violation of one of the rights set forth in the Convention. Protocol No. 9 further strengthens the position of NGOs as applicants, granting them the right to refer cases to the European Court of Human Rights without the assistance and approval of the European Commission on Human Rights in certain circumstances. Protocol No. 11 creates a single European Court of Human Rights, improving the legal standing of NGOs even more by allowing them to bring cases directly before the new court under the new Article 34 of the Convention. Additionally, under Protocol No. 2 and the Additional Protocol to the

¹⁰⁵ Agarwal, H. (2022) *International law sources: Primary & secondary - IJLMH, International Journal of Law Management & Humanities*. Available at:

<https://www.ijlmh.com/paper/international-law-sources-primary-secondary/>

¹⁰⁶ *ILO Constitution-International Labour Organization*. Available at:

https://www.ilo.org/hanoi/Whatwedo/Publications/WCMS_818973/lang--en/index.htm.

¹⁰⁷ *European Convention on Human Rights - Official texts, Convention and Protocols*. Available at: <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c=>.

European Social Charter, NGOs can cooperate with the organs established under these Charters and file complaints alleging unsatisfactory application of the Charter.¹⁰⁸

Under the Inter-American Human Rights System, NGOs are entitled to lodge petitions with the Commission containing complaints of violation of the American Convention on Human Rights¹⁰⁹ by a State Party under Article 44. Similarly, under the African Charter on Human and Peoples' Rights¹¹⁰, the African Commission has an obligation to cooperate with NGOs under Article 45, and NGOs can file complaints concerning human rights

violations to the Commission under Article 55 and Rule 114 of the Rules of Procedure. The African Charter on the Rights and Welfare of the Child¹¹¹ also establishes a similar right for non-State complaints under Article 42, although this Charter is not yet in force.

NGOs are granted rights under treaty regimes in the field of international humanitarian law, allowing them to have specific entitlements in cases of armed conflicts. The International Committee of the Red Cross (ICRC) is one such organization that has various functions under the four Geneva Conventions of 1949 and the two Additional Protocols of 1977¹¹². Among these functions, the ICRC has the right to establish a Central Prisoner of War Information Agency and a similar agency for protected civilians. They can also create hospital zones and neutralized zones in areas suffering from armed conflict. The Conventions even permit States to assign the ICRC the responsibilities of a Protecting Power, enabling the organization to look after the interests of a party's nationals under adverse control. Additionally, NGOs, including the ICRC, have a role in assisting with the destruction of anti-personnel mines under the

¹⁰⁸ Nowrot, K. (1999) *Legal consequences of globalization: The status of non-governmental organizations under International Law*, Digital Repository @ Maurer Law. Available at: <https://www.repository.law.indiana.edu/ijgls/vol6/iss2/7/>.

¹⁰⁹ *Multilateral American Convention on Human Rights* (1969). Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%201144/volume-1144-I-17955-English.pdf>.

¹¹⁰ *African charter on human and peoples' rights*. Available at: https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf.

¹¹¹ *African Charter on the Rights and Welfare of the Child*. Available at: https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf.

¹¹² *III. The Geneva Conventions and their additional protocols*. Available at: https://www.oas.org/dil/introductory_course_on_international_humanitarian_2007_IHL_instruments.pdf.

1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and Their Destruction.

The list of rights given to NGOs in primary international law demonstrates that these organizations have legal status not only in secondary international law related to international organizations and treaties but also possess a growing number of legal entitlements in primary international law. This suggests that NGOs not only participate in the interactions of the international system but have also gained recognition from the international community and are given legal personality under international law.

Examining the entitlements that NGOs receive under both primary and secondary international law international community has acknowledged NGOs as significant players in the current international legal system. Given their substantial involvement in international relations and the nature of the international system as a "rule of law open society," NGOs can be considered quasi-subjects of international law. As a result, they are also obligated to comply with the international legal norms that apply to them.¹¹³

In conclusion, a possible method for holding NGOs accountable to international law, in addition to their formal recognition as subjects of the international legal community, could be the creation of an international agreement in the form of a "Code of Conduct" for NGOs. This approach, which aims to regulate the behaviour of non-State actors in the international system, has been attempted previously by the UN and other international organizations at the universal and regional levels with regard to transnational corporations, but without resulting in a binding international agreement.

The main advantage of an international treaty regulating the duties and rights of NGOs would be its specificity compared to the imprecise legal positions under customary law. In addition, it would eliminate any doubts about the legal status of NGOs under international law, as these entities could be considered derivative subjects of international law with respect to the contracting parties. However, there are certain concerns associated with the development of a code of conduct for NGOs, given the hostile attitude of some States toward many NGOs and their attempts to limit or prevent their effective operation. Therefore, care must be taken during the drafting process to ensure that States do not use the agreement to disproportionately restrict the activities of

¹¹³ Nowrot, K. (1999) *Legal consequences of globalization: The status of non-governmental organizations under International Law*, Digital Repository @ Maurer Law. Available at: <https://www.repository.law.indiana.edu/ijgls/vol6/iss2/7/>.

NGOs. To enhance the convention's legitimacy, NGOs should be actively involved in its creation.

Even if a binding international convention on the rights and duties of NGOs cannot be expected to be agreed upon in the near future, resolutions adopted by international organizations regarding the behaviour of NGOs could still have an impact on their legal position and conduct, although they are not binding. By directly addressing rules of behaviour toward NGOs, these resolutions would express the international community's expectation that NGOs voluntarily comply with the adopted code of conduct.

2.3 NGO'S Function

NGOs play a crucial role in shaping and implementing international law, particularly in emerging fields or when new treaties are being developed. For instance, early on, women's rights advocates successfully lobbied for the creation of the Inter-American Commission of Women during the sixth Pan-American Conference in 1928. NGOs also contributed significantly to the language around human rights in the UN Charter and the drafting of the Universal Declaration of Human Rights. Similarly, advocacy by NGOs and indigenous groups has been pivotal in securing international protections for indigenous peoples. More recently, networks of NGOs have been instrumental in energizing negotiations for the International Criminal Court.¹¹⁴

NGOs also play a role in interpreting international law. In 1984, NGOs were involved in the development of the "Siracusa Principles," which provide guidance on the interpretation and scope of the derogation and limitation provisions of the International Covenant on Civil and Political Rights. Additionally, according to Theodor Meron¹¹⁵, the International Committee of the Red Cross (ICRC) has contributed to the interpretation of international humanitarian law by advocating for a broad understanding of the Fourth Geneva Convention, which clarified that rape is a crime under this body of law.

¹¹⁴ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

¹¹⁵ Meron Theodor, (1993) *Rape as a Crime Under International Humanitarian Law*, AJIL.

NGOs strive to contribute to international adjudication by submitting friend-of-the-court briefs to tribunals. To do so, an NGO typically requests permission from the court to submit a brief. According to Dinah Shelton's authoritative study on NGO participation¹¹⁶, major international tribunals, with the exception of the International Court of Justice (ICJ), have developed procedures for NGOs to provide information or statements on ongoing cases. Since the publication of Shelton's study in 1994¹¹⁷, this trend has continued. For instance, organs of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have solicited and received amicus briefs from individual jurists and NGOs in some cases. However, as of yet, NGOs have not attempted to submit amicus briefs to the International Tribunal for the Law of the Sea.

Although the International Court of Justice (ICJ) still does not allow for NGO participation, a positive development occurred in 2004. The ICJ implemented Practice Direction XII, which stipulates that in advisory proceedings if an international NGO submits a statement or document on its own accord, it will be placed in a designated location at the Peace Palace. However, it will not be considered part of the case file. Instead, it will be regarded as a readily available publication and may be cited by states and intergovernmental organizations (IOs) in the same manner as publicly available publications.¹¹⁸

In the last ten years, amicus curiae briefs have been allowed in trade and investment adjudication. Although the Agreement Establishing the World Trade Organization (WTO) does not explicitly permit amicus briefs, the Appellate Body ruled in 1998 that WTO panels had the discretion to accept unsolicited briefs, and in 2000, it confirmed that it could accept them. This ruling appeared to have influenced investor-state arbitration under the North American Free Trade Agreement (NAFTA), where in 2001, to the surprise of many, the tribunal in *Methanex* held that it could accept written amicus submissions. Subsequently, the intergovernmental NAFTA Free Trade Commission issued a statement officially recommending a procedure for investor-state tribunals to adopt to guide such private submissions. In August 2005, when the

¹¹⁶ Shelton Dinah, (1994) *The Participation of Nongovernmental Organizations in International Judicial Proceedings*, AJIL.

¹¹⁷ *ibid*

¹¹⁸ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

Methanex tribunal issued its final award, it referenced the "carefully reasoned Amicus submission." Following Methanex, two other investment arbitration tribunals acknowledged their power to accept amicus briefs. These developments are noteworthy because amicus submissions were previously unknown in investment arbitration before 2001.¹¹⁹

Despite the initial excitement surrounding the potential for NGOs to participate in the WTO, both the Appellate Body nor panels have not made significant use of the information provided in amicus curiae submissions. Many governments criticize the Appellate Body's early procedural decisions as ultra vires, which means that any NGO briefs accepted by WTO panels and the Appellate Body are kept separate from the proceedings. Additionally, some panels have chosen not to accept NGO briefs generally. For instance, in the Softwood Lumber case, a WTO panel refused to accept a brief from an environmental NGO, citing the absence of consensus among WTO members on how to handle amicus submissions.¹²⁰

NGOs have a more limited ability to initiate cases compared to their participation as amici. However, there are some tribunals and entities that allow NGOs to bring cases or complaints. As seen under the legal status that NGOs have under International Law, the African Commission on Human and Peoples' Rights has been open to NGOs, states, and individuals with observer status to submit communications alleging a violation of the African Charter. In the European Court of Human Rights, an NGO can bring a case only if it claims to be a victim itself. Similarly, international administrative entities such as the World Bank Inspection Panel permit NGOs to bring complaints by entertaining requests for inspection from organizations, associations, societies, or other groups of at least two individuals that believe they are likely to be adversely affected by the Bank's violation of its own policies and procedures.¹²¹

NGOs now play an increasingly important role in monitoring and promoting state compliance with international obligations. In their book *The New Sovereignty*,

¹¹⁹ *Methanex Corporation v. United States of America, Decision of the Tribunal on Petitions from Third Persons to Intervene as 'amici curiae'* (2001) *Italaw*. Available at: <https://www.italaw.com/cases/documents/684>.

