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Established Areas of Activities and Shifting Priorities Since the 1990s

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An Appraisal of Amnesty International's Work at the United Nations: Established Areas of Activities and Shifting Priorities since the 1990s

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ABSTRACT

The aim of this paper is to explore Amnesty International's relationship with the United Nations over time, whereby particular attention is paid to the period since the mid-1990s. The proposition of this study is that the NGO changed its pattern of activity with the United Nations depending on the prospects it perceived to advance human rights. Most significantly, over the last decade, Amnesty International has broadened its spectrum of activities with the United Nations, and today, it is basically involved in all stages of the political process; from agenda setting to policy formulation and project implementation.

I. INTRODUCTION

Over the last decade, nongovernmental organizations (NGOs) have become prominent players on the international scene. Most significantly, due to their intensive participation during the series of world conferences in the early 1990s, NGOs have been recognized as influential actors in international relations. In response, intergovernmental organizations (IGOs), such as the

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United Nations (UN), recognized the potential of cooperating with NGOs. IGOs opened up for more activities with NGOs and created additional ways to bring them into the IGO system. Indeed, the UN sought “to be open to and work closely with civil society organizations that are active in their respective sectors, and to facilitate increased consultation and co-operation between the United Nations and such organizations.”¹

Today, NGOs have manifold possibilities to work with the UN. They assist UN institutions and provide them with information on issues of concern to them, they regularly advise UN commissions and committees, and they collaborate with operational UN agencies to implement projects together. In fact, even the main UN organs take the opinions and contributions of NGOs into account. Most striking, since 1997, Security Council members meet regularly with NGO representatives, often even on a weekly basis, and get briefed on current affairs by NGO representatives. Since 1999, a tripartite “global compact” has been established between NGOs, business leaders, and the UN.² In his Millennium report, Secretary-General Kofi Annan reemphasized that strengthening the relations between the UN and private actors constitutes a priority of his mandate. He seeks “[t]o give full opportunities to nongovernmental organizations and other non-state actors to make their indispensable contribution to the [UNs] work.”³

The aim of this paper is to explore how NGOs reacted to such increasing opportunities to participate within the UN context. For the purposes of this study, the relationship between NGOs and the UN will be explored by specifically viewing the UN collaboration with Amnesty International (AI). Its relationship with the UN will be traced over time, whereby particular attention is paid to changes in the NGO/UN relationship since the mid-1990s. The proposition of this study is that AI changed its pattern of activity depending on the possibilities it perceived at the UN level for the promotion and protection of human rights. Most significantly, with the opening up of the UN over the last decade for more input from NGOs, AI has significantly broadened its spectrum of activities with the UN, and today, it is involved in basically all stages of the political process from agenda setting to policy formulation and project implementation.

For this article, academic studies, UN documents on NGOs, as well as NGO material with reference to the UN have been consulted. The main analysis, however, is based on interviews that have been conducted with

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1. *Renewing the United Nations: A Programme for Reform, Report of the Secretary General*, U.N. GAOR, 51st Sess., ¶ 60, U.N. Doc. A/51/950 (1997).
 2. See the web pages of the Global Compact, available at www.unglobalcompact.org.
 3. *We the Peoples: The Role of the United Nations in the Twenty-First Century, Report of the Secretary General*, U.N. GAOR, U.N. Doc. A/54/2000 (2000).

current and former AI representatives over the last two years.⁴ The article first presents the significance for AI of maintaining relations to the UN. It then examines AI's well-established role in agenda setting, information provision, and the lobbying of governmental representatives. Afterward, the article explores AI's changed position of functioning as a policy formulator and policy adviser to the UN, and finally, the paper presents information about AI's new role as a cooperative or subcontracted partner in implementing policies.

II. SIGNIFICANCE OF THE UNITED NATIONS FOR AMNESTY INTERNATIONAL

AI's interaction with intergovernmental organizations has always played a particularly important role for the NGO. In fact, it perceives activities with them as part of its mandate. As determined in its statute, AI seeks to "support and publicize the activities of and cooperate with international organizations and agencies which work for the implementation of the aforesaid provisions" and "to make representation to international organizations and to governments whenever it appears that an individual is a prisoner of conscience or has otherwise been subjected to disabilities in violation of the aforesaid provisions."⁵ AI therefore maintains a large IGO program and conducts intensive interaction with a variety of intergovernmental organizations, such as the UN, the European Union (EU), the Council of Europe, the Inter-Parliamentary Union and the Organization of American States. It also works together with specialized agencies of the UN, such as the International Labor Organization and the United Nations Educational, Cultural and Scientific Organization (UNESCO).

AI has a long history of activity with the UN. In the early 1960s, the NGO started interacting with the IGO when it realized the possibilities of

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4. Interview partners included: Melinda Ching, current AI Representative in Geneva, Geneva (4 Dec. 2000); Isabelle Scherer, AI Representative in Geneva (1992–2000), by email (10 May 2001); Mariette Grange, AI Representative in Geneva (1988–1992), Geneva (29 May 2002); Yvonne Terling, AI Representative in New York, New York (20 Mar. 2002); Anne Burke, temporary AI Representative in New York (2000–2001), New York (8 Feb. 2001); Iain Levine, AI Representative in New York (1997–2000), New York (16 Feb. 2001); Andrew Clapham, AI Representative in New York (1991–1997), by email (3 May 2001); Martin Macpherson, current AI Head of Legal Office, London (21 June 2001); Nicholas Howen, AI International Secretariat (1991–1998), London (30 Nov. 2001); Nigel Rodley, AI International Secretariat (1973–1990), New York (21 Mar. 2001).
 5. Amnesty International, Statute of Amnesty International as amended by the 25th International Council in Dakar, Senegal, 17–25 Aug. 2001, *available at* web.amnesty.org/web/aboutai.nsf/.

using the UN mechanisms for its objectives. As an AI staff member explains, “[f]rom its earliest days Amnesty recognised the importance of working directly in and through the UN system, both to expose violations and to advance the frontiers of human rights protection.”⁶ Over the years, AI established its leading position among the human rights NGOs interacting with the UN. Even other NGOs recognize AI’s outstanding achievements within the UN system. As a Human Rights Watch staff member acknowledged that “[t]o this day, Amnesty International is one of the largest and most active human rights organizations operating within the United Nations.”⁷

The relationship with the UN has always played a key role for AI. Various heads of AI’s legal office expressed the significance of the UN for the NGO. For example, Rodley stated in the mid-1980s:

Les Nations Unies occupent une place essentielle dans le travail d’Amnesty International. Les déclarations et les traités adoptées par les Nations Unies comme la Déclaration Universelle des droits de l’homme et le Pacte international relatif aux droits civil et politiques fournissent la base de l’action d’Amnesty International.

