LEGAL STATUS OF NON-GOVERNMENTAL ORGANIZATIONS IN INTERNATIONAL LAW

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Ingrid Rossi

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GENERAL EDITOR'S FOREWORD

The publication of the present book in our International Law Series is for at least two reasons a source of joy and pride. First of all, after the volumes by Cedric Ryngaert and Frederik Naert, this is the third time a doctoral thesis, which I had the privilege to supervise at the University of Leuven, is published in the series. In line with the previous works, it contributes to the reputation of the series by the quality and comprehensiveness of its analysis. It was a particular pleasure to accompany Dr. Ingrid Rossi in her doctoral research over much of the past decade. She has shown great courage and tenacity and the harvest is rich. Not many scholars can claim they have thoroughly analysed such wide variety of international organisations, treaty schemes and judicial proceedings, from ECOSOC to the Aarhus Convention to the WTO Dispute Settlement System.

The second reason has to do with the subject matter. Non-governmental organizations (NGOs) are a fascinating study object in current international legal scholarship. As always, there is nothing new under the sun. At the end of the 18th century and during the 19th century a number of NGOs saw the light of day which were to have an important influence on international questions of their time: thus, in 1839 the British and Foreign Anti-Slavery Society was established to rally against the transatlantic slave trade (and in fact this society continues its valuable work today as Anti-Slavery International), in 1846 Belgium saw the establishment of the *Association belge pour la liberté commerciale* to promote free trade, the Universal Peace Union was established in 1866 to pursue world peace and, more in the area of international law proper, two important associations were established on Belgian soil in 1873: the *Institut de Droit International* (in Ghent) and the International Law Association (in Brussels). But especially over the past decades, the rise of NGOs in very diverse fields of international relations, from socio-economic areas (e.g. international trade unions and employers federations) to human rights (e.g. Amnesty International), environment (e.g. Greenpeace), humanitarian aid (e.g. Médecins Sans Frontières) and sport (e.g. the International Olympic Committee), has been unstoppable. As much as we all agree that their role has become an important one, there is hardly any consensus with regard to their exact legal status in international law. It starts with the lack of a universally accepted legal definition of NGOs but it goes on with regard to questions of rights and obligations, *jus standi in judicio*, accountability and legitimacy, to name just a few of the contentious issues.

The work of Ingrid Rossi has the great merit that it brings together the international legal experience with NGOs in a broad variety of areas: the relationship with intergovernmental organizations at global and regional level, the position of NGOs under international treaty frameworks in the areas of human rights, environment and humanitarian law; and their position in global and regional judicial and quasi-judicial proceedings, as parties or as *amici curiae*. The cherry on the cake is the chapter on the accountability of NGOs, where the author thoroughly explores the question why, to whom and how NGOs should be held accountable. Her findings are very nuanced and deserve careful consideration: although NGO accountability would by itself be enhanced by formally recognizing their international legal personality, Ingrid Rossi considers the most viable alternative for the moment to have NGOs develop self-regulatory accountability regimes and encourage States, intergovernmental organizations, international judicial bodies and other international organs to recognize NGOs committed to acceptable self-regulatory regimes.

More broadly, Ingrid Rossi's book contributes to the reflection on the theory of international legal personality, adding interesting thoughts on the participatory rights and duties of NGOs that, so the author submits in her conclusions, contribute to a 'participatory personality', an intriguing notion that definitely merits further research at the conceptual level and in terms of its possible operational and practical implications. And what could be a nicer outcome of a doctoral thesis than to open up further perspectives for academic scholarship in the years to come, after having so ably contributed to a deeper insight in the matter?

Prof. Dr. Jan Wouters
General Editor

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INTRODUCTION

Non-Governmental Organizations (NGOs) have a growing influence in the international legal system. They are participating to an increasing extent in the international decision-making process by advocating new international policies and promoting changes in existing international legal regimes. More and more NGOs influence the international agenda of States and international governmental organizations (IGOs) and intervene in the discussions, negotiations and drafting of international treaties. They are also active in the enforcement of international law by monitoring State compliance with international legal rules and participating to a greater extent in international judicial and quasi-judicial proceedings.