¹²⁰ (2005) *United States – Investigation of the International Trade Commission in Softwood Lumber from Canada*. Available at: United States – Investigation of the International Trade Commission in Softwood Lumber from Canada.

¹²¹ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

published in 1995, Abram Chayes and Antonia Chayes¹²² dedicated a chapter to the impact of NGOs on treaty compliance and noted that NGOs often provide the personnel and resources necessary to manage compliance, which states may be reluctant to provide. In the years since that book was published, the role of NGOs in promoting compliance has continued to grow. For example, under the Aarhus Convention, NGOs with observer status can nominate candidates for the Convention's Compliance Committee. NGOs can also play an important role in domestic politics by pressuring governments to meet their obligations under ratified treaties.

The final role of NGOs worth mentioning is their assistance in collective enforcement efforts. In 1992, the UN Security Council resolution on the former Yugoslavia requested states and humanitarian organizations to gather substantiated information regarding violations of humanitarian law. Similarly, in 2003, the Security Council resolution on Sierra Leone called on states, international organizations, and NGOs to continue supporting the government's National Recovery Strategy.¹²³

2.3.1 NGO's influence on IL

Jose Alvarez has recently noted in a study¹²⁴ that the impact of NGOs on legal development has forever changed international law. Today, an extensive body of scholarship attests to the importance of NGOs to developments in international law. However, as NGOs rise in international policymaking, there are increasing tensions between reality and international law orthodoxy. Political scientist Stanley H. Bailey noted in 1932¹²⁵ that the fiction of the personified state conceals the reality that the world order is built out of the associations of individuals and groups. He contended that either the rigidity of international law cannot be maintained for much longer, or a new form of law for non-governmental groups in international society will be necessary to bridge the gulf. Similarly, in 1955, Philip Jessup, Adolf Lande, and Oliver Lissitzyn¹²⁶

¹²² Chayes Abram and Handler Chayes Antonia, (1995), *The new sovereignty: Compliance with inter-national regulatory agreements*, ch. 11.

¹²³ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

¹²⁴ Alvarez Jose E., (2005) *International Organisations as law-makers*,

¹²⁵ Bailey S. H., (1932) *The framework of International Society*.

¹²⁶ Jessup Philip C., (1955) Lande Adolf and Lissitzyn Oliver J., *International regulation of economic and social questions*.

recognized private international organizations and saw them as piercing the governmental wall between private interests and international society without tearing it down. NGOs have boldly advocated new forms of cooperation, making international law more responsive to the needs of the international community.

The transformation of international law pertains to both substance and procedure. NGOs have been instrumental in promoting a significant expansion of the substance of international law, especially in the areas of human rights, humanitarian law, and environmental law. By emphasizing the rights of individuals rather than the rights and authority of states, prominent NGOs have played a vital role in bringing a human touch to contemporary international law, including both customary and treaty law. As such, they deserve recognition for their efforts.

NGOs have played a significant role in transforming the processes of international law through their ability to mobilize states and influence public opinion. As diplomacy shifted from bilateral agreements to plurilateral law, NGOs began to participate in constitutive events as petitioners and later as accredited observers. Private actors first extensively lobbied for an intergovernmental conference at the Congress of Vienna in 1814-1815. The Hague Peace Conference of 1899 saw the emergence of the idea of a parallel conference organized by NGOs. The International Chamber of Commerce was the first accredited NGO to participate in an intergovernmental negotiation during the League Conference of 1923, which aimed to draft the Convention Relating to the Simplification of Customs Formalities.¹²⁷

NGOs have been able to exert more influence on International law due to their independence, which sets them apart from government officials. Since NGOs are not bound by the necessity of advancing a particular national or governmental interest, they are able to be more creative in their approach. As noted by Paul Reinsch in 1909, "private initiative" can be "far more daring and optimistic than that of the state,"¹²⁸ since it is not constrained by the constant need to maintain national sovereignty. Similarly, in 1936, Charles Fenwick recognized that international federations were not represented in the Council and Assembly of the League of Nations and suggested that providing them

¹²⁷ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

¹²⁸ Reinsch Paul S., (1909) *International Administrative Law and National Sovereignty*, AJIL.

with representation "could be highly effective in cutting across national lines."¹²⁹ In a 1960 study, Quincy Wright noted that "private organizations have many advantages over official organizations in the scientific exposition of international law."¹³⁰ According to him, private groups "are freer to adopt a global perspective and disregard specific, and frequently temporary, national interests that restrain official representatives."¹³¹

The influence of NGOs in constructing and promoting new norms for an interdependent world may also explain their impact on international law. In 1902, Pierre Kazansky noted that international societies and associations were contributing to the development of "international social interests," which in turn led to "international administration" aimed at protecting these interests.¹³² More recently, scholars have used terms like transnational advocacy networks, transnational norm entrepreneurs, nongovernmental norm entrepreneurs, and transnational moral entrepreneurs to describe NGOs and other non-state actors that seek to promote their norms to decision-makers and the public.

NGOs are actively engaged in the marketplace of ideas, competing with other actors for influence. Myres McDougal recognized this as early as 1949 when he identified states, IOs, transnational political parties, transnational pressure groups, cartels, and individuals as important participants in the world power process.¹³³ Today, additional participants such as multinational corporations and foundations can also be named. The concept of the entrepreneurial NGO is now central to theories about states and IOs. For example, Daniel Esty has argued that nongovernmental "competition" could enrich the politics of the WTO and improve its effectiveness. Judge Raymond Ranjeva has similarly emphasized the importance of NGOs as competitors in the implementation of international law.¹³⁴ The role of NGOs as norm entrepreneurs has also been incorporated into theories about why states comply with international law.

NGOs have gained an advantage by being innovative and adaptable. For example, Jody Williams, a Nobel Prize co-winner, acknowledged the importance of technology such as the Internet, electronic mail, and facsimile communication in the land mines campaign.

¹²⁹ Fenwick C.G., (1936) *The "Failure" of the League of Nations*, AJIL.

¹³⁰ Wright Quincy, (1960), *Activities of the Institute of International Law*, ASIL.

¹³¹ *ibid*

¹³² Kazansky Pierre, (1902), *Théorie de l'administration internationale*, RGDIP.

¹³³ McDougal Myres S., (1949), *The Role of Law in World Politics*.

¹³⁴ Ranjeva Raymond, (1997), *Les organisations non gouvernementales et la mise en oeuvre du droit international*, RECUEIL DES COURS.

The use of technology for publicity has also been evident in other NGO campaigns, such as the Congo Reform movement's use of the slide show in the early 1900s. In addition, NGO mobility is another advantage, allowing them to travel to trouble spots where governments or IOs are reluctant or slow to reach. While the role of NGOs challenges the state-centric nature of international law, it does not necessarily challenge the state itself. Therefore, the notion that the rise of NGOs leads to the decline of states is unfounded. The involvement of NGOs has strengthened states when the new international legislation promoted by NGOs expands their regulatory agendas.¹³⁵

To evaluate the impact of NGOs on the development of international law, it is important to consider their relationship with international organizations (IOs). NGOs played a crucial role in establishing some of the earliest IOs and, once an IO is established, interested NGOs will seek to access information and influence decision-making within the organization. While the self-interest of NGOs in gaining access to IOs is evident, it is less clear why governments permit such access. Various rational-choice explanations have been offered, including the provision of expertise, the enhancement of public support for the IO, and the assistance in the domestic internalization of norms developed in the IO. The relationship between IOs and NGOs is often characterized as symbiotic, with both sides offering mutual legitimation. This partnership is acknowledged openly, as exemplified by UN Secretary-General Kofi Annan's declaration that "the NGO revolution, the new global people-power, is the best thing that has happened to our Organization in a long time."¹³⁶

While some scholars have viewed IOs and NGOs as symmetrical nonstate actors with international objectives, a more accurate model may be to regard IOs as designated arenas where governmental and non-governmental actors compete and cooperate. Rather than delegating authority to IOs, this perspective highlights the role of IOs as sites of international decision-making where NGOs and governments vie for influence and public support. This interpretation also avoids the problematic notion that NGOs act as the sole representatives of the public.

¹³⁵ Charnovitz, S. (2006) *Nongovernmental Organizations and International law*. Available at: <https://www.jstor.org/stable/3651151?googleloggedin=true>.

¹³⁶ UN Press Release SG/SM/7318, (2000) Partnership with Civil Society Necessity in Addressing Global Agenda, Says Secretary-General in Wellington, New Zealand Remarks.

The International Labour Organization (ILO) has the highest level of nongovernmental participation in the international arena. Despite many analysts recommending that the ILO's approach to NGO participation be adopted by other intergovernmental organizations, this has not occurred. The tripartite structure of the ILO, which includes workers, employers, and governments as the principal stakeholders, worked well in 1919. However, in today's post-industrial world, few international employment issues involve only three stakeholders. As Virginia Leary observed, the ILO's tripartite may limit the participation of other NGOs, such as human rights groups. While a tripartite formula for IOs that includes government, business, and NGOs is conceivable, it may be too compartmentalized for the multitude of market and non-market interests at play in today's global landscape.¹³⁷

¹³⁷ Leary Virginia A., (1992) *Lessons from the Experience of the International Labour Organisation*, Philip Alston ed.

