

# **The Cardoso Report on UN-Civil Society Relations: A Third World Network Analysis**

**August 2004**

## Introduction

The Third World Network welcomes this Report and commends the Panel for undertaking wide consultations and extensive dialogues in the course of its preparation.

The Report (A58/817) is entitled “We the Peoples : civil society, the United Nations and global governance.” The 12 member Panel of Eminent Persons was appointed by the UNSG in February 2003 and had a 12-month timeframe. Its mandate included a review of existing practices involving civil society at the UN with a view to identifying new and better ways for the UN system to interact, in particular with developing country NGOs and CSOs. It released its 83 page, 187 paragraph report containing 30 proposals in June 2004.

This paper carefully considers the wide ranging implications of the Report for developing country NGOs in particular. It gauges the extent to which the proposals made will improve or otherwise adversely affect existing arrangements. The conclusions are that engagement is not likely to become more meaningful or balanced if these proposals are implemented; that in the unlikely event the report is welcomed by developing country governments, it carries all the dangers of creating a bureaucracy within a bureaucracy. Its major drawback is that, in its approach to global governance, it fails to take account of the imbalances and injustices in the UN’s own Security Council as well as global trade and financial institutions.

## Looking back to see further ahead

The traditional basis of the UN’s association with NGO is well grounded in Article 71 of the 1945 UN Charter which reads

*“The Economic and Social Council may make suitable arrangements for consultations 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.”*

This Panel has in fact been asked to reconsider Article 71 in light of changing circumstances; making the “may” into “should” as it were. In practical terms, the effect of the suggested proposals, if accepted, requests Member States of the UN/governments to rethink the unique inter-governmental nature of the UN and share global policy making with non-state actors.

These are big steps for an orthodox body. They may well involve changes to the original Charter. The SG in submitting these proposals, as part of the second UN Reform Agenda, to the GA has to remain cognizant towards and highly sensitive to these factors and take on board all concerns likely to arise from these proposals.

#### The Panel's rationale for deepening engagement with civil society

One cannot disagree with the sound analysis of global trends and priorities in the Report. The point that global threats like terrorism, climate change, AIDS, require global solutions involving all actors/stakeholders is well taken. As Paragraph 41 states, "Few of the most pressing battles today - whether they involve hunger, poverty, illiteracy, global pandemics terrorism, narcotics, climate change, natural disasters, environmental threats, abuse of women and children, sectarian and ethnic divides, unemployment, economic crises or inequality of wealth, power and information - can be resolved by central Governments alone."

The Report makes a strong case for engaging civil society to bolster multilateralism, help the UN address threats and challenges of the 21<sup>st</sup> century and make the UN more effective. "Civil society is so vital to the UN that engaging with it well is a necessity not an option."

However, the implication here is that the UN is seeking an ally "to protect against further erosion of multilateralism". With the world order currently on go-it-alone unilateral mode this is not likely to win favors in Washington. Neither are developing country governments going to buy into it especially since the underlying idea is to push western-style democracy and governance at the national level.

As for civil society, it is learning important lessons from the war on terror. As has been pointed out, in Iraq and Afghanistan, the distinction between private and public armies, between war and business, between military and humanitarian efforts, have all been blurred. We have seen the media get embedded and aid agencies co-opted by troops to win hearts and minds.

The distinction between government and non-government exists for a reason. There are and must be civic groups which are neither "for or against us". These are the groups that occupy a civic space in which ideas can be freely held and in which law is paramount and assistance is rendered on the basis of need, and nothing else. Since the war on terror was declared this autonomous space has come under attack as governments try to co-opt the humanitarian effort into the war effort; threatening to cut off aid to groups that do not strictly follow the government agenda.

NGOs are now suffering the consequences of too close an identity with the war on terror and have lost their neutrality and independence. Partnerships between NGOs and governments, whether in peace or in war, may bring power and clout but the trade-off will be that the terms of NGO operations and existence will become limited.

Given these realities emerging from recent lessons, becoming close allies with the UN and /or governments may well be viewed as likely to undermine NGO effectiveness, neutrality and independence. The UN may well be better off in the long run using its “convening power” and playing the facilitator role to bring the various stakeholders together in neutral settings where structured forums can enable open debate rather than be seen to be pushing its own agenda. It may well be that the fate of globally agreed goals and targets are at stake and the MDGs may not be fully realized by 2015 but for more well defined engagement strategies and innovative processes. Yet, neutrality and independence are major trade-offs and opportunity costs of closer collaboration. NGOs would be well advised to reconsider who, when, why and how they would like to partner.