Despite the increasing presence and influence of NGOs in the international system, they remain entities without a clear international legal status.

Until now, there has been no widely ratified treaty or convention regulating the international status of NGOs.[1] Nevertheless, international law does confer a certain legal status to NGOs in the framework of consultative arrangements with IGOs, certain rights granted by international treaties, and legislation allowing NGOs to intervene as parties or *amici curiae* in international judicial or quasi-judicial proceedings.

The question thus arises as to whether the existing legal status is sufficient to infer that NGOs have at least some degree of international legal personality and if so, whether this determination would have any practical legal implications for NGOs and for the other actors in the international legal system. In this context it is also relevant to consider the role that NGOs play in international governance putting particular emphasis on the issue of NGO accountability. Is international legal personality necessary to consider NGOs as accountable actors in the international system?

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[1] Only a few countries have ratified the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations. See http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=124&CM=8&DF=4/25/2006&CL=ENG. This convention contains rules laying down the conditions for the recognition by Member States of the legal personality of NGOs established pursuant to the internal laws of another Member State. See European Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations, 1986, ETS No. 124.

In this book I will argue that the legal status of NGOs as it stands today amounts to a considerable degree of State recognition, and that this recognition implies some degree of legal personality that will probably evolve in the future to the full legal personality of at least certain NGOs active in the international legal system. What would be the consequence of recognizing the legal personality of NGOs? I will maintain that such a development would add a dimension of predictability and control to international NGO activity.

In the context of the role of NGOs in international governance I will join the authors that are of the opinion that the legitimate role of NGOs in international governance is one of participation, in the sense of adding an additional layer of checks and balances to the international decision-making, law creation and law enforcement processes and thus contributing to the effectiveness of the international legal system, and not one of enhancing the legitimacy of the international legal system by making it more democratic through increased representation of international civil society. I will argue that although recognition of international legal personality would contribute to NGO legitimacy, it is not necessary to legitimize the role of NGOs in international governance.

As the importance of NGOs in the international legal system increases, NGO accountability becomes more relevant to their continued acceptance by other participants as true partners in international governance. I will argue that even though NGO accountability would be enhanced by formally recognizing international legal personality to NGOs, the most viable alternative for the moment is to leave NGOs free to self-regulate and to encourage States, IGOs, courts and other international bodies to further recognize the voluntary standards currently being subscribed to by a growing number of NGOs and to establish formal relationships only with NGOs that commit themselves to some acceptable form of self-regulation.

There is a growing amount of literature on the topic of NGOs in the fields of law, political science and international relations. In this book I will limit the scope of the research to material available in the legal field. Most of the legal studies on NGOs refer to particular NGOs, to one kind of NGO activity, to their activities in a particular field of the law, or to their role *vis-à-vis* a specific international body. In general, these studies make only scarce reference to the legal status of NGOs in international law. Most of them refer briefly to the fact that the international legal status of NGOs is not entirely clear, but only a few of them deal with this subject in more detail.[2] It is also worth mentioning in this context, that most textbooks

[2] Some of the articles and/or books that examine the legal status of NGOs are: Pierre-Marie Dupuy and Luisa Vierucci (eds.), *NGOs in International Law: Efficiency in Flexibility?*, Edward Elgar Publishing Limited, 2008; Stephan Hobe, 'Global Challenges to Statehood', 5 *IJGLS* 1

on public international law not only do not refer to NGOs as possible candidates to the title of subjects of international law, but do not refer to NGOs at all or refer to them only briefly or as part of the globalization process of international law. [3]