CHAPTER 3: MigrArt

As analysed in the previous chapters, the projects done by NGOs are various and belong to a different number of fields. To better understand from a more practical point of view the work that NGOs do to implement a project with different partners in different countries, it can be useful to analyse how a publication inherent in a specific project and a research work on the best practices is structured. This publication can be taken as a perfect example of how much NGOs influences the international reality, since it is a transnational project, and how their actions can really improve and solve some social issues that otherwise won't be taken into consideration by other international organs.

The project in question is called "MigrArt", of which I have been a project assistance working for the European Centre for Economic and Policy Analysis and Affairs (ECEPAA), a non-profit NGO based in Belgium and founded in 2001 which main focuses are in the field of social inclusion, education, youth and migrants issues not only by working on projects for the European Union, but also trying to sensitize people with different actions on how challenging can life be for marginalized communities trying to find a new start in a foreign country.

The projects has been developed under the Erasmus+ Key Action 2: Cooperation among organisations and institutions programme. The Actions supported under this Key Action are expected to contribute significantly to the priorities of the programme, to bring positive and long-lasting effects on the participating organisations, on the policy systems in which such Actions are framed as well as on the organisations and people directly or indirectly involved in the organised activities. This Key Action is also expected to result in the development, transfer and/or implementation of innovative practices at organisational, local, regional, national or European levels.¹³⁸

The task of the different organisations being part of a European project can be more practical, with action on the ground, but also more theoretical and of research.

The aim of this publication is to provide information to practitioners on how to use art forms at their best to help the integration of young immigrants and refugees the target group of the project is the youth workers, working with young migrants, refugees and locals.

¹³⁸ European commission website. n.d. *Key Action 2: Cooperation among organisations and institutions*. [online] Available at: <https://erasmus-plus.ec.europa.eu/programme-guide/part-b/key-action-2>.

The publication has been structured as follows: firstly, it will describe the project “Migrart”, especially the object, the aim and the partners, and the most recent study in 2016 in the field of Art and integration conducted by the European Expert Network on Culture and Audiovisual (EENCA) titled “The Role of Culture and the Arts in the Integration of Refugees and Migrants”, showing the existence of a positive outcome that Art can have on the social inclusion of young immigrants and refugees. Secondly a focus on what are the best practices, how they can be individuated, and which are the different methodologies that can be used to select them, making a practical example taking into consideration the methodology that has been used in the project “Migrart”. Thirdly, every project partner has selected and described five best practices, including their main characteristics: when and where they have been realized and a brief description of the project itself as well as of the organisation that implemented it. And to conclude a summary of which are the expected results of this paper will be summarised and also it will be explained, in a more exhaustive way, how to read the tables on the best practices present at the end of the paper.

3.1 Aim and partners

The project “MigrART” was born from the intent to understand and show how the development of artistic skills and Art per se might be useful means of integration for young people from a refugee/migrant background, taking into consideration especially the covid-19 years or the recent pandemic years that, with all the different types of restrictions, have negatively affected the integration process.

The coordinator of the project was the association “Popoli Insieme ODV”, that is an Italian volunteering organization dealing with the reception and integration of migrants in the Padua area, in particular refugees and applicants for international protection; it also deals with training for volunteers and with the awareness raising in the area.¹³⁹

There were five partners from the European territory, that are:

“Domna” is an Italian association for social and cultural promotion, but above all a place where souls, thoughts and ideas come together. It was born from the union of a group of professional friends in different fields, who are committed to offering support and services to individuals and families. They try to provide concrete solutions to the

¹³⁹ Associazione Popoli Insieme. n.d. *Associazione Popoli Insieme ODV*. [online] Available at: <https://www.popolinsieme.eu/>.

various problems that can affect the community, especially women, the elderly, and the very young, without forgetting the playful and artistic aspect of life and the universe, which often play a fundamental role in "healing". Their mission is varied but no less committed: they combine important projects in the social and psycho-pedagogical fields with art and community projects.¹⁴⁰

The Spanish partner is "Fundacion Red Incola" which is a network of entities that responds to the needs of people in vulnerable situations, especially of the migrant population, by promoting and defending their rights so that they can enjoy a decent life. The organisation works to provide a comprehensive response to the challenge of social inclusion and migration, striving to improve the quality of the programs and to increase its capacity and influence for social transformation towards a more just and pluralistic society.¹⁴¹

As concerning Belgium, the partner is the "European Centre for Economic and Policy Analysis and Affairs" which is a non-profit research organization founded in 2011. It is specialized in the development of European Union projects in the fields of social inclusion, education, youth, and migrant. The association, thanks to the use of funding from different programs, aims to contribute to the knowledge of topics related to social exclusion, and the persistent difficulties of the marginalized population due to economic, cultural, class, race and gender reasons. They are aware that sharing this knowledge through a bottom-up approach can contribute to better management of the above-mentioned issues. The association is organized on a voluntary basis and is governed by a board composed of three people.¹⁴²

In Portugal, the partner is "Embaixada da Juventude", an organisation that aims to boost youth development through national and international projects that facilitate access to a range of experiences, opportunities and knowledge for young people and the local community. Its main Objectives are to strengthen the heritage, cultural and gastronomic identity of young people by stimulating their engagement with the city; to build a functional net between the institutions (private and public) of the municipality of Paredes, with direct and indirect answers for the youth; to contribute for the physical

¹⁴⁰ Associazione DOMNA Padova. n.d. *DOMNA Associazione di Promozione Sociale*. [online] Available at: <http://www.domna.it/>.

¹⁴¹ Fundación Red Incola. n.d. *Red Incola – nos inspira el humanismo cristiano*. [online] Redincola.org. Available at: <<https://redincola.org/>>.

¹⁴² European Centre for Economic, Policy Analysis and Affairs. n.d. *ECEPAA*. [online] Available at: <<https://www.ecepa.eu/>>.

and intellectual development of the young people of the Municipality of Paredes and to develop and to execute projects of prevention and intervention next to the young people.¹⁴³

And finally, the Turkish partner is “Istanbul Avrupa Arastirmalari Dernegi” which is an organisation that aims at contributing to initiatives driven by a radical vision of science-enabled technologies aiming at generating more Inclusive, Innovative and Reflective Societies. They are interested mainly in six fields: Alliances- Fostering European cooperation by designing, developing and multiplying projects and good practices through a unique platform of interaction; Wisdom-Bridging science, engineering, and technology with the civil society and a series of economic sectors aiming at contributing to digital transformation processes; Challenges-Fostering a community-based vision and strategy tackling EU H2020 Societal Challenges towards Inclusive, Innovative and Reflective Societies; Potential-Readdressing Youth needs through inclusive training with a series of activities aiming at tackling effectively Youth development; Data-Contributing to the development of digital collaborative platforms and up-cycling data to foster digital transformation processes and Nature-participating in the development of bio-based solutions, supporting initiatives in a series of economic sectors and value chains¹⁴⁴

Starting from the object of the project, it is possible to identify three main priorities: The first one is skills development and inclusion through creativity and the arts. In fact, considering that the objectives of this project include promoting creativity in youth work through non-formal training methods to build an inclusive educational environment constituted by young people from a refugee background and young people in the local area, as a consequence it includes also the fostering of the process of development of decision making, the team working, the communication and interaction, the creativity in general, the process management, the digital skills and competences of youth workers to implement this process.

The second one is social inclusion. The project intent was to enhance the inclusion of young refugees in educational environments through street arts in interaction with digital tools, by fostering Community-Based Rehabilitation (CBR), a participatory method that includes all the parties as equals and lets them be active in the decision-

¹⁴³ Facebook.com. n.d. *Embaixada da Juventade*. [online] Available at: <https://www.facebook.com/embaixadadajuventude/>.

¹⁴⁴ İstanbul Avrupa Araştırmaları Derneği. 2022. *IAAD*. [online] Available at: <https://sites.google.com/view/iaad-research/home>.

making process which is the essence of inclusion, and anti-fragility approaches among youth workers and the cultural and creative sector grassroots organizations/stakeholders; also to promote and develop the anti-fragility approach, that can be described as the property of systems in which they increase in capability to thrive as a result of stressors, shocks, volatility, noise, mistakes, faults, attacks, or failures, among youth workers and associations working with young people to face the global crisis raised from COVID-19 and transform it into an opportunity that will decrease the effects of uncertainty. Young refugees and youth workers from refugee backgrounds were included in all project activities and it was established sustainable cooperation between organizations active in social inclusion, refugees, education, training, youth, and the society at large, including at local, regional, and European levels.

The third is to provide support to educators, youth workers, educational leaders, and support staff. Youth workers involved in social inclusion/refugee issues learned how to apply community-based rehabilitation, deepen the antifragility concept, and learn how to reach young refugees.

From these three priorities, it followed that the target group of the project were youth workers working with young refugees and the beneficiaries are young people in the local areas including young refugees and youth organizations working with refugees.

Through these three priorities the project aimed to:

In the first place, to promote creativity, art, and digitalism in youth work to build an inclusive educational environment for young refugees.

Secondly, to foster the process of development of decision making, team working, communication, interaction, antifragility, creativity, and process management skills of a youth worker and also to promote active citizenship, inclusion and foster creativity, culture, and multiculturalism among young people through art and digital tools.

Thirdly, to foster community-based rehabilitation and anti-fragility approaches among youth workers and the cultural and creative sectors grassroots organizations/stakeholders and to raise awareness on refugee and pandemic issues in the community.

Fourthly, to promote the resilience of youth workers and associations, to face the global crisis raised by COVID-19 and transform it into an opportunity.