The United Nations occupy an essential place in the work of Amnesty International. The declarations and the treaties adopted by the United Nations, like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, provide the base of action for Amnesty International.⁸

A decade later, Cook confirmed that “Amnesty’s work within the intergovernmental organisations, such as the United Nations, is a core element of its efforts to secure universal observance of the Declaration [of Human Rights] and the organisation devotes considerable time, expertise and resources to these activities.”⁹

Due to the universal character of the IGO, AI seeks intense interaction with the UN. In fact, AI’s work at the UN level is by far the most extensive program of a human rights NGO at an IGO level:

Through its UN work, Amnesty seeks to encourage the development of international standards, derived from the Universal Declaration, regulating the way in which governments treat their citizens; to see that governments respect

6. Helena Cook, *Amnesty International at the United Nations*, in *THE CONSCIENCE OF THE WORLD: THE INFLUENCE OF NON-GOVERNMENTAL ORGANISATIONS IN THE UN SYSTEM* 183 (Peter Willetts ed., 1996).

7. Joanna Weschler, *Non-Governmental Human Rights Organizations*, 7 *POLISH Q. INT’L AFFA.* 140 (1998).

8. Nigel Rodley, *Le rôle d’une O.N.G. comme Amnesty International au sein des organisations intergouvernementales*, in *LES O.N.G. ET LE DROIT INTERNATIONAL* 134 (Mario Bettati & Pierre-Marie Dupuy eds., 1986).

9. Cook, *supra* note 6, at 181.

these international human rights obligations that they themselves adopt; and to ensure that they are held accountable whenever they fail to do so.¹⁰

AI has always employed a mix of different methods at the UN level that respond to the demands of the specifics when working with the IGO. As one AI representative at the UN expressed it, “obviously the methods used at the UN are different from the methods used when campaigning at street level, and have to be tailored expressly for the UN fora and audience and have to maximize the opportunities that are unique to the UN.”¹¹ These, “methods and strategies were extremely varied, ranging from reading out oral statements at meetings, widely distributed specific documents, *ad hoc* lobbying of the diplomatic community, either through UN meetings or through formal representation by the AI UN representatives at the respective permanent missions.”¹²

Most significantly, a major part of AI’s work at the UN encompasses legal work with the UN mechanism on human rights. At the UN, AI seeks to encourage states to ratify or accede to international treaties on human rights; e.g., the International Covenant on Economic, Social and Cultural Rights,¹³ the International Covenant on Civil and Political Rights,¹⁴ and the Optional Protocol,¹⁵ as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁶ As part of such “legalistic” work, AI also seeks the incorporation of human rights standards into national legislation and practice.¹⁷

As for themes, the range of topics addressed at the UN level is determined by AI’s mandate and on the basis of its main concerns. However, similarly to special modes within the UN context, the themes AI

10. *Id.* at 182.

11. Interview with Isabelle Scherer, AI Representative in Geneva (1992–2000), by email (10 May 2001).

12. *Id.*; Interview with Mariette Grange, AI Representative in Geneva (1988–1992), in Geneva (29 May 2002).

13. International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 171 (*entered into force* 3 Jan. 1976).

14. International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* 23 Mar. 1976).

15. Optional Protocol to the International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* 23 Mar. 1976), *reprinted in* 6 I.L.M. 383 (1967).

16. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* 10 Dec. 1984, G.A. Res. 39/46, U.N. GAOR 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (1985) (*entered into force* 26 June 1987), *reprinted in* 23 I.L.M. 1027 (1984), *substantive changes noted in* 24 I.L.M. 535 (1985).

17. U.N. Doc. E/C.2/1982/2/Add.2 (1982) ¶ 11; U.N. Doc. E/C.2/1987/2 (1986) ¶ 4; U.N. Doc. E/C.2/1991/2/Add.1 (1991) ¶ 2; U.N. Doc. E/C.2/1995/2 (1994) ¶ 3.

approaches are also selected with the UN as addressee in mind. As one representative expressed, “as for the themes, these were worked out obviously on the basis of AI priorities in general, but had to take into account the specificities of the UN, as some themes could be pursued there while others had no chance of attracting attention and were not worth pursuing.”¹⁸ For example, some UN forums provide excellent opportunities to launch new human rights themes, and AI “exploited” the UN in that way.¹⁹ Moreover, the NGO also takes up issues discussed at the UN and develops a standpoint on them; therefore, AI’s choice of topics treated at the UN level often presents a “compromise between AI priorities and UN priorities.”²⁰

III. AGENDA SETTING, INFORMATION PROVISION AND LOBBYING

In the early 1980s, AI started providing the UN with data on human rights abuses. AI belonged to the first group of human rights NGOs to deliver information to the UN. In fact, “a kind of unofficial and rather mild breakthrough did take place when Amnesty International and the International League for Human Rights began providing the Human Rights Committee with background information on individual countries prior to or during the time their human rights reports came up for review.”²¹ In those days, there were no procedures for information provision by nongovernmental organizations, nor was there a formalized way of dealing or citing these sources. Thus,

[t]he intervention of the NGO took the form of personal verbal contact or a mailing sent to individual experts. The circumstance and communications were totally informal and the experts, even when they used the NGO information, meticulously avoided any reference to an NGO. Should one or another expert challenge a country’s presentation, reference might be made to “reliable attested information” as the source of the challenge. Insiders frequently understood that phrase to mean information from an NGO with consultative status.²²