(1997), pp. 191–210; Stephan Hobe, 'The Era of Globalization as a Challenge to International Law', 40 *Duq. L. Rev.* 4 (2002), pp. 655–665; Rainer Hofmann and Nils Geissler (eds.), *Non-State Actors as New Subjects of International Law: From the Traditional State Order towards the Law of the Global Community, Proceedings of an International Symposium*, Duncker & Humblot, 1999, pp. 1–75; Menno T. Kamminga, 'The Evolving Status of NGOs under International Law: A Threat to the Inter-State System?' in Philip Alston (ed.), *Non-State Actors and Human Rights*, Oxford University Press, 2005, pp. 93–111; Anna-Karin Lindblom, *Non-Governmental Organizations in International Law*, Cambridge University Press, 2006; Math Noortmann, 'Non-State Actors in International Law' in Bas Arts, Math Noortmann and Bob Reinalda (eds.), *Non-State Actors in International Relations*, Ashgate, 2001, pp. 59–76; Karsten Nowrot, 'Legal Consequences of Globalization: The Status of Non-Governmental Organizations Under International Law', 6 *IJGLS* 2 (1999), pp. 579–645; Emmanuele Rabasti and Luisa Vierucci, *A Legal Status for NGOs in Contemporary International Law?*, European University Institute of Florence, 2002, available online at http://www.esil-sedi.org/english/pdf/VierucciRebasti.PDF; Raymond Ranjeva, *Les ONG et la Mise en Œuvre du Droit International*, Recueil des Cours, Collected Courses of the Hague Academy of International Law, Martinus Nijhoff Publishers, 1997.

[3] See for example Ian Brownlie, *Principles of Public International Law*, Oxford University Press, 7th edition, 2008; Antonio Cassese, *International Law*, 2nd edition, Oxford University Press, 2005; Malcolm N. Shaw QC, *International Law*, 5th edition, Cambridge University Press, 2003; Rebecca M.M. Wallace, *International Law*, 5th edition, London, Sweet & Maxwell, 2005. A notable exception in this respect is Peter Malanczuk, *Modern Introduction to International Law*, 7th revised edition, Routledge, 1997.

STRUCTURE

The book consists of an introduction and six chapters. Chapter 1 contains the definition of NGO for purposes of the book, an overview of NGO activities relevant to international law, and the theoretical framework of the book. Chapters 2 to 4 contain an overview of many of the actual provisions that can be found in international law conferring some kind of legal status on NGOs. In particular, Chapter 2 refers to the legal status granted to NGOs by the UN and certain other IGOs in the framework of consultation or similar arrangements entered into between the IGOs and NGOs; Chapter 3 refers to the legal status granted to NGOs by international treaties mainly in the areas of human rights and environmental law and Chapter 4 refers to the legal status granted to NGOs by international legislation allowing NGOs to intervene before judicial or quasi-judicial bodies. Chapter 5 deals with the question of NGO accountability. Chapter 6 presents the main findings of the book.

1.1. CHAPTER 1: NGOS IN CONTEMPORARY INTERNATIONAL LAW AND THEORETICAL FRAMEWORK

1.1.1 NGOS IN CONTEMPORARY INTERNATIONAL LAW

There are many definitions of NGOs (*e.g.*, those provided by the implementing legislation of Article 71 UN Charter, the European Convention on the Recognition of the Legal Personality of International NGOs, definitions given by legal scholars, etc.) and although there is some controversy surrounding the different definitions, certain elements have been accepted across all of them. The first part of Chapter 1 examines the different definitions and explains their components. It then adopts a definition for the purposes of the book, based on the most generally accepted elements.

Once it is clear what is understood as an NGO, Chapter 1 includes an overview of NGO activities in the international arena, which are relevant for international law.

NGO activities cover practically every topic of international concern. They are active in the protection of the environment (*e.g.*, Greenpeace), in the observance

of human rights (*e.g.*, Amnesty International, Human Rights Watch), in the battle against corruption (*e.g.*, Transparency International), in the provision of emergency medical assistance (*e.g.*, Médecins Sans Frontières), as well as in many areas such as development, sports, labor, religion, education, etc. Within these different topics, the activities of NGOs in contemporary international law can be categorized in four main areas: agenda setting, standard setting, enforcement and aid and education.