### The partnership dilemma

The Report calls upon the UN to “invest more in partnerships”, it affirms multi-stakeholder partnerships for tackling both the “deliberative and operational processes.” (This last phrase brings to mind the policy vs action-oriented distinction/divide and rule strategy for NGOs that was sought by some governments in the run up to the WSSD)) The Report emphasizes that these partnerships must now be viewed as “partnerships to achieve global goals”- a product of the Special Workshop on Partnerships held in February 2004. It will be recalled that several governments and many NGOs remain skeptical of WSSD Type 11 Partnerships, so no amount of euphemistic name switching is going to alter that unless drastic changes are made to enforce the Bali guidelines, assess the viability of existing partnerships and ensure the accountability of all partnerships. Paragraph 75 of the Report at page 39 is an attempt to do this but it remains to be seen if the 8 lessons learned are actually internalized.

The proposal to set up a Partnership Development Unit and a Partnership Assessment Forum are found in Proposal 7 and a “global fund to support innovations in partnership development at the country level” is mentioned in Proposal 10. The UNDP regional coordinators are called upon to play a major role in maximizing partnership opportunities, their annual performance appraisals will be based on partnership qualities- they could appoint 30-40 “constituency engagement specialists” to support strategies and partnerships to achieve globally agreed goals (Proposal 11). The Report does not define partnerships in its Glossary but devotes the first 11 of the 30 proposals to various aspects of promoting and nurturing partnerships. It is indeed a stretch of imagination to expect that partnerships will be the pioneers for solutions to global problems particularly when in the past two years of their existence, Type 11 Partnerships remain unevaluated for effectiveness and have not seen the kind of response they were anticipated to have in implementing the JPOI.

### Definitional issues and the proposed multi-constituency approach

In consultations with Panel members, many NGOs strongly voiced their concerns regarding the relationship of the UN with the private sector. In the Glossary ( Page 13) ,

the Report clarifies how the Panel uses some key terms. Thus, the private sector is excluded from the definition of civil society but “associations of businesses” are included as part of non-governmental organizations. Civil society- non-profit-making citizens groups includes public-benefit NGOs. We are all only too well aware that these categorizations are fluid. Yet, this adds to the existing confusion surrounding who belongs in which category. Without attempting to resolve the issue, the Report adopts yet another term, “constituency” which is said to comprise the three broad sectors, civil society, the private sector and the State, including parliaments and parliamentarians and local authorities. The UN-system and governments are called upon to adopt the multi-constituency approach and adapt single constituency processes into multi-constituency ones and experiment with new “networked governance” structures.

### The General Assembly and civil society

In carefully framed Proposal 6, the Report calls on the General Assembly to open its doors to other actors/constituencies, as this Panel would have it. It will be recalled that this step has been attempted before and has not succeeded. At this moment in time there is no compelling evidence of dramatically changed circumstances to warrant the GA to welcome this proposal. In fact, the GA continues to be the last bastion for weaker states and until and unless the Security Council reform is in place it is unlikely that the GA will succumb. This added responsibility for the GA will serve merely to distract it from more urgent issues at hand.

At best, the innovative experiments such as public hearings and planned, programmed interactive sessions may take place within GA committees as they being tried out in forums like the CSD. It is highly doubtful whether the formal GA, that now has little time to listen to all Heads of State speeches, is going to make time for such experimentation, albeit at committee level.

The inclusion of parliamentarians is likely to raise questions about the existing Inter-Parliamentary Union and the role it has played or failed to play in systematically engaging parliamentarians and in sensitizing them to global issues. Several national governments already bring along elected representatives to GA sessions to expose them to multilateral issues and the workings of the UN system. This is a duplicative move and appears to be motivated exigencies close to the UN. If it is purely directed at raising the profile and awareness of the MDG campaign, it is perhaps understandable, but this Panel had a much larger mandate than that.