During the first couple of years of interaction with the UN, AI did not have any clear strategy for its activities with the UN.²³ The NGO rather

18. Interview with Scherer, *supra* note 11.

19. *Id.*

20. Interview with Iain Levine, AI Representative in New York (1997–2000), in New York (16 Feb. 2001).

21. WILLIAM KOREY, *NGOS AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS* 268 (1998).

22. *Id.*

23. Interview with Nigel Rodley, AI International Secretariat, London (1973–1990), in New York (21 Mar. 2001).

picked up on any opportunity that arose on whatever subject at the UN and either sought to gain information about the subject or to supply information itself. On the one hand, AI tried to find out what was taking place at the UN on human rights, especially in the General Assembly, the Security Council and the other main organs. On the other hand, AI contributed to a variety of issues; it evidently submitted information and position papers on subjects within its mandate, but it also participated at the UN on subjects such as conscious objection, the death penalty, or peace agreements, and “simply tried to get an angle on it.”²⁴

Over the years, however, AI developed clearer strategies for its activities with the UN. The international secretariat in London set up a large and elaborated program for its interaction with the UN, which enabled the NGO to have regular activities with the IGO. As one observer summarized,

Amnesty’s early work with the United Nations was directed towards standard-setting and tended to be carried out at the highest level of the organisation. By the mid-1970s a more extensive UN programme was being developed at the International Secretariat, Amnesty representatives were attending UN meetings regularly and cases and information were routinely submitted to the few international procedures then available.²⁵

Today, information exchange between AI and the UN is still a major part of the NGO’s work. Personal contact between AI representatives and UN officials allows the NGO to gain and distribute information that would otherwise not be accessible or distributed. A large part of the information is exchanged on an informal basis. Despite modern means of communication, such as the Internet and email, which allow for a fast exchange of information, personal contacts enable the NGO to have broader and more intense contact with the UN. An AI representative in Geneva, for example, spends about three days a week at the UN, tries to find out about current debates and seeks to gain information, often mainly by “just chatting around” with the respective UN officials in charge.²⁶ As a representative put it, the person “is doing the tour of duty”²⁷ whereby one sees and speaks to UN desk officers, who are in charge of the various issues or themes surrounding human rights.

AI channels a vast volume of information through the formal mechanisms into the UN system.²⁸ It has been far and away the principal supplier of documentation to all of the formal mechanisms, and no other interna-

24. *Id.*

25. Cook, *supra* note 6, at 185.

26. Interview with Melinda Ching, AI Representative in Geneva, in Geneva (4 Dec. 2000).

27. *Id.*

28. Cook, *supra* note 6, at 198.

tional NGO approaches AI in the number of submissions.²⁹ Until recently, AI therefore mainly focused on the “classic” human rights mechanisms, which have a clear human rights agenda, within the UN system. Such mechanisms include the Commission on Human Rights, its Sub-Commission for the Promotion and Protection of Human Rights, the Third Committee of the General Assembly, and the treaty bodies.³⁰ Until the 1990s, AI thereby adopted a “neutral” approach in that it worked on the countries already on the Commission’s agenda. In its oral statements to the Commission, the NGO did not openly lobby for a particular result or a specific resolution, rather, AI remained in a diplomatic manner without questioning the Commission’s agenda.

In the early 1990s, however, AI changed the strategy and was then also trying to influence the agenda of the Commission. AI sought to push for specific countries with bad human rights records to be on the agenda instead of simply following what had been recommended by the Commission. For the annual sessions of the Commission on Human Rights, AI then chose five countries, one per region, to be addressed by the NGO during the session. AI selected these countries six months before the commission held its session in order to prepare detailed reports on them.³¹ Researchers in London and in the field worked on these countries and analyzed information about human rights violations. They transmitted relevant information to Geneva where it was presented by an AI representative (or the researchers were flown in to present the information themselves). At the same time, AI mobilized the membership and openly campaigned for the Commission on Human Rights to take action on these countries.

In the mid-1990s, however, AI reconsidered its priorities for its work through the formal mechanisms. As part of a revised UN approach, the NGO significantly reduced its work at the Commission on Human Rights.³² Due to the enormous rise in written statements to the Commission since the opening of the UN to national NGOs, today, AI regards the single statement as having less significance. In response to such developments, the NGO brings forward less information through this formal mechanism and it has

29. KOREY, *supra* note 21, at 260.

30. Interview with Martin Macpherson, current AI Head of Legal Office, London, in London (21 June 2001).

31. *Id.* For example, in 1996, these countries were China, Colombia, Indonesia/East Timor, Nigeria, and Turkey. In 1997 priority countries were Algeria, Columbia, Indonesia/East Timor, Nigeria, and Turkey.

32. In AI’s report from 1990, in the section on work with international organizations, for example, on AI’s interaction with the UN only its contributions to the Commission on Human Rights and its sub-commissions and working groups are considered. More recent reports, instead, cover a much broader spectrum of activities at the UN and do not exclusively focus on the contributions to the commission’s work. See AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1990, at 19 (1991).

reduced its submissions during the sessions.³³ Whereas throughout the 1980s and early 1990s, AI always made a number of written statements to the Commission on Human Rights, in recent years its number of statements has significantly decreased. Until the mid-1990s, the NGO prepared and delivered three to five single-authored statements before the commission each year in which it addressed the countries chosen. Since 1997, AI has not contributed single-authored statements and has only delivered, if at all, joint statements with other NGOs.