Chapter 1 contains a brief description of NGO activities in these four areas. The purpose of such an exercise is twofold. On the one hand it gives a good overview of what NGOs do at the international level, and on the other hand, it allows an identification of which NGO activities are carried out on the basis of formal entitlements provided for in international law, and which activities are carried out informally. NGO activities that are relevant for international law but which are carried out on an informal basis are not further explored in the book.

1.1.2. THEORETICAL FRAMEWORK

The law of their national States generally determines the legal status of NGOs. This is so even for NGOs which consider themselves international. Besides having an international structure or mandate, international NGOs often carry out activities in the international sphere that have an impact on different aspects of international law. Moreover, as will be shown throughout the book, in certain cases their activities are regulated by international law. Thus, the question arises as to what the international legal status of these NGOs is.

In order to determine the legal status of international NGOs, it is important to know what it means to have legal status in the international system and how international law confers or recognizes the existence of such status.

To this end, a brief description is made of the most common and accepted views on what it means to be a 'subject of international law' and possess 'international legal personality,' as well as to the main objections in the academic literature on the usefulness of these concepts to determine the legal status of actual non-State participants, such as NGOs, in the international legal system.

In this context, the book mentions the existence of '*sui generis*' subjects of international law such as the Holy See and the Order of Malta and explains the special cases of the International Committee of the Red Cross (ICRC) and the International Olympic Committee (IOC), both private organizations that have been recognized international legal personality.

Reference is also made to the gradual evolution in international law that led to the recognition of the international legal personality of IGOs and individuals. In this context, particular attention is given to judgments of the International Court of Justice (ICJ) explaining the reasons for such recognition.

With regard to NGOs, it is well known that despite their increasing presence and influence in the international system, they have not been explicitly recognized as subjects of international law. Other than the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations, which merely establishes a system for recognizing the legal personality of NGOs as acquired at the national level but which does not attribute international legal personality to NGOs, there is at present no multilateral treaty on the international legal status of NGOs; nor is there any decision of the ICJ or resolution of the UN General Assembly expressing State consensus on the international legal personality of NGOs.

Therefore, in order to determine the legal status of NGOs, the book examines the way in which NGOs are regulated in practice by international law. In particular, the book examines in its different chapters how NGOs are regulated at the international level through a series of provisions that can be found in the framework of consultative arrangements between IGOs and NGOs, international treaties expressly mentioning NGOs and legislation allowing NGOs to intervene as parties or *amici curiae* in international judicial or quasi-judicial proceedings.[4]

The question that arises after analyzing this collection of provisions on NGOs is whether, taken together, they could be interpreted as already granting NGOs a degree of international legal personality and whether this could evolve, through the operation of customary international law, into the full legal personality of at least certain NGOs. That is, whether there is any chance that in the coming future State practice and *opinio juris* with respect to NGOs will be interpreted as implicitly recognizing the 'subject' quality of NGOs.

In order to answer this question, the book gives an overview of the concept of international custom as a source of international law and then tries to determine whether there is any basis to conclude that customary international law will attribute 'subject' status to NGOs any time soon.

[4] This book does not take into account provisions of international law that are not specifically addressed to NGOs but that may be applicable to organizations in general, such as provisions on freedom of association or the right to form and join trade unions. For an analysis on these provisions as applied to NGOs see Anna-Karin Lindblom, *Non-Governmental Organizations in International Law*, *op. cit.*, at pp. 121–217.

The book also refers to the issues of NGO legitimacy and accountability and in this context addresses the question of whether subject status is necessary in order to consider NGOs as legitimate and accountable actors or participants in the international system. As happens in most discussions concerning the 'subjects' of international law, the question could also be asked the other way around, *i.e.* whether NGOs need to be legitimate and accountable in order to be capable of being recognized as 'subjects' of international law.