And finally, to develop and strengthen the digital, anti-fragility, artistic, cooperative, management, and creative skills of partner associations, and strengthen cooperation among them.

3.1.1 Art and the integration of refugees

Research has been conducted on “Erasmus+ project results”¹⁴⁵ to find a theoretical example of the relation between art and integration, using the keywords “art- refugees” and six projects were found but none of them could be considered fully inherent with art, what was found is that the most recent study in this field has been conducted in 2016 by the European Expert Network on Culture and Audiovisual (EENCA), in partnership with the United Nation University and the Maastricht University founded by the Creative European Programme of the European Union, titled “The Role of Culture and the Arts in the Integration of Refugees and Migrants”.¹⁴⁶

It is important to notice that also other studies preceding this one have certified that different artistic disciplines like painting, drama, dance, music, literature, photography, film and other art forms provide immigrants and refugees with a creative space for the exploration and expression of identities, discrimination and social exclusion and for fostering intercultural dialogue. The art and culture of immigrants and refugees can permit them to keep alive the roots of the original country, like its traditions, customs, and culture. Preserving the cultural identity of the country of origin, combined with the identification of the destination country, can have positive effects on integration.

Other migrants and refugees through cultural and artistic productions develop ways of expressing the challenges of the immigrant community in the destination country and have the chance to raise their voices against discrimination, this contributes also to creating community cohesion, structural integration, and social change.

But the most important effect that artistic expression can have is in therapeutic contexts, because it promotes self-esteem, and it facilitates the expression of emotions as well as the processing of traumatic experiences. Creative and artistic tools in therapies offer the means for refugees to explore, express and reconstruct their emotions and experiences related to conflict, violence and exile. Different studies taken into consideration indicate

¹⁴⁵ European Commission. n.d. *Erasmus+ Project results*. [online] Available at: [https://ec.europa.eu/programmes/erasmus-plus/projects_en#search/project/keyword=Art%2520refugees&options\[0\]=goodPracticesOnly&programmes\[0\]=31046216&actions\[0\]=31046221&actionsTypes\[0\]=31046269&matchAllCountries=false](https://ec.europa.eu/programmes/erasmus-plus/projects_en#search/project/keyword=Art%2520refugees&options[0]=goodPracticesOnly&programmes[0]=31046216&actions[0]=31046221&actionsTypes[0]=31046269&matchAllCountries=false).

¹⁴⁶ McGregor, E. and Ragab, N., 2016. *The Role of Culture and the Arts in the Integration of Refugees and Migrants*. [ebook] European Expert Network on Culture and Audiovisual (EENCA). Available at: <https://migration.unu.edu/publications/reports/the-role-of-culture-and-the-arts-in-the-integration-of-refugees-and-migrants.html>.

that art therapy can improve the general well-being of immigrants and refugees and, therefore, promote their social inclusion.

The methodology and aim of “The Role of Culture and the Arts in the Integration of Refugees and Migrants” are to examine and explain how culture and arts can help the integration of migrants and refugees taking into consideration projects covering this topic in Europe.

Some of the characteristics of the projects taken into consideration are:

Firstly, the targeting groups are mainly young people and those with a refugee background, supposing that these two categories are the ones that can benefit the most from using Art as a means of social integration, so for a practical aim, and to overcome traumatic experiences, so for a psychological aim. Furthermore, the projects targeting these types of social groups aim at language acquisition which is one of the most important features of integration.

Secondly, the projects that have the aim of social and cultural integration use intercultural dialogue and the celebration of multiculturalism in order to change the negative position and misconceptions that there are nowadays about migration.

Thirdly, successful integration can be achieved also using arts and culture in a more therapeutic setting that can have positive consequences on the well-being of migrants.

Finally, a diversified cultural and artistic scene can have positive economic effects that can both increase economic opportunities for migrants and refugees to integrate as well as contribute in general to city development through, for example, cultural tourism.

To conclude, the results of the projects taken into consideration have conducted the study “The Role of Culture and the Arts in the Integration of Refugees and Migrants” to a general conclusion that effectively there is a positive relationship between artistic activities and different aspects of integration.¹⁴⁷

3.2 Best practices

In scientific and business environments, the identification of a best practice follows a strict, comparative approach based on the quantitative and measurable outputs of a certain practice. In the field of youth work, the outcomes of a project are more difficult

¹⁴⁷ McGregor, E. and Ragab, N., 2016. *The Role of Culture and the Arts in the Integration of Refugees and Migrants*. [ebook] European Expert Network on Culture and Audiovisual (EENCA). Available at: <https://migration.unu.edu/publications/reports/the-role-of-culture-and-the-arts-in-the-integration-of-refugees-and-migrants.html>.

to identify in a quantitative way, at least in the short term. For this reason, the “best practice” simply becomes a good example to take inspiration from. Another feature of the scientific best practice is its transferability, meaning that it should be possible to take the model given by the best practice, apply it anywhere, and achieve the same – best – results. Again, in youth work and when having to do with migrants this isn’t really possible: each local community has its own peculiarities and best practices need to be adapted and contextualized. Some practices that have been identified as “best” might even not work in the local situation. For these reasons, the best practice research in the field of youth work and migrants does not have a strict and objective structure, but rather a more adaptable one. The steps and suggestions that are indicated here are specific to the field of youth work and migrants.

There are three preliminary steps for best practice research and these steps are closely connected and should be clarified before starting the research, but they also should be kept in mind throughout the whole work. This will allow us to maintain cohesion in the final document.

The first one is to identify the goal, so ask yourself why did you decide to write this best practice research? What is the goal? It can be to spread the good achievements of some particularly successful projects, to seek inspiration from the work of others, to inspire others to join your field of study or to report on the state of the art of youth work projects. Whatever it is, it is necessary to identify it, because it is the fundamental aspect that will shape the research.

The second one is to identify the audience, asking yourself who did you decide to write to? The style of your research should change according to the audience that will read it and in the “Migrart” project case we need to focus on those practitioners dealing with migrants at a broad level. If it is intended for youth workers, it is possible to be more technical and focus on methodologies; if it is a report for external people, it is possible to be more generic and is better if it is written in a simpler way, as the audience is not an expert of the field; if the aim is to inspire young people to join youth work, it should be as engaging as possible. The important point is to keep in mind who is the recipient.

Lastly, to identify the criteria defining the best practices, ask yourself “What kind of best practice did you want to find?” And “What makes it a best practice?” There are two possibilities: looking for new, innovative methodologies, or looking for a specific one because there is the necessity to find examples to adopt in your local community. Or maybe there is a necessity for a collection of different kinds of best practices, with

completely different scenarios and methodologies. In any case, there should be a common thread throughout the research, in order to keep it coherent and, most of all, useful. What is important in any case is to focus on those best practices that identify those activities that keep the attention on the inclusion of young refugees through artistic and digital tools in educational processes. Not only, due to the recent Covid 19 pandemic, but it is also important to look for those practices that have identified and mapped initiatives put in place to respond to education in general and the education of young people from disadvantaged backgrounds, young refugees in particular.

After these three steps, it is possible to start with the research, and there are different ways to achieve a best practice research. The two most used are “field research” and the “desk research”.

The first one is much narrower research, focused on a few experiences that are analysed in depth. A “field research” is carried out, as the name already tells, on the field, meaning that it is necessary to collect data and information directly. There are several ways to do this, but to give a few examples you can: carry out interviews to staff members of different organizations; directly follow the development of a project; organize meetings and focus groups with other organizations to share their own experiences. A “field research” requires more time than a “desk research”, but it also achieves a higher level of detail when describing the best practices. If you don’t need quantity and you can focus on quality, or if you have a lot of time, this is the method you should choose. Also, in this case, the transnational meeting planned by the project should have helped you in getting knowledge of what is happening at a field level.

The second one refers to the gathering of information that already exists from various sources and putting it together in a cohesive manner. This means surfing the web looking for best practices already shared by other organizations and groups, selecting the ones that interest you the most, and collecting them together in your work. This method allows the collection of a large amount of information and best practices but has a few downsides. First, this method is for “quantity over quality”, meaning that you will likely end up with a lot of best practices, but you won’t be able to go in-depth into them because the information is usually limited. Second, finding the information you need could be really difficult. The field of youth work is very much scattered around and there aren’t many centralized places where there is easy access to the information you need. Therefore, it is fundamental to be patient and find the single organizations and groups that have shared their experiences online. Another issue that could arise if

international research is done: is the language barrier. A lot of interesting experiences could be hiding because they have never been translated into English, so you will need to look for information in multiple languages. Of course, you are not working in a void: platforms such as “Epale” and “Sirius” can help you.

After having collected the necessary information, it is possible to draw conclusions. These would have to match the goal that was set at the beginning: in the present case, we want to make a report on the state of the art of youth work, so we can make a synthesis of the best practices collected, that is going to follow in the next chapter.

In this field, practices and experiences can vary a lot, and there isn't a fixed scheme that every youth work organization can follow. Of course, there are educational and sociological theories that can be followed, but there still isn't an answer that is always right for every situation. This is where best practice research comes into the picture: sharing best practices with other groups is one of the best ways that youth workers to learn from each other and to improve their own capacity to create functional solutions for the problems of their communities. Making good best practice research can be the starting point for a lot of good projects.