Again, the role of local authorities has been adequately emphasized within the UN system as in the CSD Major Group format. Singling them out for special constituency status will likely upset that apple cart. It will be recalled that in the run up to the Earth Summit in 1992, the UNCED process grappled some of these issues and eventually agreed the Major Group formula in Agenda 21. This was a way of addressing the socio-economic and environmental pillars so vital to implementation of sustainable development programmes, projects and policies. Now, the exact status of this could be in jeopardy within the UN

system if this new constituency approach is adopted for the convenience of handling the MDG agenda on which the UN seems to be staking its entire reputation.

The lessons of decade-long major group participation in CSD sessions and in particular the experiences of CSD 12 must be built upon instead of shelved in favor of dubious untested experiments. Similarly the question can also be raised about the status of NGOs involved in Treaty Bodies and in the implementation of other environmental agreements emanating from the Rio Summit. The Report has certainly raised more questions than anyone can answer.

#### Accreditation, access and a new bureaucracy

The Report proposes major reforms in relation to this issue. The establishment of a single mechanism under the authority of the GA, at first thought, appears like a simple magical solution to the hoops and hurdles NGO now endure to attain accreditation and access. Admittedly, the system was crying for reform and needed streamlining and better coordination. Those of us who have suffered the indignity of being excluded from meeting rooms and who have waited in long lines for daily passes can attest to this.

Yet, the idea of setting up one more bureaucracy is not a consoling thought. Donor governments would be happy to nominate their national delegate to occupy the post of USG and count their UN contribution towards his salary and pension benefits. But will it really resolve the present problem? An Accreditation Unit, under an existing committee of the GA and guided by an advisory body, will become responsible for deciding on accreditation of NGOs to the entire system - ECOSOC, DPI, Conference follow up etc. (Proposal 20) The 8 steps for granting accreditation at UN HQ are enumerated in paragraph 131: member states set the criteria, the Accreditation Unit would receive applications and review them with help of an advisory body and liaise with permanent missions on suitability of candidates, an appropriate committee of the GA would decide on recommendations on a no-objection of a voting basis in a very transparent manner etc.

Furthermore, and significantly in Proposal 24 and Paragraph 148 a new Office of Constituency Engagement and Partnerships, to monitor engagements throughout the system, is proposed. This will be the new institutional home for all civil society related issues within the UN. It will comprise a Civil Society Unit, a Partnership Unit, an Elected Representative Liaison Unit, the Global Compact office and the secretariat of the Permanent Forum on Indigenous Issues. Paragraph 150 outlines the role of this Office.

The Civil Society Unit would service the entire UN- system. Although Paragraph 152 does not state it explicitly, the NGLS is likely to be subsumed and its work would provide the "solid pillar" for this new Office. The implications of this for developing country NGOs is grave. NGLS would lose its semi-autonomous nature. NGLS has been of great assistance to developing country NGOs. The years of work NGLS has put into cultivating strong relationship, in particular with NGOs from developing countries could well be in danger of being dissipated in this shake up even though Paragraph 154 states that if NGLS is incorporated into the new CS Unit it would be given "a considerable degree of autonomy." Also trade unions and religious and spiritual groups have been

singled out as vital civil society actors providing powerful community leadership and they may receive greater attention under the new set up.

Then, the problem of the Global Compact also being elevated to come within the purview of this Office will certainly raise eyebrows. Proposal 8 rightly alludes to the UN secretariat needing to engage with small and medium-sized businesses and their national associations and help build the capacity and competitiveness of micro-businesses and small enterprises.

However, urging the UN to strengthen the Global Compact's capacity for and contribution to enhancing corporate responsibility is mind boggling in today's age of corporate malfeasance. These are big guys with big resources and why should the UN, with all its resource limitations, be used in this way? It is tragic enough that the UN has found it appropriate to loan its credibility to some of the world's worst human and environmental rights offenders, that it now feels it must embrace them further? If the justification is as stated in Paragraph 77, that this is a way for the UN to monitor corporate accountability and responsibility, the question remains how it will do this when self-reporting is purely on a voluntary basis?

#### Civil society and bridging the North South divide

Only in Proposal 26 does the Panel deem it fit to give priority to this issue. It admits in paragraph 162, that "As with other issues of civil society governance, there is a limit to what the United Nations can do to address such deficiencies." Why is the UN throwing in the towel on this one? If not the UN, who will champion the cause of weak, vulnerable and under-resourced civic groups from the South?