Even though these topics are often addressed together I have chosen to include legitimacy as part of the theoretical framework in Chapter 1 in order to make clear that the book adopts a State-centered conception of legitimacy and international law that permeates the whole of its content.

The book accepts the prevailing State-centered conception of international law that considers States to be the fundamental subjects of international law and deals with the question of the legal status of NGOs and NGO legitimacy within this optic only. It does not attempt to approach these topics from the standpoint of other, different conceptions of the international legal system.

In particular, Chapter 1 makes reference to the two main justifications in legal doctrine for NGO intervention at the international level and then tries to determine whether obtaining 'subject' status would contribute to enhancing NGO legitimacy.

The book devotes the whole of Chapter 5 to the controversial and momentous issue of NGO accountability.

1.2. CHAPTER 2: NGOS AND INTERNATIONAL GOVERNMENTAL ORGANIZATIONS (IGOS)

Chapter 2 examines the legal status of NGOs before IGOs. Many of the IGO founding documents or their implementing legislation allow for the establishment of consultation or similar arrangements with NGOs. The content of the provisions regulating these arrangements will be explored in detail throughout this Chapter, especially with respect to the UN.

Chapter 2 is divided into three sections. Section 2.1 deals with IGO-NGO relationships at the global level and Section 2.2 with IGO-NGO relationships at the regional level. Section 2.3 contains the conclusions.

In Section 2.1, special attention is given to the spectrum of relationships that the UN may establish with NGOs, since it is the UN that has by far established the

most varied, fast-reaching and sophisticated relationships with NGOs. For the sake of completeness, brief reference is made to the arrangements that have been established by the World Trade Organization (WTO) to cooperate with NGOs.

The UN was the first IGO to establish a 'formal' relationship with NGOs and therefore has constituted the model for all other IGOs both at the global and at the regional level. Section 2.1 of Chapter 2 begins with an in-depth examination of the consultation arrangements that the UN Economic and Social Council (ECOSOC) and its subsidiary bodies may establish with NGOs pursuant to Article 71 of the UN Charter.

Besides the establishment of a formal consultation relationship with ECOSOC or its subsidiary bodies, NGOs may enter into consultative arrangements with many of the UN special organs and specialized agencies. These arrangements have a different legal basis from those of ECOSOC and in certain cases differ substantially from them.

Due to the vast number of UN special organs and specialized agencies, the research was limited to only a few of them, namely those which can be distinguished either by the extent of NGO involvement in their work or by the originality of their NGO arrangements. The chosen UN Special Organs are the UN Conference of Trade and Development (UNCTAD), the UN Environment Program (UNEP), and the Office of the UN High Commissioner for Refugees (UNHCR). In addition, the special case of the Joint UN Program on HIV/AIDS is mentioned, since this is the first UN organ to include NGOs in its governance structure. With respect to the UN Specialized Agencies, the examples chosen are those of the Food and Agriculture Organization (FAO), the International Labor Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Bank and the International Monetary Fund (IMF).

With respect to the UN, Section 2.1 also refers to the arrangements for NGO participation that have been established in the context of major UN Conferences, as well as to the NGO activities carried out by the UN Department of Public Information (DPI), the UN Non-Governmental Liaison Service (NGLS) and other UN sections and programs.

Finally, reference is made to the arrangements that the General Assembly and the Security Council may establish with NGOs. As is well known, there has been much discussion for many years as to whether NGOs should have wider and more formal access to these two bodies, and especially to the General Assembly. This discussion reached its peak in the context of the report issued by the *Panel of Eminent Persons on UN Relations with Civil Society* in June 2004. In this section, reference is made to the discussions surrounding this report.

Besides the UN, no other global IGO has established formal relationships with NGOs. Although the Statute of the WTO allows for formal cooperation with NGOs, this IGO interacts with NGOs on an informal basis only.

Even though the arrangements created by the WTO for dealing with NGOs lack the formality and scope of those established by the UN, they will be briefly examined in Section 2.1 in order to have an idea of the extent of the legal status conferred to NGOs by global IGOs.