3.3 Best practices selected

3.3.1 Belgium

The first Best Practice individuated in the city of Anderlecht is the “Social Circus” implemented by “Cirqu'Conflex”¹⁴⁸ which is still ongoing. The organisation uses the Cirque as a tool for social integration, valorisation, and implementation of new pedagogies of education and emancipation, in individual, collective and community processes. The project is part of an approach based on the cohesion of the inhabitants, on a cultural mix, on community participation, open, rich, and lively. From circus techniques, many spaces for exchanges and meetings, workshops, actions, and projects are developed, thus generating a fertile ground for initiatives, investments and surpassing oneself which is then restored in a neighbourhood, city, or region. Their actions aim to (re) discover its “neighbours” and its inhabitants in a plural environment

¹⁴⁸ Cirqu-conflex.be. n.d. *Cirqu'Conflex : Qui sommes-nous ? – Cirqu'Conflex Asbl.* [online] Available at: <http://www.cirqu-conflex.be/association/>.

beyond any stigmatization. A circus is an educational tool that helps develop solidarity, creativity, and versatility.

The second, third and fourth Best Practices individuated in Brussels have in common the fact that have all been implemented by different “Maison des Jeunes” showing how these youth centres play an important role in Belgium in the integration of young immigrants and young refugees.

The “Cine-Club+Debate” has been implemented by “Maison des Jeunes La Clef”. The “Maison des Jeunes La Clef”¹⁴⁹ is a Youth Centre that welcomes young people from 10 to 26 years old who just want to socialise, read a book or use a computer, but also help them with homework, workshops and there are facilitators that can accompany them with their projects. The project consists of the visioning of movies on various themes followed by a share of experience, feelings, discussions and debates about the topics displayed by the movie to foster active citizenship and allows people from migrant backgrounds for whom it is not systematically easy to access culture.

The “Video Workshops” has been implemented by “Maison de Jeunes Bazar”¹⁵⁰ that is still ongoing every Thursday. The main objective of the association is to give more opportunities to young people from disadvantaged backgrounds cultivating equal opportunities and the development of critical, active, and responsible citizenship. The project is designed as a way to express an opinion on current societal and political issues. Through storytelling, young people experience life stories, make their voices heard and try to make their peers aware of social issues.

The “Jeunesse Nomade on stage” has been implemented by the “Fédération des Maisons de Jeunes (FMJ ASBL)”¹⁵¹ in 2018. The FMJ is an independent and pluralist non-profit organization that promotes responsible, active, critical and supportive citizenship of young people and fights against all forms of exclusion and supports and encourages the implementation, by and for young people, of actions and projects aimed at social, cultural and economic change through lifelong education. The project consists of the creation, after a year of work with young unaccompanied foreign minors (YUFM) living in centres for asylum seekers and young people from Youth Centres, of a show

¹⁴⁹ Laclef.be. n.d. *M.J. La Clef*. [online] Available at: <<https://www.laclef.be/ateliers/index.php>>.

¹⁵⁰ Le Bazar Maison de Jeunes. n.d. *Ateliers créatifs*. [online] Available at: <https://www.mjlebazard.be/activites/ateliers-creatifs/>.

¹⁵¹ FMJ ASBL - Fédération des Maisons de Jeunes. n.d. *JEUNESSE NOMADE - FMJ ASBL - Fédération des Maisons de Jeunes*. [online] Available at: <https://fmjbf.org/activite/jeunesse-nomade/>.

that mixes dance, theatre, song and video, about the itineraries and questions of young people on the shaping of our cosmopolitan society and on the meaning of the word “welcome”. In the background, it also promotes the accessibility of local youth associations to young residents of reception centres for asylum seekers and/or YUFM. Finally, the last Best Practice individuated in the UK is “Moving Lives” implemented by “Photo Voice”¹⁵² in 2005. “Photo Voice” is a UK-based charity that uses ethical photography to promote positive social change. The project consists of Newly-arrived young refugees and young people from London attending digital photography and story-telling workshops to construct a digital story-telling project (photovoice method), to tackle the social isolation felt by young refugees, help them build friendships with each other and learn new skills (for the local children as well). The stories gave insight into the lives of young refugees living in London but also reflected the concerns and interests of young teenagers around the world (growing up, music, ambitions, hairstyles, families, football, education, mobile phones, journeys...); they were then screened in the local cinema.

3.3.2 Italy

The majority of the best practices individuated in Italy, have been implemented by the “Centro Astalli”¹⁵³ that is the Italian branch of the Jesuit Refugee Service (JRS) and for 40 years it has been engaged in activities and services aimed at accompanying, serving and defending the rights of those who arrive in Italy fleeing from war and violence, not infrequently from torture. “Centro Astalli” is also committed to letting the public know who refugees are, their stories and the reasons that brought them here.

These projects are:

“Yayla, musiche ospitali”¹⁵⁴ comes from the “Appaloosa Records” implemented in Rome in 2018. This project consists of a meeting between artists of different origins and genres with refugees and this gives life to a musical journey in which boundaries are overcome by the beauty of words and musical notes, sounds and melodies of the

¹⁵² Ethical photography for social change | PhotoVoice. n.d. *Projects - Ethical photography for social change | PhotoVoice*. [online] Available at: <https://photovoice.org/projects/>.

¹⁵³ Centro Astalli. n.d. *Home - Centro Astalli*. [online] Available at: <https://www.centroastalli.it/>.

¹⁵⁴ Centro Astalli. n.d. *Yayla, Musiche Ospitali*. [online] Available at: <https://www.centroastalli.it/yayla-musiche-ospitali-3/>.

Mediterranean that returns to be a sea of peace and hospitality. There are many artists and musicians involved in the creation of the CD, including Erri De Luca, Donatella Finocchiaro, Neri Marcorè, Edoardo Bennato, Antonella Ruggiero, and Valerio Mastandrea. Behind the distribution of the CD, a social campaign titled “#failtuoaccordo” invited the people to perform actions that evoke a sense of collaboration, complicity and harmony with refugees and other strangers.

“Muros que Unen/Muri che Uniscono”¹⁵⁵ comes from the “Contra la Pared”, an Uruguayan organization, that has been implemented in Trent in 2018, with the first edition at Villa sant’Ignazio and Casa Sacro Cuore, the second edition at Casa san Francesco in 2019 and the third edition at Missioni Africane Comboniani in 2020. The project is a socio-cultural one that promotes participatory art as a possibility of dialogue between cultures and identities. It creates a meeting space where, through the sharing of subjective experiences, collective knowledge is built, visualizing differences as resources. The project culminates with the creation of a mural, representative of the group and the message that has been chosen to send to the world.

“Atelier Etico ed Etnico”¹⁵⁶ comes from “Sartoria de l’ùcia” that has been implemented in 2019. The project is a collaboration of social tailoring between cooperation programs of IPSIA in several parts of Africa and a dressmaking experience founded in Trento with refugees and volunteers. The final step was a colourful parade of beautiful dresses from Africa and from recycled fabrics.

The fourth Best Practice individuated in the city of Reggio-Emilia is the project “Gheto stories” which comes from “Teatro dell’Orsa”¹⁵⁷ but it has been implemented by “Sprar Reggio Emilia and Cooperativa Sociale e di Solidarietà Dimora d’Abramo” in 2016. Starting from services oriented to the primary needs of migrants, Dimora d’Abramo has thus moved from support to reception, with all that this means in terms of care, collaboration, articulation of responses, skills, reading and interpretation of the complexity of needs, contexts and reasons that determine them and of the possible and necessary work in the host communities. The idea of this project comes from the memories collected during the workshops with young refugees: the “Gheto” is a place

¹⁵⁵ Facebook.com. n.d. *Muros que unen*. [online] Available at:

<https://www.facebook.com/murosqueunen/>.

¹⁵⁶ Facebook.com. 2022. *Atelier Etico ed Etnico*. [online] Available at:

<https://www.facebook.com/centroastallitrento/photos/atelier-etico-ed-etnico-%C3%A8-un-progetto-di-sartoria-e-di-moda-che-connette-alcuni-/2203858749831206/>.

¹⁵⁷ Teatro Dell’Orsa. n.d. *Gheto Stories - Teatro Dell’Orsa*. [online] Available at:

<https://www.teatrodellorsa.com/gheto-stories/>.

in the city where young people, even those who have nothing, gather to dream of the future. In the “Gheto” everything is possible, making tea without tea, sipping the taste of sharing. If many dream together the same thing, that becomes possible. In the “Gheto” an empty pot is filled first with water and then with stories, each person can contribute with the little they have.

Finally, the last Best Practice individuated in the city of Modena is the project “Sono qui perchè” which comes from “Voice off”¹⁵⁸ organization but it has been implemented by “Bando di Idee by Centro Servizi al Volontariato (CSV)” in 2012. The CSV is an entity established as a recognized association whose members are Third Sector entities (excluding companies) that use the resources of the National Fund to manage some services such as services of promotion, orientation, territorial animation, training services, consulting services, qualified assistance and accompaniment, information and communication services, research and documentation services and technical-logistical support services. This project consists of a multi-voiced story of adolescents who, more than adults, experience them and redefine them on a daily basis from all over the world trying to deepen the intercultural dynamics taking place in society through their experiences.

3.3.3 Portugal

Two of the projects selected as best practices in Portugal have been individuated in the city of Porto:

“Quem Fala Assim” which ended on the 28th May 2021, made by “A Interferência: Associação de Intervenção na Prática Artística”¹⁵⁹. The main aim of the organization is to use music as a necessary weapon for social intervention. The project is considered a multidisciplinary one that joins two composers in collaborative work, instrumentalists, and multimedia artists in a show about the sound and artistic potential of stutter. Besides, the artistic creation/ preoccupation, this project seeks to intervene in social reflection about stutter. Therefore, public debate and training sessions are planned on the main impetus for this creative process: the stutterer's communication limitations and their social consequences. Considering speech as a musical expression, with gesture,

¹⁵⁸ Voiceoff.it. n.d. *SONO QUI PERCHÈ | VOICE OFF | reality is off*. [online] Available at: <http://www.voiceoff.it/cosa-facciamo/laboratori-video/sono-qui-perche/>.

