

# Internet NGOs: Legitimacy and Accountability

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**Abstract.** As the power and influence of nongovernmental organizations (NGOs) in international debates on social and moral matters increases, questions concerning their legitimacy and accountability become all the more challenging. Some starting points are given for a defensible account of the legitimacy and accountability of internationally operating NGOs. Special attention is given to the use of new information and communication technologies by NGOs and to the ways in which legitimacy and accountability circumscribe the ways in which NGOs are structured and organized.

## 1 Introduction

It is one of the striking characteristics of our age that, after a long relatively stable period in which politically and legally sovereign states were the *loci* of control, the role and influence of national governmental authorities is declining. International and supranational authorities fill up part of the space that is thus created. Nevertheless, the exponential growth of the global trade, the transboundary traffic and technologies has created open spaces: spaces where neither national governments nor supranational or international governmental authorities play a role.[1] Internationally operating nongovernmental organizations (NGOs) are increasingly inclined to fill up such empty spaces. (Multinationals do so as well, but for reasons of conciseness, I will leave these out of consideration.) The activities with which NGOs fill up this space can be located somewhere on a scale that ranges from speaking up in public debates, through lobbying and organizing campaigns for creating public awareness, raising funds, organizing protests and boycotts, planning and implementing concrete action programs, e.g. for protection of the environment, help with food and medicine, education, to developing public policies independently or in cooperation with enterprises or governmental authorities, etcetera. Although at first sight this role of NGOs seems to be not much more than a matter of bare necessity, it is sometimes thought that it is to be preferred above a further expansion of international or supranational authorities. In this contribution, I will not develop a positive argument of such a kind for the efforts of NGOs in these fields. Instead, I will put into perspective the legitimacy of the activities of NGOs, specifically of those among them that are mainly active through and on the Internet.

One might wonder why I find the legitimacy of NGOs at all a topic worthy of debate. Are non-state actors not to be considered as merely private actors whose role, like any private person's, does not stand in need of legitimization? First of all, it

might be good to keep in mind that although with regard to private persons we normally do not tend to speak of legitimacy or legitimate actions, this does not mean that certain requirements associated with legitimacy do not even in a very broad sense also apply to private persons. Indeed, in democratic societies private persons are granted all kinds of freedom to speak up, to interfere in debates, to undertake action, etcetera. At the same time, however, these freedoms are not absolute, unconditioned or unrestricted. Private persons can be held accountable for what they say and do. The bigger the impact of what they say and do and the more risk their words and deeds imply for others, the more likely they are indeed to be held accountable and the more stringent will be the requirements regarding their responsibility. This accountability constitutes a kind of bottom line legitimacy that applies to the organizations of private persons, such as NGOs and MNEs as well. There is, however, an extra reason to discuss the legitimacy of non-state actors. As I stated earlier on, NGOs are increasingly inclined to fill up the space left open by national, international, and supranational governmental authorities. In this way, they gradually come to fulfill public roles that in a traditional state are mostly performed by governmental authorities. From the fact that they take up similar roles, I do not simply want to infer that they must conform to similar requirements regarding their legitimacy. Non-state actors just and simply are not governmental authorities. Nevertheless, to the degree that they fill up the void, left open by governments, their power and the effective use of their power increase. And exactly the growth in power and the possibly far-reaching consequences thereof call for consideration in terms of legitimacy. Simply put: power implies responsibility and readiness to legitimate one's role. As the activities of non-state actors can have ever further reaching consequences their ability to legitimate their activities becomes ever more important.

Now, let me narrow the focus. Are NGOs the appropriate organizations for influencing and forming policies regarding moral and social issues? In the debate on globalization, the role of NGOs is often taken for granted. First, there is the empty space for which no governmental authority – national nor international or supranational – is qualified but which nevertheless has to be filled up. Second, there is a certain tendency to consider NGOs as the only type of players in the field that can act as counterbalancing power against the supposedly overwhelming power of MNEs that also try to influence policies and policy formation. Nonetheless, from a morally normative perspective, the self-imposed role of NGOs is all but natural. As I have argued elsewhere, many internationally operating NGOs lack democratic legitimization. They mostly interfere in the lives of people, who are not represented in their organizations. Because they are single issue-organizations they are not very well fit to deal with normative conflicts occur (situations in which one justified normative claim, e.g., to improve the economic well-being of people, can only be met by going against another justified normative claim, e.g., to protect the environment), while the international debate on social and moral issues are almost without exception about these kinds of conflicts. [1]

## 2 Legitimacy

Michael Edwards observes that the issue of legitimacy is seldom brought up in the literature on NGOs.[2] Even in the literature, in which these questions are brought to

the fore explicitly, however, a clear concept of legitimacy and legitimization is mostly lacking. There are persistent tendencies in this context to use 'legitimacy' either as a primarily moral notion or as a predominantly legal one. Furthermore, it is often not clear whether the notion is used to refer to the legitimacy of the organization and the activities of an NGO on the whole, on the one hand, or to the legitimacy of a particular activity of an NGO, on the other. We may label these two kinds of legitimacy as overall legitimacy and occasional legitimacy, respectively. The distinction between the two is of some interest, because failing to distinguish them makes it difficult to understand how certain organizations can in itself and on the whole act legitimately, whereas particular activities of theirs can be illegitimate.