Instead, AI continued its information provision to the treaty bodies because the NGO considered them better in using its information. The treaty or expert bodies of the human rights system have long been neglected by UN officials as well as by NGOs. Although they are the major bodies for monitoring the human rights treaties, they were becoming more and more peripheral to the UN system as they were not provided with sufficient information.³⁴ In the past few years, however, these expert bodies have become more aggressive in monitoring the human rights obligations contracted by states. In response, AI today supplies these bodies with its research and is cited in UN reports. Of the six committees that monitor the treaty bodies, the Committee Against Torture (CAT) and the Human Rights Committee (HRC) are the main addressees of AI information. In addition, the information it provides is also sometimes used in the Committee on the Elimination of Racial Discrimination (CERD).³⁵

AI researchers often feed to CAT members questions and information that find their way into the Committee's reports and conclusions. A good example in this respect is AI's work on Russia in late 1996. Prior to CAT's examination of Russia, AI released reports on torture and the human rights situation in Russia. In addition, the international secretariat wrote to Russian NGOs to supply AI with additional information to be forwarded to CAT. Four Russian NGOs reacted and submitted their own reports to CAT; one NGO even sent its own representative to the meeting.³⁶ Before the meeting, AI's Russia researcher also met with CAT's rapporteurs on Russia as well as with other Committee members.

In their subsequent questioning of Russia, the experts referred directly to AI many times and based other inquiries on the report.³⁷ Also the

33. Interview with Macpherson, *supra* note 30.

34. Andrew Clapham, *UN Human Rights Reporting Procedures: An NGO Perspective*, in *THE FUTURE OF UN HUMAN RIGHTS TREATY MONITORING* 175 (Philip Alston & James Crawford eds., 2000).

35. Rarely AI supplies the Committee on Economic, Social and Cultural Rights. In recent years, the NGO also started supplying the Committee on the Rights of the Child with information.

36. Clapham, *supra* note 34, at 181.

37. U.N. Doc. CAT/C/SR.264 (1996) ¶¶ 15, 33–34, 37, 41.

information provided by Russian NGOs became recognized. Moreover, the CAT hearing was transmitted by a Russian radio station directly to Russia and throughout its prison system.³⁸ AI also publicized the committee's conclusion and distributed it back to the Russian NGOs. When AI researchers, in response to the session, met with members of the Russian delegation to discuss the NGO's concerns about the human rights situation in Russia, "it was apparent that [the delegates] felt caught off-balance by the extensive use of the non-governmental material and there was some anger at the use of these reports."³⁹

In addition to the formal mechanisms provided by the UN to feed in information, AI is also very active through semi-informal channels, such as the meetings with the Security Council on the basis of the Arria Formula.⁴⁰ The Arria Formula is an informal arrangement that allows the Council the flexibility to be briefed on international peace and security issues by noncouncil members.⁴¹ In autumn 1999, the Council began to adopt open meeting arrangements, which allowed for the possibility to meet also with NGO representatives.⁴² But even before that, in fact, AI was the first NGO to brief the Security Council on a somewhat "modified" Arria Formula in 1997.⁴³ For this event, AI's secretary-general, Pierre Sané was flown in from

38. Clapham, *supra* note 34, at 182.

39. *Id.*

40. According to the information provided on the origins of the Arria Formula by Global Policy Forum, the formula is named after the Venezuelan Ambassador to the UN, Diego Arria, who devised it in 1993. During the crisis in Yugoslavia occurring at that time a Bosnian priest came to New York and asked various Council members to meet informally; only the Ambassador Arria agreed to meet with him, and was so impressed by the information provided by the priest that he felt that all Council members should hear about it. Because there were no official proceedings to invite an individual such as the priest, Arria simply invited Council members to gather over coffee in the delegates lounge. See the web pages of Global Policy Forum, *available at* www.igc.org/globalpolicy/security/mtgsect/arria.htm.

41. In the early phase of its establishment in 1993, the Arria Formula was an arrangement that enabled a member of the Council to invite other Council members to a meeting held outside of the Council chambers for the purpose of being briefed on an issue by an expert in a particular area of concern. See the web pages of Global Policy Forum, *available at* www.igc.org/globalpolicy/security/mtgsect/arriatxt.htm; www.igc.org/globalpolicy/security/mtgsect/portaria.htm.

42. Over the course of the last couple of years, however, Arria briefings have become an integral part of NGO/UN relations and they are now widely accepted by all participants involved. Today, Arria meetings usually take place every month, but sometimes even more often. Some of these meetings include NGOs as briefing participants. For example, in 2001, at least four meetings took place in which NGO representatives briefed Council members on issues of concern to them. In 2000, three Arria Formula briefings with NGO representatives took place and another four informal meetings with Council members also included NGO representatives. See the web pages of Global Policy Forum, *available at* www.globalpolicy.org/security/mtgsect/brieindx.htm.

43. Because the procedure was under dispute as the members could not agree on the procedures, eventually, Amnesty was called in on an *ad hoc* basis.

London to New York to give the only briefing by a NGO for two years.⁴⁴ In October 2001, another Arria Formula meeting took place, convened by the Permanent Mission of Jamaica, during which the humanitarian situation in Liberia was addressed. This time, together with Doctors Without Borders, Global Witness, and Oxfam, AI was one of the participants to address the Security Council on the matter.⁴⁵ This work with the Security Council is considered highly valuable for the NGO and has become more important in recent years.⁴⁶

As with its shifted efforts when working through the traditional mechanisms of the human rights machinery of the UN, AI reconsidered its priorities for the development of new human rights standards. Until the mid-1990s, AI had been a dynamic actor pushing the development of new standards on human rights. For example, AI put a lot of effort into the promotion of declarations and conventions on human rights at the UN level and pressured states to ratify these standards. As Cook explained, “Amnesty’s criticisms of a particular government’s practice and its recommendations for improvements carry far greater weight when they are based on norms set up by the UN. Amnesty has, therefore, actively encouraged and participated in the development of new treaties and standards.”⁴⁷

In recent years, however, AI has put fewer efforts into such standard setting activities. As a representative called it, AI purposely shifted away from such “conference room activity.”⁴⁸ For example, AI did not take part in the campaign against landmines in which more than 1000 NGOs were active. According to Winston, AI decided not to join the campaign, because it was argued that it fell out of AI mandate as the killings involved were not “deliberate” or “targeted” in the way extra-judicial executions are. In December 1997, however, a month after the campaign had won the Nobel Prize, AI’s Council amended its mandate to allow AI to oppose the deployment of “indiscriminate weapons, including antipersonnel landmines.”⁴⁹

44. See Global Policy Forum, *available at* www.igc.org/globalpolicy/security/mtgsect/sane.htm. See also AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1998, at 59 (1999).