¹⁵⁹ Interferência. n.d. *QUEM FALA ASSIM - Interferência*. [online] Available at: <https://interferencia.pt/quemfalaassim/>.

melody, rhythm and its own harmony, the stutter is a parametric variation medium. If we add the fact that there are no two equal stutters, each one with its different pauses, repetitions and interjections, the possibilities palette is huge. This show is intended to enhance and salute human difference, through a narrative that addresses the origin of stutter, its constraints, prejudices, inhibitions and myths. “Quem Fala Assim” intends to be an experimental and eclectic artistic project of sociocultural intervention.

“Vivarium Festival” which started in 2017 and should have taken place 26\27\28 March but was postponed, made by the “Saco Azul”¹⁶⁰ that is a cultural association made up of a group of artists with the aim of promoting artistic programming that promotes research, experimentation, creation, innovation, and critical thinking. The festival has a program that crosses the areas of music, performance, dance, visual arts and thought, in fact, the event reflects on the technological impact on the arts and on human life.

Other two of the projects selected as best practices in Portugal have been individuated in the city of Lisbon, which are:

“An Arte pertence a todos” that started in 1988, made by “ANACED - Associação Nacional de Arte e Criatividade de e para Pessoas com Deficiência”¹⁶¹. The main aim of the action of the organization is to promote all expressions of art and creativity that directly or indirectly contribute to the global development of people with disabilities and generate changing social attitudes towards this issue. It is a project that contributes to the motor and intellectual development of people with disabilities, allowing them to develop ideas, sensations, abilities, imagination and creativity, enabling them to experience self-realization and stimulating them, through contact with the realization of others, to live in community, so that they can take ownership of social spaces, as authors of their life stories.

“Movimento\Arte” started in 2015 and is still going on, made by “Várias Vozes - Associação Cultural e Artística”¹⁶² whose mission is to contribute to the strengthening of a pluralistic, critical and creative education, environmentally aware and civic, based on Global Citizenship values. The program project aims to create guarantees of equity and equal rights and opportunities for access to quality education for all children. Fight

¹⁶⁰ Sacoazul.org. n.d. *Saco Azul-Vivarium Festival*. [online] Available at: <https://www.sacoazul.org/detail-projetos/vivarium-festival/>.

¹⁶¹ Anacedarte.wixsite.com. n.d. *ANACED Associação Nacional de Arte e Criatividade de e para Pessoas com Deficiência*. [online] Available at: <https://anacedarte.wixsite.com/anaced>.

¹⁶² VÁRIAS VOZES. n.d. *VÁRIAS VOZES-Movimento\Arte*. [online] Available at: <https://variasvozes.weebly.com/>.

for an education that allows each one to build their own life project, integrated with the community (local and global) that is theirs; the program revealed also, over the 4 years of its work, strong scientific evidence of the positive impact it had on children, but also on teachers and in their way of thinking and working with and for the Arts (a process that includes the art of the word, called Literature).

Finally, the last best practice has been individuated in the city of Orios is the project "Arte em Movimento"¹⁶³ that started in 2020 and ended in 2021 "Florescer - Associação de Educação Global". This project is based on a group of art therapists that uses watercolour in the transmutation process of inner pain. In this project, they took large steps on the path of transforming the pains that mark lives. Deep sharing circles, inspirations from nature in the pine forest, watercolour painting in permanent internal dialogues, and work on the pain of the other in conjunction with your own process.

3.3.4 Spain

The method to individuate the Spanish best practices is a little bit different from the one seen until now, because the fact that the project has been implemented only in the country taken into consideration, in comparison with the previous best practices, has not been the main object of the Spanish research, in fact, some of the projects selected have been implemented in Spain and also in other European countries, but not only. These projects are:

"Ta-Boom"¹⁶⁴ between 2018-2019 implemented by the organization "Forme" individuated in Italy, Malta and Spain. The goal of the organization is to foster the empowerment of individuals, communities, and social networks, through capacity building and mediation between different sectors, and its mission is to promote non-formal education as a complementary methodology to formal education, shortening the distance between theory and practice, between education and the world of work. The overall goal of the project was the empowerment of youth with migration experience by creating opportunities for interaction with local youth, instead, the more specific goals are the capacity building of organizations working with the target group, to promote

¹⁶³ Florescer - Associação de Educação Global. n.d. *Terapia artística*. [online] Available at: <<https://florescer.pt/terapia-art%C3%ADstica>>.

¹⁶⁴ Redincola.org. n.d. *Despedimos el proyecto Taboom en una emocionante jornada intercultural – Red Íncola*. [online] Available at: <https://redincola.org/despeditimos-el-proyecto-taboom-en-una-emocionante-jornada-intercultural/>.

participation in political and democratic life in Europe, active citizenship, intercultural dialogue and solidarity and to improve the level of key competencies and skills of young people through educational, cultural and artistic activities. Furthermore, “Fundacion Red Incola” participated in this project. This project awakened their intercultural group's interest in Europe and, for the first time in their lives, made them aware of Erasmus projects as something they could participate in. Many of their young second-generation migrants had never even left Valladolid, and of course Spain, and this trip was a huge individual and collective revolution for them. They used an artistic approach, such as music, illustration, literature, theatre and batucada percussion, to try to get into their motivations/traumas related to the fact that they did not choose to migrate, but their parents did, and so on.

“CommUnity”¹⁶⁵ project was implemented in Belgium, France, Germany, Croatia, Italy, Spain and the Netherlands by “ArcoForum” which is a non-profit organization whose main areas of expertise are: religious-inspired extremism, prevention of radicalisation, inclusion and social cohesion, discrimination and xenophobia and hate speech and hate crime. The project's aim was to prevent radicalization of youth by enhancing community engagement and strengthening social cohesion and address drivers such as marginalization, inequality, discrimination and denial of rights and create new opportunities to promote peace and shared values through artistic and cultural expression. By giving a voice to young people who feel marginalized or unfairly treated, it is possible to build powerful communities with a greater sense of belonging, well-being and self-esteem.

“Transmigrarts” project is one of the 74 RISE (Research and Innovation Staff Exchange)¹⁶⁶ winners of the European Commission's Marie Skłodowska-Curie Action programme carried out by a laboratory of the University of Toulouse, implemented in Spain, Colombia, México, Denmark and France in 2020-2021. The hypothesis of the research project is that the performing arts, through research-creation tools, can contribute to transforming and improving the modes of existence that have been assigned to migrants in situations of vulnerability. The objectives and impact of the project are: to transform damage caused by the relational and emotional lives of migrant populations at a social, family and work level -among others- through shared artistic

¹⁶⁵ Thecommunityproject.eu. n.d. *CommUnity | Build Communities - Create Peace!*. [online] Available at: <https://www.thecommunityproject.eu/>.

¹⁶⁶ Transmigrarts.com. 2022. *TransMigrARTS | Transformando la migración por las artes*. [online] Available at: <https://www.transmigrarts.com/>.

experiences; to demonstrate the ability of the arts to innovate socially being complementary to other approaches. The arts can provide broad knowledge and skills to academics, researchers, social workers, and people with decision-making capacity on public affairs and stimulate the creation of an international community around applied research creation through the dissemination and use of research results in a variety of socio-economic and cultural sectors; in addition to expanding the relationships and professional skills of researchers, artists and other members of the cultural community that is part of the TransMigrARTS network.

The last two best practices have been individuated in Spain:

“Art for Change” project implemented in 2019-2020 “Fundación Música Creativa”¹⁶⁷ is a non-profit organization created to develop the project with a cultural, educational and social impact through music. Their objective was connected to a firm commitment to society that is applied through different social initiatives designed in line with the global objectives of sustainable development, paying special attention to the quality of education, the reduction of inequalities, gender equality and alliances to achieve the goals. The project promotes the empowerment of young people in vulnerable situations, especially those between 16 and 22 years who arrived in Spain alone as minors, through musical creation, showing that music is a tool for expression but also for social change and awareness of the richness of interculturality and coexistence in diversity.

“Write the best version of yourself” project implemented by the “Fundación Cepaim”¹⁶⁸ in 2019-2020. The mission of the organisation is to promote a model of inclusive and intercultural society that facilitates full access to citizenship rights for the most vulnerable people in our society and, in particular, for migrants, developing policies to combat any form of social exclusion and collaborating in the development of local territories and the countries of origin of migrants. The project aimed to use rap since is a genre in which communication and language predominate, and in which rhymes, vocabulary and intonation are used to describe situations in the world around us, as an innovative resource for workshops that serve to educate, raise awareness, and develop both language and a critical spirit and especially for social integration.

¹⁶⁷ Familia Grande. n.d. *Familia Grande, un proyecto de la Fundación Música Creativa*. [online] Available at: <https://artforchange-familiagrande.org/>.

¹⁶⁸ Almeria is Different. n.d. *La mejor versión de ti: Rap para la integración - Almeria is Different*. [online] Available at: <https://almeriaisdifferent.com/rap-para-la-integracion/>.

3.3.5 Turkey

Most of the Turkish best practices that have been individuated deal with the influx of Syrian refugees in Turkey. The best practices identified are:

“Circus Training”¹⁶⁹, implemented by UNICEF Turkey with the assistance of the South-eastern Anatolia Project (known in Turkey as the GAP Administration) under Turkey’s Ministry of Development in the city of Mardin in Southeast Turkey in 2012. It focuses specifically on training adolescents to fight exclusion and marginalization in a region struggling with poverty, terrorism and a massive influx of Syrian refugees: of Mardin’s 796,000 inhabitants, 94,600 are Syrian refugees. The circus trains children from 7 to 18 as jugglers, stilt walkers, acrobats, trapeze artists and Diabolo players. Their work area is in Mardin’s centuries-old ancient citadel, in a room meant to be a safe area where the long hours of team practice and performances double as therapy and breed friendships across ethnic groups. In 2016 the GAP Administration partnered with UNICEF’s ‘Child-Friendly Cities’ initiative and the circus went mobile, training adolescents in multiple districts including the cities of Şanlıurfa and Batman. The joint program has so far reached an audience of over 22,000 and trained 800 children. In December 2016, a group of performers travelled to the capital Ankara to perform in a packed theatre for UNICEF’s 70th-anniversary celebration.