All Proposal 26 says is that the SG "should enlist donor support for enhancing the capacity of the United Nations to identify and work with local actors", that a dedicated fund should be established to build Southern civil society capacity to participate and ensuring that country-level engagement feeds into the global deliberative process." Anyone familiar with UN processes knows only too well that this a sure fire way to kill constructive engagement. Let them find their own money if they want to come to NY, is the attitude here. In the end, we will have the same NY-based and other Northern groups –perhaps with a few Southern faces ( only because a few sensitive donor governments insisted ) dominating the system. The only other route appears to form partnerships and dive into some of the resources channeled in that direction.

Proposal 27 states that the Secretariat should seek contributions from Governments, foundations, United Nations sources and elsewhere." In practice this fund would be combined with the global fund to promote partnerships (proposal 10), allocations would be made through the Office, in-country allocation would be done by the UNDG and the bulk of the money would be channeled through the UNDP Regional Coordinators under a competitive mechanism that would invite civil society to apply for two year funding tranches (paragraph 166) In simple terms, this means that civil society will require more capacity building in order to even access these funds.

The only two Proposals devoted to addressing the yawning gap in the system merely pass the hat around for donations so that NGOs from the South can better engage with UN processes, bring the local to global and take the global to local. A very significant reason for the establishment of the Panel has found little thinking space devoted to the issue. Perhaps the idea is that the partnership issue will resolve this aspect of the problem as well?

### The Budget

As stated in Paragraph 170, the Panel estimates that the total annual budget for all measures proposed would be some \$4 million in core funding of which 3 million could be met by savings through changes in accreditation etc. This core budget represents a fraction of 1% of the UN operating budget. “The Panel is of the view that unless resources of this magnitude are realized, it will be difficult for the United Nations to persuade civil society, the international community and others that it is serious about enhancing engagement.” Paragraph 171. Bottom line, if no money is raised these proposals could lay idle for a long time to come or till another Panel is set up to review this Panel’s findings and suggest even more concrete actions.

### Global governance

The whole global governance debate, which this Panel has taken on, has been inadequately thought through. In fact, it would have been a wiser course of action to actually address the imbalances and injustices and democratic deficits within the UN’s own Security Council as well as outside in the trade and financial systems. These matters continue to plague the system and undermine its legitimacy and credibility and remain stumbling blocks in efforts towards fair and balanced global governance.

In a polite passing mention Proposal 29 urges the SG to encourage the BWIs to enhance their engagement with civil society and other actors and cooperate with one another across the system and promote this aim through periodic reviews. Presumably this has not been happening so far.

As for the Security Council, Proposal 12, talks about improving the Arria formula and SC field mission meeting with appropriate local civil society leaders. This Panel passes the buck to the SG’s Panel on Global threats (paragraph 95). It does not allude to the fact that the veto power is the most anomalous formula in today’s changed world that Panel itself has strenuously recorded as reasons for changing the GA proceedings. Whatever the democratic deficits at national level, the gaping credibility gaps at global levels remain the main bones of contention and present major hurdles to negotiators. The choice of the IMF head and the scandal surrounding the World Bank are issues that are not easily forgotten and unless addressed in more balanced holistic fashion threaten to undermine the credibility of the UN itself. If the UN is to make any contribution to strengthening democracy, it simply has to talk not just to the BWIs but to the WTO- the “other forum

for negotiation” - as well whether or not it is part of the UN family. In an interconnected world, this is an imperative.

### Conclusion

While the Panel has clearly articulated the ‘why’ case for enhancing civil society engagement today, its proposals for ‘how to’ require a lot more refinement. If the UN is to even try to play a role in reshaping democracy for the 21<sup>st</sup> century, it must first seek to do it in a fair and just manner, involve all actors especially those who are clearly seen to be undemocratic.

The space that civil society currently enjoys, in global deliberations and policy making, is at the pleasure of the UN, at the discretion of sitting Chairs and under close watch of Member States – always guided, controlled, hard won and jealously guarded. This panel should not take that away by regrouping civil society and acting in the name of global governance when it suits the UN and ignoring obvious discrepancies in chosen circumstances. Change has to come but it must be brought about through fair and just means for the benefit of all concerned. If poverty somewhere impoverishes the world everywhere, then injustice in one arena will make justice everywhere elusive.