Section 2.2 of Chapter 2 examines two of the most sophisticated regional arrangements that have been created by IGOs to establish formal relationships with NGOs. In particular, it examines the NGO arrangements established by the Council of Europe and the Organization of American States. The arrangements at the European and American level are quite elaborate and constitute an important source of international legal status for NGOs.

1.3. CHAPTER 3: NGOS AND INTERNATIONAL TREATIES

The role of NGOs in the implementation and monitoring of multilateral treaties has become more widespread and has been increasingly formalized in recent years. More and more treaties, or their implementing documents, include specific provisions regarding NGO involvement in their implementation and enforcement. This Chapter analyzes the content of these provisions and their implementing instruments in a selection of international treaties mainly in the areas of human rights and environmental law.

Chapter 3 is divided into four sections. Section 3.1 examines the role granted to NGOs by the UN Human Rights Treaties; Section 3.2 examines the role granted to NGOs by a selection of environmental treaties; Section 3.3 examines the role granted to NGOs by a selection of other treaties providing for NGO participation and Section 3.4 contains the conclusions of the Chapter.

As is well known, most UN Human Rights Treaties are enforced through a system of reporting by States parties to a treaty body composed of independent experts. The specific role of NGOs varies from treaty to treaty. However, in general, NGOs help the treaty bodies by submitting information on how to interpret what is included or omitted in a State report. In such cases, the text of the treaty, its implementing documents or general practice allow the treaty body to receive NGO information and in certain cases also grant NGOs certain participatory rights. Section 3.1 analyzes NGO involvement in the implementation and monitoring of the nine core UN Human Rights Treaties: the International Covenant on Civil

and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), the Convention on the Rights of Persons with Disabilities (CRPD) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED). The UN Human Rights Treaty System has been under review since 1988 in order to enhance its effectiveness. The last part of Section 3.1 summarizes the solutions that have been favored so far by all interested parties involved in this review.

Section 3.2 continues by examining NGO participation in the enforcement and monitoring of a selection of environmental treaties. Many environmental treaties expressly grant observer status to NGOs during meetings of States' parties and provide for NGO cooperation in the implementation and monitoring of the treaty. In this section, the NGO-related provisions of nine of the best-known environmental treaties are examined. These are: the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on the Conservation of Migratory Species of Wild Animals, the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Framework Convention on Climate Change (FCCC), the Convention on Biological Diversity (CDB), the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), the UN Convention to Combat Desertification (UNCCD) and the Aarhus Convention.

Section 3.3 of Chapter 3 analyzes the provisions related to NGOs in a selection of international treaties that contain provisions relating to NGO participation. This selection includes the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Landmines Convention), the Rome Statute of the International Criminal Court and the four Geneva Conventions with their Additional Protocols. Contrary to what is generally thought, the four Geneva Conventions and their Additional Protocols also regulate the work of humanitarian organizations other than the ICRC or bodies of the Red Cross and Red Crescent Movement.

Finally, Section 3.4 contains the conclusions of the Chapter.

1.4. CHAPTER 4: NGOS AND GLOBAL AND REGIONAL JUDICIAL AND QUASI-JUDICIAL PROCEEDINGS

Besides the status granted to NGOs by States through consultation or similar arrangements with IGOs, and the inclusion of NGO-related provisions in international treaties, States are increasingly institutionalizing the participation of NGOs in the international adjudicatory system.

Chapter 4 tries to assess the type and extent of the rights that can be vindicated by NGOs before international courts and quasi-judicial bodies and to distinguish these rights from the participatory rights that are more and more often being conferred to NGOs by these courts and quasi-judicial bodies when NGOs: a) bring a case before them on behalf of or as representative of victims; b) provide information during a proceeding on a particular country situation; or c) intervene as *amici curiae*.