“SMART art”¹⁷⁰ implemented by “Refugee Empowerment International” in Turkey in 2016 provides the opportunity for Syrian refugee youth and Turkish youth to work together in a creative way. Through using art as a means of expression, youngsters learn to work together and understand their different cultures. This project builds pride, mutual understanding, and creative skills through bright thematic murals in public spaces.

Syrian refugee youth living in the town of Gaziantep (Turkey) have faced significant disruptions to their lives and are no longer able to attend school due to language problems and economic challenges. They find it difficult to integrate into the Turkish community, in turn, Turkish youngsters are confined by societal gender norms.

¹⁶⁹ Unicef.org. 2022. *Circus training creates a magical place where two cultures connect*. [online] Available at: <https://www.unicef.org/turkey/en/stories/circus-training-creates-magical-place-where-two-cultures-connect>.

¹⁷⁰ International, R. and Best, J., 2022. *SMART art - Creating Amity through Art in Turkey*. [online] GlobalGiving. Available at: <https://www.globalgiving.org/projects/creating-amity-through-art-in-turkey/>.

This project brings refugee and local youth together to express their feelings through painting which surmounts language, in fact, youngsters will learn life skills as well as painting lessons and drama classes, as they learn to trust each other.

The “Art from Exile”¹⁷¹ project implemented an exhibition called “Living” in 2016 at the U.S. ambassador’s residence in Ankara (Turkey). The exhibition showcased the work of eight Syrian artists now based in Istanbul and at the heart of it the question posed was “If civil war forced you to flee your homeland, how would you live?”.

According to U.S. diplomat Holly Holzer, the project came about after she heard a Syrian musician perform on a borrowed instrument at an Istanbul café. Moved by the experience, Holzer sought other displaced artists, working with colleagues at the embassy to reach out to Syrian artists exhibiting at Turkish galleries. The 15 works exhibited in Living are all by professional artists, most of whom studied at the University of Damascus.

The other two best practices are:

-“Senin Yerinde Olsaydım” (“If I were you”)¹⁷², implemented in 2016, by the organization “Nilüfer Belediye Spor Kulübü Derneği”, Bursa, Turkey, established in December 2001, and founded by the Turkey and EU Civil Society Dialogue-II Culture and Art Component Programme. The core activity of the organization is centred on offering people from 7 to 70 years old the opportunity to dance, developing approximately 25 regional and performing arts in its repertoire. The overall goal of the project is: to increase multicultural dialogue between participants from Italy, Latvia and Turkey via the organisation of folk dance in Turkey, as well as in the partner countries, ensuring long-term sustainable partnership, communication networks and cooperation and information exchange; to see the value and good examples given to folk dances and to make evaluations about them. The aim is to increase awareness and mutual respect, by integrating young people from different cultures and in the long term, to keep on organizing folk dance festivals with project partners and also to strengthen awareness about European Citizenship. In this context, dance instructors were targeted and received dance training

¹⁷¹ ShareAmerica. 2022. *Art From Exile: Syrian refugees find their voices through art*. [online] Available at: <https://share.america.gov/art-from-exile-syrian-refugees-speak-through-art/>.

¹⁷² Republic of Turkey, Ministry of Foreign Affairs. 2022. *If I Were You*. [online] Available at: <https://www.ab.gov.tr/47154.html>.

“Migration Jam”¹⁷³ is a project based on a storytelling platform founded in 2019 and run by refugees and migrants to inspire and empower communities worldwide. It is led by Somalian Amal Jibril and Syrian Suha Nabhan, and Şeyma Gören, one of the Turkish members of the team. Migration Jam is a collective of talented and creative professionals who believe in the power of storytelling to facilitate positive change. Through hosting cultural and educational events; producing visual and audio content; and developing strategic communication campaigns Migration Jam aims to change the current mainstream narrative on migration. Migration Jam develops structured cooperation mechanisms with a vast panoply of actors and agents of the culture and art scene. We establish contacts and cooperate with different groups, institutions, and organizations in Turkey. E.g; Istanbul&I, Migrant Women, Yusra Community, United Hands for Refugees, Josoor, Aman project, ArtHere Istanbul, The Silent University, Root Radio, Migport, Footsteps. In all their work, the celebration of refugees’ and migrants’ initiatives and stories takes centre stage. The goal is to channel opportunities to our communities and to encourage a more inclusive local integration for refugees and migrants. At Migration Jam, a wide variety of events is organised weekly such as workshops and training, as well as cultural events (film screenings, exhibitions, music events, etc.), panels and conferences. Migration Jam also produces and develops talk videos, podcasts and visual content. Recently, the organisation focused on and realized a podcast highlighting the cultural centres in Istanbul that bring together immigrants, locals and foreigners and create spaces for them to make art together. One of the last events in Istanbul was the screening of the movie Cinema Paradiso, it featured four films produced by award-winning directors from Syria and Palestine, at the Taksim French Cultural Center.

¹⁷³ Migration Jam. 2022. *Home page*. [online] Available at: <<https://migrationjam.com/>> .

| COUNTRY | NAME | SHORT DESCRIPTION | WHEN TO IMPLEMENT |
|----------------|--------------------------|--|--|
| BELGIUM | | | |
| 1 | “Social Circus” | The Circus is used as a tool for social integration, promotion and the implementation of new pedagogies of education and emancipation, in individual, collective and community processes. | For this project young people in the group should be physically fit |
| 2 | “Cine Club + Debate” | Visioning of movies on various themes followed by share of experience, feelings, discussions and debates about the topics displayed by the movie. | In the scenario the young people group taken into consideration need to be good at relating with stories different from its own. |
| 3 | “Video Workshops” | Designed as a way for young people to express an opinion on current societal political issues. | The necessity here for the young group people is to be creative and willing to challenge themselves |
| 4 | “Nomadic Youth On Stage” | It' a show that mixes dance, theatre, song and video, about the itineraries and questions of young people on the shaping of our cosmopolitan society and on the meaning of the word “welcome”. | Creative skills are essential in the youth group |
| 5 | “Moving Lives” | Newly-arrived young refugees and young people from London attend digital photography to construct a digital story-telling project to tackle the social isolation felt by young refugees. | In this scenario it is necessary to combine visual and story-telling skills |

| COUNTRY | NAME | SHORT DESCRIPTION | WHEN TO IMPLEMENT |
|----------------|------------------------------------|---|---|
| ITALY | | | |
| 1 | “Muros que Unen/Muri che Uniscono” | Mural on a wall of 4 asylum reception centres, to re-signify a wall, usually a symbol of separation and division, transforming it into a mean of communication and interconnection with the other. | The best way to apply it is within a group of young people with a strong practical point of view in the artistic field |
| 2 | “Yayla, musiche ospitali” | Is a meeting between artists of different origins and genres with refugees, that gave life to a musical journey in which boundaries are overcome. | What is necessary in this scenario is a group of young people with sense of rhythm and passion towards music |
| 3 | “Ghetto Stories” | This theatrical idea comes to life from the memories collected during the workshops with young refugees of the Sprar project of the Municipality of Reggio Emilia. | The main characteristic for this to be implemented is a big component of creativity in the group of young people to involve |
| 4 | “Sono qui perché” | It is a multi-voiced story of adolescents from all over the world trying to deepen the intercultural dynamics taking place in society through their experiences. | The target group for this project might be a group of young people with imagination and attitude to tell stories |
| 5 | “Atelier Etico ed Etnico” | A collaboration of social tailoring between cooperation programs of IPSIA in several parts of Africa and a dressmaking experience founded in Trento with refugees and volunteers. The final step was a colourful parade of beautiful dress from Africa and from recycled fabrics. | In this situation the youth group people targeted should have hand skills and an attitude for manual work |

| COUNTRY | NAME | SHORT DESCRIPTION | WHEN TO IMPLEMENT |
|-----------------|----------------------------|---|---|
| PORTUGAL | | | |
| 1 | "Quem Fala Assim" | Multidisciplinary project that brings together two composers, instrumentalists and multimedia artists in a collaborative work in a show about the sound and artistic potential of stuttering. | This scenario can be used with stuttered people in order to help them to communicate easily |
| 2 | " A Arte pertence a todos" | Project that contributes to the motor and intellectual development of people with disabilities, allowing them to develop ideas, sensations, abilities, imagination and creativity. | This project can be applied on a group of young people with disabilities to encourage the development of their creativity |
| 3 | " Arte em Movimento" | In this project, they took large steps on the path of transforming the pains that mark our lives, working on the pain of the other in conjunction with your own process. | Here the young group people should be prepared to challenge themselves and to go through the problems that they might have faced during their lives |
| 4 | "Vivarium Festival" | It crosses the areas of music, performance, dance, visual arts and thought, the event reflects on the technological impact on the arts and on human life. | Here creative skills are essential to the implementation of this scenario |
| 5 | "Motiv/Arte" | It aims to create guarantees of equity and equal rights and opportunities for access to quality education for all children | This project should be applied in a scenario where education and equity are not granted to the group's young participants |