45. U.N. Doc. S/2001/1298 (2001) ¶ 30.

46. Consider for example, that AI work at the Security Council has taken up a prime position in its annual reports over the last two years. See AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2001 (2002); AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2000 (2001).

47. Cook, *supra* note 6, at 189.

48. Interview with Anne Burke, temporary AI Representative in New York (2000–2001), in New York (8 Feb. 2001).

49. Morton Winston, *Assessing the Effectiveness of International Human Rights: Amnesty International*, in *NGOs AND HUMAN RIGHTS: PROMISE AND PERFORMANCE* 34 (Claude Welch ed., 2001).

In the past, in contrast, AI had been a dynamic and most successful organization in standards setting within the UN context. In fact, AI's campaign and activism on banning torture was repeatedly interpreted as "one of the most successful initiatives ever undertaken by an NGO."⁵⁰ In December 1972, AI started its first worldwide campaign to proclaim a total ban on torture. An element of this campaign was to pressure governments to enforce Article 5 of the Universal Declaration of Human Rights, which forbids torture.⁵¹ AI sections worldwide appealed to the UN to draw up a convention prohibiting torture. The campaign also included publicizing the extensive practice of torture in all regions of the world; AI produced extensive material on torture, including a detailed report on countries that torture people.

In 1973, AI organized a conference on the ban of torture with 300 participants from governments, UN officials, and NGOs.⁵² In November of the same year, when the General Assembly adopted a first resolution against torture, AI, in response, started its "Urgent Action" against torture so that cases of torture could be made public and the NGO could create pressure on governments: "To meet the new and continuing political opportunities, Amnesty arranged for its so-called urgent action network, heretofore limited in character, to be the centerpiece of its strategy. The campaign against torture, largely focused upon the UN, now was integrated into the organizational structure of Amnesty itself."⁵³ Partial success was reached when in 1975 the General Assembly adopted the "Declaration on the Protection of All Persons from being Subject to Torture" in response to the brutality of the regime in Chile. However, as the declaration was not binding, AI continued to call for a binding treaty which was eventually declared in 1984.

50. KOREY, *supra* note 21, at 171; see also Cook, *supra* note 6, at 189. For more detailed presentations of AI's involvement in standard setting on torture, see Rodley, *supra* note 8, at 130–33; Cook, *supra* note 6, at 189–93; KOREY, *supra* note 21, at 170–75.

51. Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess. (Resolutions, part 1), at 71, U.N. Doc. A/810 (1948), *reprinted in* 43 AM. J. INT'L L. SUPP. 127 (1949).

52. The conference was to be held at UNESCO headquarters in Paris, but was canceled at the very last minute.

[T]he very nature of Amnesty's global report on torture created a problem for officials of UNESCO. In the initial arrangement for the conference, Amnesty officers had given assurance that no member states of the UN would be publicly attacked at the conference. From the perspective of UNESCO's Director-General René Maheu, the publication of the torture report was itself a breach of the agreement. But UNESCO's refusal of its facilities for the conference served only to embarrass itself. Front-page stories in *Le Monde* and *Le Figaro* stirred public sympathy for Amnesty even as they challenged the integrity of UNESCO.

KOREY, *supra* note 21, at 172.

53. *Id.* at 173.

A more recent example of AI's efforts in standard setting is its effort to establish a High Commissioner for Human Rights (HCHR).⁵⁴ AI had particularly campaigned for the establishment of the post before and during the World Conference on Human Rights, held in Vienna in 1993.⁵⁵ The issue of setting up the post of a High Commissioner had first been introduced in October 1992 at an African regional meeting, when AI called for the creation of the post at the preparatory meeting in Tunis. At every regional preparatory meeting, the idea was endorsed by the NGO community. In Vienna, however, not only did the NGO forum strongly encourage the establishment of the post, but also sixty official speakers at the plenary session referred to this concept. About two-thirds of the governments favored the idea, whereas most of the Asian participants preferred to reconsider the establishment and to call for further study.⁵⁶ During the conference, AI continued its intensive lobbying for the NGO community to observe the working group on the issue.⁵⁷

Although AI had considered the establishment of the post a landmark decision,⁵⁸ the actual results were a disappointment for the human rights community. The *problématique* that arises when an NGO, such as AI, is intensely involved in such a creation process is that criticism about the actual work of the post is difficult to express. AI had put a lot of effort into the creation process, and for three years, refrained from publicly criticizing its creation. Its 1995 annual report covering the first eight months of the work of the High Commissioner devotes five paragraphs to the "new opportunities" opened up by his appointment, being mainly descriptive of the tasks and goals of this position.⁵⁹ The 1996 report merely makes indirect references to the work of the HCHR.⁶⁰ Only in 1997, AI started reviewing the High Commissioner's work more critically and made known the deficits in the work of the UN body.⁶¹

54. The post had been originally proposed by Jacob Blaustein in 1963 at a lecture at Columbia University, but had been put aside afterwards. Until the early 1980s, the idea circulated at the UN between the Commission on Human Rights and the sub-commissions; the United States first backed it, but the Reagan Administration rejected it. During the preparations for the Vienna Conference on Human Rights, the proposal became revived due to the work of NGOs. See Felice Gaer, *Reality Check: Human Rights Nongovernmental Organisations confront Governments at the United Nations, in NGOs, THE UN, AND GLOBAL GOVERNANCE* 60 (Thomas Weiss & Leon Gordenker eds., 1996).

55. Cook, *supra* note 6, at 194. AI proposed to call it Special Commissioner in order to avoid any similarities with British colonial nomenclature. Gaer, *supra* note 54, at 60.