I would like to elucidate the notion of legitimacy with help of some elements of David Beetham's theory of the legitimacy of state governments.[3] I do not consider Beetham's views as the ultimate answer to all questions regarding the definition of legitimacy. Neither do I take his views to be representative for the whole of political theory. I only invoke his account, because some reflection on his conception of legitimacy may help us to come to terms with the difference between legitimacy when applied to NGOs and legitimacy when applied to state governments. Legitimacy has three important aspects. These could be referred to as respectively the legal, the morally normative, and the sociological aspect. According to Beetham, legitimacy is a matter of conformity to rules (legal aspect), which can be justified in terms of shared beliefs (morally normative aspect), while the organization rests on expressed consent (sociological aspect).

Direct application of Beetham's concept of legitimacy to NGOs would be reckless. First and foremost, Beetham's concept is exclusively and explicitly tailored to national governments. A national government seeks support for its activities concerning almost all aspects of the lives of its citizens, except certain parts of the personal sphere. An NGO, by contrast, seeks merely permission for certain activities, lobbying, being a discussion partner in trade-offs, and perhaps a restricted willingness to cooperate and support. Second, Beetham's concept has an important socio-historical component, which can easily go unquestioned as long as the concept is reflected on in relation to national governments. The rules to which an organization must conform, the shared beliefs on which these rules should rest, and the consent that must be given to the organization, will in every state and every society with its own culture and conventions easily take their own forms. These forms will not all be completely different from those in other countries and societies, but nevertheless major differences will appear. Of course, this is no problem as long as the scope of the concept is restricted to the context of one country or society. As soon as the scope surpasses the context of one country or society problems may arise, however, because of cultural and conventional differences. And of course, when the concept of legitimacy is applied to NGOs that operate in an international arena against the background of moral and cultural pluralism, the same kind of problems may occur. This should be kept in mind when we now turn to the positive part of applying Beetham's definition to NGOs.

Beetham's definition differs from the current and mostly implicit ways of thinking about the legitimacy of NGOs by its primarily procedural character. The current way of thinking about the legitimacy of NGOs mostly hinges on an appeal to substantial criteria. A justification using substantial criteria is a justification that refers to the degree to which an individual or an organization conforms to values and ideals. Here, one may think of arguments such as: this organization defends respect for human

rights, animal well being, the protection of the environment, it helps the needy and the poor, etcetera. A procedural justification is a justification that refers to the formal aspects of the decision procedures of the individuals or the organizations involved. Does a decision that will initialize an activity rest on the consent of all people involved? Are the procedures for decisions and policies transparent and can they be checked? These are all procedural criteria. Beetham's first condition for legitimacy is clearly procedural, just as his third one is. Only the second condition indirectly uses a substantial criterion, i.e., the requirement that the rules to which the organization involved must conform rest on shared beliefs concerning values and ideals.

It may come as no surprise that procedural criteria do not as yet play such an important part in the traditional ways of thinking about the legitimization of NGOs. The procedural criteria to which Beetham refers mostly have an institutional basis in the community that must accept the government involved. No wonder then, that he refers to the rules to which a government should conform more often as legal rules than as legal *and* moral rules. And, naturally, "expressed" consent immediately reminds one of election-procedures and (implicit) societal and political mechanisms with the help of which one can express consent. The situation of internationally operating NGOs, of course, is best characterized as one in which institutional facilitation for legitimization through procedures often is absent. Nevertheless, international law has developed, and some commonly recognized legal principles could gradually come to function as institutional hinges in the international community for the application of a procedural criterion. Because of the lack of sufficient other common societal and cultural conventions and institutions on an international level which could provide the institutional bedding for the procedures, one could in addition introduce alternative procedural criteria that can be applied globally and against the background of a big cultural and moral pluralism. Starting points for this approach could perhaps be found in, for example, the procedures for accreditation of NGOs with international organizations such as the United Nations.<sup>1</sup> Here, the existence of an internationally recognized authority is used in order to vest the NGO with credibility. But of course the possibilities are not restricted to legal options. One can also think of options that are minimally dependent on specific cultural or institutional contexts. One relatively simple procedural way of improving the legitimacy and accountability would be increasing the degree of transparency of the organizational system and the decision procedures of the NGO, so that they can be checked against moral and, if available, legal criteria.