This Chapter analyzes international legislation allowing NGOs to participate as parties and/or *amici curiae* in international judicial and quasi-judicial proceedings at the global and regional level. Chapter 4 is divided into three sections. Section 4.1 refers to NGO participation as parties in global and regional judicial and quasi-judicial proceedings. Section 4.2 examines NGO participation as *amici curiae* in global and regional judicial and quasi-judicial proceedings and Section 4.3 contains the conclusions of the chapter.

Section 4.1 starts by examining the possibilities for NGO intervention as parties before true international tribunals such as the International Court of Justice, the international criminal courts and the International Tribunal for the Law of the Sea. It then continues by examining the possibilities for NGO intervention as parties in international quasi-judicial proceedings such as the procedures before the UN Human Rights Treaty Bodies, the Human Rights Council Complaint Procedure, the UNESCO Procedure for Individual Complaints, the ILO Freedom of Association Procedure, the World Bank Inspection Panel Procedure and international arbitration procedures. These procedures take place before international bodies that are not really international courts but that assume quasi-judicial functions for certain kinds of disputes.

Section 4.1 continues to examine NGO intervention as parties before regional courts and tribunals, such as the Court of Justice of the European Union, the European Court of Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights. It also examines NGO intervention as parties before treaty bodies enabled to carry out quasi-judicial proceedings. In particular, it examines the provisions relating to NGO

participation in the European Social Charter Collective Complaint Procedure and the Citizen Submission Procedure of the North American Agreement on Environmental Cooperation of NAFTA.

Section 4.2 discusses NGO participation as *amici curiae* in global and regional judicial and quasi-judicial proceedings. It follows the same structure as the previous section. It starts by examining NGO intervention as *amici curiae* before true international courts and tribunals such as the International Court of Justice, the international criminal courts and the WTO dispute settlement bodies. It then continues by examining NGO intervention as *amici curiae* in international quasi-judicial procedures such as the procedure carried out before the World Bank Inspection Panel and the International Center for the Settlement of Investment Disputes.

Section 4.2 continues by examining NGO participation as *amici curiae* before regional judicial and quasi-judicial bodies. In particular, it analyzes NGO participation as *amici curiae* before the Court of Justice of the European Union, the European Court of Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights.

Section 4.2 concludes by examining NGO participation as *amici curiae* in regional quasi-judicial proceedings such as the arbitration proceeding under NAFTA Chapter 11.

Section 4.3 contains the conclusions of the chapter.

1.5. CHAPTER 5: ACCOUNTABILITY

As NGOs become more prominent in the international scene, the issue of their accountability has raised additional attention. The number of NGOs seeking to participate at the international level has increased dramatically in the last years and it has become harder to monitor the activities of NGOs and to distinguish among them to know which NGOs can be trusted by the other actors in the international system. Besides the few requirements imposed in the framework of the consultative arrangements that may be established between NGOs and IGOs, there are no other accountability measures imposed on NGOs at the international level.

Chapter 5 explains the different concerns and views that exist with respect to the perceived lack of accountability of international NGOs. It also gives an overview of some of the main initiatives that are being explored by the different actors in order to increase NGO accountability. Taking these initiatives into account, Chapter 5

tries to define a position on how NGO accountability should be approached at the international level.

Chapter 5 is divided into five sections. Section 5.1 explains the three main sources of accountability concerns regarding NGOs: their increased international power, the existing possibility of NGO abuse and the idea that NGOs, as international actors, are not facing the same scrutiny that they impose on States, IGOs and multinational corporations (MNCs). Section 5.2 discusses briefly the difficult issue of determining to whom NGOs should be accountable at the international level. Section 5.3 distinguishes between legal responsibility and accountability and discusses the main arguments for holding NGOs legally responsible at the international level. Section 5.4 makes reference to some of the main initiatives that have been taken at the international level in order to improve NGO accountability by means of regulation, private initiatives and NGO self-regulation. Finally, Section 5.5 contains the conclusions of the chapter.

1.6. CHAPTER 6: MAIN FINDINGS

Chapter 6 contains the main findings of the book.