56. Gaer, *supra* note 54, at 60.

57. Cook, *supra* note 6, at 192.

58. AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1994, at 32 (1995).

59. AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1995, at 37–38 (1996).

60. AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1996 (1997).

61. AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1997, at 46–47 (1998).

Instead of focusing on developing new international standards, the NGO shifted its efforts to the creation of mechanisms that monitor the *implementation* of human rights. A good example in this respect is AI's efforts for the creation of the International Criminal Court (ICC). AI began working on the ICC in 1994 when the NGO started publishing position papers and documents advocating for the establishment of the ICC. Between 1998 and 2001, AI also involved its networks and associations of lawyers who, according to AI, played a key role in the AI campaign for the ICC and had a significant impact on the adoption of the Rome Statute of the ICC.⁶² AI was one of the main NGOs that pushed for the establishment of the ICC, lobbied the UN and member states, and collected over a million signatures to a petition.⁶³ During the plenary meeting in June and July 1998, AI was also one of three NGOs that contributed to the summary record.⁶⁴

In addition to AI's standard setting activities and information provision, a lot of AI's efforts at the UN have always been put into its lobby work. AI approaches UN officials and governmental representatives to the UN and supplies them with its material. As a representative expressed, informal communication with official representatives can provide "a way to get AI's concerns through."⁶⁵ For this work, it is necessary to have a clear understanding of how the whole diplomatic system works and "who is talking to whom."⁶⁶ For AI, lobbying is well prepared when a good researcher has profoundly researched the situation and the NGO representative at the UN has a friendly relationship with a government. AI uses the researcher's expertise in order to prepare a report and recommendations for the UN; then, the NGO provides a "friendly government" with the information. A friendly relationship is usually maintained with four to five governments. Partners have, for example, been the Netherlands, Jamaica, Portugal, and Sweden, depending on the issues in question.⁶⁷

A lot of activities thus take place on an informal basis and personal relations between AI staff and governmental representatives are important

62. Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (1998). See AI's web pages, *available at* web.amnesty.org/web/web.nsf/printpages/documents.

63. Winston, *supra* note 49, at 27.

64. Rome Statute of the International Criminal Court, *supra* note 62, ¶¶ 118–19. In this summary record, the secretary-general of AI, Pierre Sané, emphasized that AI will mobilize its members worldwide to contribute to ensuring that the Court will fulfill its purpose. He made clear that AI will campaign for a universal ratification of the Statute and seek to shame states that were considering opting out of the Court's competence over crimes that were committed by their nationals or on their territory. AI also criticized the fact that some countries did not sign the Statute.

65. Interview with Levine, *supra* note 20.

66. *Id.*

67. *Id.*

factors in this respect. Hence, often it is not the entire government or all diplomats of a delegation interacting with AI, but rather an individual delegation member who is having a good relation with a single AI representative. As one representative mentioned, for example, for a period of time, Austria was the government often addressed by AI when the NGO wanted to supply an EU representative, because personal relations between a governmental representative and the NGO representative were good.⁶⁸

As a result of these tight bonds between the UN and AI, information provision is mutual; in fact, AI is often given information by the UN officials that they are unable to use. The officials supply AI with the details and let the NGO take the initiative. The reason for this practice can be a lack of resources at the UN to deal with additional matters; however, more often, AI is provided with this information for political reasons. For example, when a topic is too sensitive to be discussed in a forum of governmental delegates, UN officials encourage AI to write an open letter to the High Commissioner who then has to respond to the issue.

In addition to AI's informal lobby work, its efforts at the UN also involve a lot of diplomatic activities and networking. Particularly, in recent years, such activities have been increasingly intensified. Just like diplomats from governmental missions to the UN, AI is often represented at various meetings and receptions held by the missions surrounding the UN system. Unlike other NGOs, AI is more persistently invited to these receptions. During these receptions, the NGO representative meets and talks with other official representatives "on ten minute schemes, just like governmental representatives."⁶⁹ Attendance at these receptions is intended to allow NGO and UN representatives to get to know each other, to establish networks, and to "simply make oneself known."⁷⁰ For AI, networking and mutual identification is particularly important as it facilitates lobby work and informal exchange of information.⁷¹

68. *Id.*

69. Interview with Ching, *supra* note 26.

70. *Id.*

71. *Id.* Cook, *supra* note 6, at 209, summarizes the diverse challenges arising from intense interaction through such activities at the UN level.

These tensions between quiet diplomacy and public campaigning are not easy for an NGO to resolve. Some argue that working at the United Nations calls for too many compromises and brings NGOs too close to governments. Others insist that, to be effective, NGOs have to function within the system and play by its rules. This conflict continues to be the subject of intensive debates within the Amnesty movement. What is perhaps most important for Amnesty is always to maintain its independence and never to compromise its *capacity* to criticize and to insist on the highest standards of human rights protection at the UN. (Emphasis in original.)

IV. POLICY FORMULATOR, POLICY ADVISER AND DIPLOMACY

Unlike other NGOs, AI followed for a long time a policy of not being directly involved in drafting processes in order not to compromise its independence. During the Cold War period in particular, AI abstained from any drafting processes because it did not want to be played out between the superpowers.⁷² As a former head of legal office explained

[u]nlike several other NGOs . . . Amnesty refrains, as a matter of policy, both from supporting specific draft texts and from putting forward its own drafts. Instead, it concentrates on promoting and lobbying for the essential principles and issues that it considers ought to be included in the text. This enables it to maintain a certain distance from the process of government negotiation that is involved in reaching final agreements on a text, a process which often results in weakening compromises.⁷³

Today, instead, it is acceptable for AI to participate openly during drafting processes.⁷⁴ In fact, it has become an integral part of AI's activities at the UN to contribute its expertise and knowledge as an adviser. AI today contributes to more drafting processes than other NGOs and usually participates during the whole process, whereas other NGOs neither have the sources nor the means to do that. Usually between five and fifteen NGOs participate during these drafting processes, but AI is present more consistently and constantly.⁷⁵ As Cook explains about the Declaration on the Protection of All Persons From Enforced Disappearances,⁷⁶ "[a]mong NGOs, the International Commission of Jurists took the lead on advancing this text through the system, but Amnesty remained closely involved in the drafting and in lobbying until the adoption by the General Assembly."⁷⁷

72. Interview with Nicholas Howen, AI International Secretariat (1991–1998), in London (30 Nov. 2001).

73. Cook, *supra* note 6, at 191. In the past, AI instead often assisted informally during drafting procedures. Since such processes sometimes took place in private, AI members participated in working groups during the preparation phases. They not only provided background information or explained in informal discussion with government delegation what they believed to be necessarily included in the respective documents, but they were also often asked directly for their expertise with such matters as specific wording or technical issues. In some cases, in fact, governments even requested that AI informally prepare and provide a draft. For example, in the 1980s, AI provided aid with a draft on extrajudicial execution for Austria, which was eventually proposed by Norway. Interview with Howen, *supra* note 72; Interview with Macpherson, *supra* note 30; Interview with Rodley, *supra* note 23.