So there are some possibilities of applying procedural criteria in the case of internationally operating NGOs. But what about the substantial criteria? The degree to which the activities of an NGO conform to certain values and ideals can play a role in its legitimization. Requiring that these values and ideals rest on a certain commitment of all who are involved and affected, however, will be problematic for many a NGO, simply because, mostly, the values and ideals to which they connect are not supported by all the groups involved. In these cases there seem to be two ways out. The first is to back out, to leave substantial criteria for what they are, and to restrict oneself to procedural criteria. The second is to try to show that the values and ideals that one endorses ultimately derive from or are logically or conceptually connected to universal values. In the strategically strongest case, these happen to be universal values that have been laid down in international laws or legal principles. In the

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<sup>1</sup> See <http://www.un.org/esa/coordination/ngo> (accessed on 27 May 2003).

strategically weakest case (which need not be the morally weakest case) the universal values involved would be values to which every rational person would commit herself on the grounds of a morally normative argument. By this I mean that every rational person would recognize it as an on principle defensible value, even if she herself would not commit herself to it.

It may, finally, also be helpful here to recall the distinction between the general legitimacy of NGOs with respect to their organizational system and their activities as a whole and the specific legitimacy of occasional activities of NGOs. Both the general and the specific forms of legitimacy can be a matter of procedural and/or substantial criteria. With regard to the legitimacy of specific actions, however, one can further differentiate. It would go much too far to spell out all possibilities, but it seems all but unreasonable that different requirements be applied to different kinds of activities. So, for instance, the mere participation in public debates or merely speaking up for a certain cause may be connected to fewer requirements than straightforward organization of boycotts. And maybe even the stringency of the requirements to be applied may be connected to the probability, extent and intensity of possible harm inflicted on the parties involved.

### 3 Internet NGOs: Opportunities and Risks

Bearing all this in mind, we must conclude that in the legitimization of internationally operating NGOs the emphasis must be on the satisfaction of procedural criteria (transparency of the organization, possibilities of checking decisional procedures, accreditation with international organizations) and the possible – i.e. primarily purely conceptual and normative – connection of the values and ideals of the NGOs involved with universal values (preferentially already incorporated in international law and legal principles). This brings me, finally, to the questions of accountability and legitimacy of Internet NGOs. New electronic information and communication technologies (ICT) open up new possibilities of organizing and operating. Besides any other uses to which they may put them (e.g. for *gathering* information about the regions and situation in which they are active), NGOs can profit from ICT with regard to their accountability and legitimacy. First, they can use electronic means (email, websites, discussion panels, intranet) in order to raise the transparency of the organization and to involve people in their ideals, mission and work. Second, ICT – especially all kinds of Internet applications – offers all kinds of possibilities of interactivity with regard to the processing of information and the creation of awareness, even to such a degree that supporting members or even people who are just interested, become active workers for the NGO involved. Here one may think of, for instance, people who gather information about certain social problems, and publish this information on the website of a relevant NGO, and of people who do all kinds of administrative jobs for an NGO by using the Internet. Interestingly, in the latter case the borderlines between the NGO as an organization and the field in which the organization operates, begin to fade away. From the vantage points of accountability and legitimacy, this may be good: It may be considered as an intense representation of members, interested people, supporters, etcetera. Sometimes, however, the lines between organizations and their field become so thin, that the organizations merely exist as “virtual” networks of activists who, for the most part,

are only temporarily engaged with the NGO. When these NGOs are also exclusively active through the Internet (e.g., McSpotlight and Cokewatch),<sup>2</sup> requirements of legitimacy and accountability run the risk of being easily pushed aside. The account of legitimacy that I have developed in the preceding section – just as the account of accountability that is more or less implied in the conception of legitimacy – simply presupposes that the organization involved has some continuity and stability and ways of controlling and steering the work done by the NGO. Accountability and legitimacy are always based on the ability and willingness of the organization to take up retrospective responsibility for its past performance and prospective responsibility for its future activities. In the case of NGOs that consist largely of virtual networks, these requirements seem hard to meet. This, however, does not mean that it is impossible to do so. As I suggested earlier on, ICT offers splendid possibilities of promoting accountability and legitimacy. I would not be surprised, if, in addition to some adjustments to the organizational structures, solutions could perhaps be found by creating continuity and stability with electronic means. An archive with past performance records and a database with plans for the future – both of them publicly accessible on the website of the NGO – would already be a big step in the right direction. Undoubtedly, however, more exciting options lie ahead.

## References

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3. Beetham, D.: *The Legitimation of Power*. MacMillan, London (1991)

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<sup>2</sup> See: <http://www.mcspotlight.org> and <http://www.cokewatch.org>