| COUNTRY | NAME | SHORT DESCRIPTION | WHEN TO IMPLEMENT |
|----------------|--|---|--|
| SPAIN | | | |
| | 1 "Ta-Boom" | This project awakened an intercultural group's interest in Europe and, for the first time in their lives, made them aware of Erasmus projects as something they could participate in. | This project can be used to help the youth group to be aware of all the Erasmus opportunity at EU level |
| | 2 "CommUnity" | It aims to address drivers such as marginalization, inequality, discrimination and denial of rights and create new opportunities to promote peace and shared values through artistic and cultural expression. | Here creativity is mainly involved to overcome all the barriers to gain equality |
| | 3 "Art for Change" | Through musical creation, this project promotes the empowerment of young people who arrived in Spain alone as minors and who are in a situation of vulnerability. | What is necessary in this scenario is a group of young people with sense of rhythm and passion towards music |
| | 4 "Transmigrarts" | Performing arts, through research-creation tools, can contribute to transform and improve the modes of existence that have been ascribed to migrants in vulnerable situations. | Here all the skills connected to creativity need to be involved in the young group people |
| | 5 " Write the best version of yourself" | Rap has been used as an innovative resource for workshops that aim to educate, raise awareness and develop both language and critical thinking. This is how rap is used for social integration. | Here the youth group needs to be passionate about Rap and being creative with words |

| COUNTRY | NAME | SHORT DESCRIPTION | WHEN TO IMPLEMENT |
|----------------|-------------------|---|---|
| TURKEY | | | |
| 1 | “Circus Training” | It trains children from 7 to 18 as jugglers, stilt walkers, acrobats, trapeze artists and Diabolo players. | For this project young people in the group should be physically fit |
| 2 | “SMARTart” | Through using art as a means of expression, youth learn to work together and understand their different cultures. | Here all the skills connected to creativity need to be involved in the young group people |
| 3 | “Art from Exile” | The exhibition “Living” showcased the work of eight Syrian artists now based in Istanbul. | To apply this scenario, painting skills are necessary |
| 4 | “If I were you” | It offers people the opportunity to dance from 7 to 70, developing with approximately 25 regional and performing arts in its repertoire. | Here practical skills are required, like sense of rhythm and dancing. |
| 5 | “Migration Jam” | Storytelling platform founded and run by refugees and migrants to inspire and empower communities worldwide and to change the current mainstream narrative on migration | The youth group needs to have not only storytelling skills but the digital one. |

To conclude, both the explanation of the different best practices and the recommendations, have shown how Art and artistic skills can be a tangible way to help the integration of refugees and people with a migrant background in a new society and culture.

These charts can be helpful to better understand in which situation and how to implement the Best Practices that have been individuated in the different countries. As can be noticed, a short description of the project is connected to the attitudes or the skills that the youth group should develop in order to implement the different projects at their best.

As concerning Belgium's best practices what is necessary to implement those projects is mainly a creative attitude, from a physical but also the mental point of view, concerning storytelling but also physical skills.

For the Italian projects, there is a big necessity of manual and artistic competencies, but the sense of rhythm and music gain an important role in it, also concerning storytelling.

The best practices individuated in Portugal target specific youth groups, like stuttered people and young groups of people with disabilities, and there is also a major concern in the psychological aspects of the activities, such as overcoming traumas when it comes to equality of opportunity.

In the Spanish best practices rhythm and musical skills play a big role, as in the Italian one, but they also focus on helping youth groups become aware of the Erasmus opportunities that the EU offers, especially to young people.

In Turkish best practices there is the necessity of an attitude towards physical art, such as circus and dancing, but also towards painting, as well as towards storytelling.

The thing that all these best practices have in common is the attitude towards creativity and skills in the artistic field.

CONCLUSION

NGOs are complex and diverse organizations that are challenging to define analytically. They come in various forms, ranging from small, informal groups to large, formal agencies, and they can be found in different societies across the world. While they share common characteristics, such as being self-governing, private, not-for-profit organizations, and primarily engaged in development or humanitarian action, NGOs can differ in their resources, staff, motivations, and values. The use of different terms such as non-profit, voluntary, and civil society organizations depends on the historical background and experience of the NGOs.

Despite the difficulties in defining NGOs, their importance in society is undeniable, and they play a vital role in improving the quality of life for disadvantaged people at local, national, and international levels. The history of NGOs can be traced back to before the 18th century, and their evolution has been influenced by factors such as the Enlightenment, revolution, and international activism. With the increasing emphasis on globalization and social issues, NGOs have gained international recognition and expanded their reach to address diverse areas such as environmental protection, women's rights, healthcare, poverty alleviation, and human rights.

The structural transformation that happened in the 70s from hierarchical to horizontal and networked organizations has been instrumental in enhancing their impact and effectiveness. NGOs have gained significant influence in shaping policies and creating awareness about critical issues that governments often struggle to address. The increasing financial aid and communication revolution have further strengthened their position as significant players in the global arena. However, with the exponential growth in their numbers, there is a need to ensure accountability and transparency, which is being addressed through the International NGO Accountability Charter.

NGOs have also their shortcomings and criticisms, but they still play a valuable role in contributing to the betterment of society. Despite their challenges, NGOs have been instrumental in various areas, including providing relief during disasters, promoting social and economic development, improving education standards, monitoring transnational actors, bridging the gap between the North and the South, increasing transparency, providing expertise and information, and strengthening civil society. The

issue of whose interests NGOs prioritize, the challenge of ensuring their survival, and their heavy reliance on government funding can compromise their connection with their constituents. However, these organizations must adapt to local contexts and cultural values to be effective. Despite their limitations, NGOs remain essential to addressing various social, economic, and political issues in developing countries, and their contributions to society should be acknowledged and supported.

NGOs appear to be a topic that is not well understood from a legal standpoint in regards to international affairs. A review of how NGOs have been perceived in international law throughout history reveals that there is still much to be determined regarding the international status of NGOs. It is ironic that even though states have been incorporating NGOs into global governance structures and procedures to a greater extent, there is still uncertainty about the defining characteristics of NGOs and their official status under international law. While states appreciate the contributions of NGOs in international negotiations and have given some acknowledgement to "private associations" at the domestic level, there has yet to be a consensus on a standard for NGOs that operate in the transnational arena.

The examination of legal frameworks from the past century has shown that international law regarding the status of NGOs is still largely underdeveloped. The rights and responsibilities of NGOs as outlined in the U.N. Charter are not substantially different from those under the League system. The focus has been more on regulating the relationships between NGOs and other actors, like the United Nations, rather than establishing clear standards for NGOs. Additionally, international agreements concerning the legal identity of NGOs have progressed slowly. Thus, there has been little progress in the past century, with the European Convention of 1986 being similar to Belgian laws concerning NGOs from seventy years prior. NGOs are only acknowledged indirectly through other sources of international law that allow for their involvement, as seen in the Millennium report.

While NGOs are increasingly involved in promoting international legal standards on various issues, their status in international law has not advanced accordingly. It is surprising that, despite the growing number of NGOs participating in international affairs and their evolving role in negotiation processes, there is still no clear legal definition for what constitutes an NGO. NGOs are often invited to participate in

international affairs because they are perceived as representing civil society, and their involvement is seen as legitimizing and democratizing the entire process. However, some states take advantage of this situation and choose, appoint, or support only government-friendly NGOs, highlighting the need for international standards. Additionally, it is essential for NGOs to maintain their "pure" image, as any doubts about their representativeness could undermine their *raison d'être*.

Despite the difficulties to define the legal status under international law it is possible to analyse the one under secondary law and the one under primary law. NGOs play a significant role in secondary international law as they are often granted participatory rights by international organizations. While Article 71 of the United Nations Charter does not explicitly grant rights to NGOs, the practice of the UN in implementing this article through resolutions such as ECOSOC Resolution 1996/31 shows that NGOs can have consultative status and participate in the work of the UN and its subsidiary bodies.

The three-category system of consultative status established by ECOSOC Resolution 1996/31 grants different participatory rights to NGOs based on their level of involvement and contributions to the objectives of the United Nations. This not only implies some form of entitlement or legal personality for NGOs under international law but also imposes certain duties and organizational requirements. Moreover, other specialized organs of the UN and regional organizations also have consultative arrangements with NGOs, indicating the recognition of NGOs as important stakeholders in international decision-making processes.

Furthermore, NGOs are granted rights under secondary international law in specific areas such as human rights law and international environmental law. For instance, NGOs can have observer or consultative status with regional organizations like the Council of Europe and actively participate in conference deliberations and international legal regimes related to environmental protection.

Overall, the recognition of NGOs and their participatory rights under secondary international law marks their growing importance and impact in international affairs. The institutionalization of NGO rights to participate in international decision-making processes is a significant development towards their effective representation and potential for further legal status under international law.

NGOs are increasingly being recognized and granted legal entitlements under also primary law. These entitlements include the right to file complaints, submit applications, and cooperate with international organizations in various fields such as human rights protection, international humanitarian law, and labor rights. This recognition indicates that NGOs have gained legal personality and status as quasi-subjects of international law, making them accountable to international legal norms.

One potential approach for holding NGOs accountable to international law could be the creation of an international agreement, such as a "Code of Conduct" specifically regulating the behaviour of NGOs. This could provide clarity and specificity compared to customary law, and ensure that NGOs are considered derivative subjects of international law with respect to the contracting parties. However, there are concerns about the potential misuse of such an agreement by states to restrict the activities of NGOs, and therefore careful consideration and active involvement of NGOs in the drafting process would be crucial to enhance its legitimacy.

Even if a binding international convention on the rights and duties of NGOs is not immediately achievable, resolutions adopted by international organizations can still impact the legal position and conduct of NGOs, even if they are not legally binding. These resolutions would express the international community's expectations for the behaviour of NGOs and can contribute to shaping their responsibilities and obligations.

To conclude, the legal standing of NGOs in international law has evolved significantly, and while challenges remain, their recognition and entitlements indicate their increasing significance as key actors in the international legal system.

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