74. Interview with Howen, *supra* note 72.

75. Interview with Macpherson, *supra* note 30.

76. Declaration on the Protection of All Persons from Enforced Disappearance, *adopted* 18 Dec. 1992, G.A. Res. 47/133, U.N. GAOR, 47th Sess., U.N. Doc. A/Res/47/133 (1992).

77. Cook, *supra* note 6, at 193.

Because AI's information is often used as a first source, the UN also approaches the NGO and asks for more detailed advice on specific topics. Especially since the post of the HCHR has been established in the mid-1990s, AI has often been requested to submit its advice. An AI representative describes that during her time, "a lot of activities were also geared at the OHCHR [Office of the High Commissioner for Human Rights] and making demarches with the High Commissioner herself or her staff, either in response to specific requests from her Office (e.g. before a country visit), or on AI's own initiative. Such meetings were either on a bilateral basis or along with other NGOs for group pressure."⁷⁸

NGOs like AI are eager to be asked to brief the High Commissioner, because these briefings are an excellent opportunity for NGOs to feed in their information. Sometimes, such a briefing takes place on very short notice. For example, before a mission of the High Commissioner to a particular country, she may give the NGOs forty-eight-hour notice to brief her on a particular subject. In general, only a limited number of NGOs—four to six organizations—are invited to these informal consultations, and AI is usually one of them.⁷⁹

In addition, AI is regularly involved in semi-formal consultation processes with the Security Council through the Working Group on the Security Council (WGSC). It participates actively and regularly at the sessions in New York.⁸⁰ The WGSC has existed since 1995 and presents a network of about thirty large NGOs that have a special interest in the matters and issues of the Security Council.⁸¹ The WGSC has become an influential forum at the UN level and it has astonishingly close access to high-ranking UN officials and government delegates despite having no official status. Security Council members value the NGOs' expertise and experience; moreover, NGOs like AI often have more accurate and up-to-date information in specific

78. Interview with Scherer, *supra* note 11.

79. Interview with Ching, *supra* note 26.

80. See web pages of Global Policy Forum, available at www.globalpolicy.org/security/ngowkrp/members.htm.

81. In 1996, the Security Council discussed the proposal of establishing regular official meetings with NGOs, but this issue has been denied in favor of the solution that Council members could meet with an NGO Consultation Group only in their national capacity. See web pages of Global Policy Forum, available at www.globalpolicy.org/security/ngowkrp/history.htm. In 1997, the working group held such meetings regularly; a year later, the frequency of meetings increased and also the number of participating delegations enlarged. In 1999, for example, more than thirty-three semi-official meetings took place, and altogether forty-five events were held by the WGSC. Today, the WGSC holds briefings almost every week; usually, such meetings take place in the diplomatic missions, restaurants, or other venues. See Global Policy Forum, available at www.globalpolicy.org/security/ngowkrp/statements/current.htm; www.globalpolicy.org/security/ngowkrp/data.htm.

situations as they tend to have better and independent sources of information from field situations, in particular during crisis periods.

V. IMPLEMENTATION, COOPERATIONAL PARTNERSHIP, AND SUBCONTRACTING

Human rights NGOs, too, have links with operational bodies now. Unlike before, human rights are now dealt with not only through the traditional complaint mechanisms in Geneva, but also in various, operational bodies of the UN system. As Gaer explains,

Until recently UN efforts to report and take action against [human rights] abuses were conducted from afar, through Geneva-based complaint procedures or reporting based largely on NGO information, with occasional short missions by UN special rapporteurs. The situation changed as the United Nations launched human rights operations as part of multifaceted peacekeeping operations in El Salvador and Cambodia, and sent monitoring missions to Haiti. Conceived and run in New York, these human rights missions have opened the door to other on-site UN human rights field operations.⁸²

From the 1990s onwards, NGOs have been paying close attention to such operations. Because they have the experience and knowledge of how to conduct human rights field missions, NGOs are able to provide in-depth analyses and make suitable recommendations; in some instances, UN operations also cooperate with NGOs on the site.⁸³

In recent years, AI has put more work into its links with the operational bodies of the UN. As human rights have become an integral part of many UN agencies and organs as well as UN projects and programs, NGOs gained more opportunities for thematic linkages to UN implementing agencies. "The establishment in 1991 of the UN Observer Mission in El Salvador (ONUSAL) to verify a human rights agreement between the government and the armed opposition was a new departure that attracted the attention of Amnesty and other human rights NGOs. Suddenly human rights appeared to be at the heart of a new area of UN operations."⁸⁴

AI, in response to such developments, broadened its spectrum of activities with the UN and took up activities with a variety of other UN institutions with which the NGO had had no contact before. Because today human rights are considered an integral part of implementation processes in many areas, AI searches for linkages to operational UN agencies. In

82. Gaer, *supra* note 54, at 62.

83. Weschler, *supra* note 7, at 145–46.

84. Cook, *supra* note 6, at 207.

comparison to the past, human rights are not seen as only being a distinct subject anymore but as an integral part of other policies. For example, it has been recognized that development is only possible with a minimum of human rights standards. In the past, UN implementing bodies have refused to interact with a human rights NGO like AI on the basis that the UN agencies were not a “human rights” organization but were concerned with other issues, such as development.⁸⁵

As other parts of the UN system embrace human rights language, AI built up relations with them and discussions with these institutions became much more substantial.⁸⁶ Today, AI cooperates with a wide range of UN institutions. This includes activities with UNDP, UNICEF, OCHA or the UN High Commissioner for Refugees.⁸⁷ Also systematic strategies for activity with a diversity of UN agencies, in particular with the World Bank, have been established and are currently being further developed.⁸⁸ In addition, AI interacts with other world financial institutions, such as the IMF, as well as with businesses concerning the issues of trade and human rights.⁸⁹ Also with UNESCO, AI has built up a program on human rights education over the last five years. Similarly, collaboration took place on human rights educational programs with WHO on the role of medical personnel in the treatment and protection of prisoners.⁹⁰ AI expects to intensify its activity with these bodies over the next couple of years.⁹¹

Unlike the political bodies, the implementing agencies have operational functions and larger resources at their disposal than the traditional human rights mechanisms with which NGOs usually interact. This offers new opportunities for linkages to the UN. NGOs, such as AI, can build up different types of relations with the UN, for example, through subcontracted projects. In his case study on AI, Clapham explains:

Large projects aimed at “democratisation” or “good governance” organised through specialised agencies such as the World Bank may provide huge opportunities for improving human rights in the relevant country. . . . Part of the attraction is obviously the fact that many of the projects for training, education and development are subcontracted out to NGOs by the donors and agencies.⁹²

85. Interview with Levine, *supra* note 20.

86. Interview with Macpherson, *supra* note 30.

87. *Id.* See also AMNESTY INTERNATIONAL REPORT 1998, *supra* note 44, at 54.

88. Interview with Burke, *supra* note 48.

89. Interview with Levine, *supra* note 20.

90. Cook, *supra* note 6, at 188.

91. Interview with Macpherson, *supra* note 30.

92. Clapham, *supra* note 34, at 193. Building upon the EU Association experience and the collaboration of a section of AI with the ICC, AI seeks subcontracting arrangements whereby, for example, an AI section is mandated to take direct responsibilities for a designated body of work and could include IGO work on women’s human rights, work on the World Bank, or WTO.

A former head of AI's legal office summarizes the opportunities as well as the challenges for human rights NGOs like AI dealing with these different issues at the UN level as follows:

It has not been easy for Amnesty and other human rights NGOs to make an impact in the area of UN peace-keeping. Traditional methods of action are not necessarily effective. The political negotiations proceed in the strictest secrecy. Proposals for UN actions are formulated at the highest political levels and are debated and ultimately approved by the Security Council. Peace-keeping operations involve interlinked components—military and civilian—operating in a highly volatile political context. Human rights are too often subordinated to political or military imperatives. The UN's own human rights bodies have been largely excluded from the design, planning and implementation of peace-keeping operations, including those with a full human rights component. So there has been no opportunity for NGOs to influence the process through their normal channels of operations within the human rights sphere. While it may be preferable for NGOs to keep some distance from the political deals, it means that positive influence at an early stage is much more difficult to achieve. Yet, if human rights are not dealt with early on, it is infinitely more difficult to address these issues after the settlement and implementation plans are in place.⁹³

As a result of its new activities with the UN, AI needs to address additional topics that the NGO usually does not deal with outside the UN context; for example, women's rights, or the role of the Security Council are topics AI needs to address due to its broadened approach to the UN.⁹⁴ Most significantly, peacekeeping has become one of its major topics for the NGO as a consequence of its activities with the operational agencies. In fact, AI now has made peacekeeping an integral component of its recommendations on human rights at the UN level. "Amnesty International has set forth human rights principles to be followed in designing all peace-keeping operations, calling for UN peacekeepers to be more than silent or indifferent witnesses, demanding that troops be impartial, properly trained and ready to uphold international law and to adhere to it in their own conduct as well."⁹⁵

93. Cook, *supra* note 6, at 208.

94. Email Interview with Andrew Clapham, AI Representative in New York (1991–1997) (3 May 2001). See AMNESTY INTERNATIONAL REPORT 1998, *supra* note 44, at 64–65.

95. Gaer, *supra* note 54, at 58. The organization produced a report on peacekeeping and human rights with a fifteen-point program of recommendation and it also produced training documents for the UN civilian police monitors. It also made recommendations on the work of the Human Rights Unit of the Angola Verification Mission. In 1997, AI—together with other Geneva based NGOs—produced a manual for refugees on how to use international human rights mechanisms, see AMNESTY INTERNATIONAL REPORT 1998, *supra* note 44, at 67 (1999).

These new issues and topics addressed by the NGO have in return changed AI's way of dealing with the UN. Its reports to the UN are today written for a variety of addressees; its recommendation on the human rights situation in a particular country are sent to the Security Council. Still, suggestions for the operational agencies on the ground need to be included as well. As an AI representative described this area of AI's activity at the UN level, "the approach is different as one is not dealing with violators for the most part. Rather one is seeking to integrate human rights thinking and standards in areas where it has traditionally been excluded."⁹⁶

VI. CONCLUSION

AI has been interacting with the UN in one form or another for many decades, the UN playing a particularly important role for AI. In the 1990s, however, AI took particular advantage of the opening of the UN to nongovernmental organizations. AI responded to a changing UN context and adjusted its pattern of interaction with the UN according to the prospects it perceived to advance human rights. Until recently, AI's main focus in its UN approach has been on policy initiating activities such as agenda setting, information provision, and lobbying, whereby the NGO was interacting with a small number of decision making bodies of the UN in its respective field of activity in order to influence the political process. In recent years, AI has shifted in its approach towards working as formulator and adviser to the UN. Today AI is a regular member of working groups and committees, and advises UN officials openly. And even more essentially, AI also became more involved in policy implementing practices and, as a result, presently maintains links to a variety of UN agencies, including the operational agencies. In brief, AI now maintains a broader range of activities with the UN and has shifted its priorities during the 1990s; it extended its spectrum of UN activities by adding activities in implementing policies and, at the same time, reduced its traditional approach as agenda setter.

96. Interview with Clapham, *supra* note 94.