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now*

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**INTERNATIONAL HUMAN RIGHTS LAW AND THE
ACCOUNTABILITY OF CIVIL SOCIETY ORGANIZATIONS: THE CASE
OF THE INGO ACCOUNTABILITY CHARTER/ACCOUNTABLE NOW**

Alexandre Fontenelle-Weber¹

ABSTRACT: The central objective of this Paper is to develop an analysis of the position occupied by civil society organizations in International Human Rights Law, specifically in human rights protection at the international level. In this regard, the proposed examination will focus on the discussion regarding the accountability of said organizations, at this level. Introducing, from a historical perspective, the form of interaction of these actors with supranational organizations, it is possible to draw conclusions regarding its legitimacy and its accountability or lack thereof. By drawing on the concept of legitimacy as used in the international sphere, to which the idea of accountability is directly linked, it can be developed certain analytical tools that permit the identification of specific aspects of accountability that are fundamental in understanding the mode of operation of civil society organizations in International Human Rights Law. As a practical example, it is studied the case of the INGO Accountability Charter, currently known as Accountable Now.

KEYWORDS: International Human Rights Law. Civil Society Organizations. Non-State Actors. Accountability. Human Rights Protection. INGO Accountability Charter. Accountable Now.

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I. Introduction

At the current moment, in the international sphere, non-state actors play an important role, specifically in what relates to human rights protection. In this sense, civil society organizations, in specific², have come to represent an important asset in the development and enforcement of International Human Rights Law. It is important to point out, particularly, that organized civil society has been especially valuable in developing mechanisms to ascertain the legitimacy of global governance institutions themselves³.

However, due to its characteristics - mainly its independence from governmental structures - civil society organizations face problems and questions in reference to its accountability and regarding the limits to political representation in this setting⁴. This results in a tension between the benefits that these organizations can produce at the international level and the inquiries that arise regarding its legitimacy and accountability.

The objective of the present Paper is to discuss this current form of interaction between civil-society organizations and International Human Rights Law, and explore the existing questions raised regarding the accountability of organized civil society, at the international level.

Therefore, the idea is to present the current landscape of International Human Rights Law in what relates to civil society organization's participation, and, consequently, analyze the need for further establishing mechanisms that guarantee the accountability of said organizations.

Given the objective of this Paper, civil society organizations must be understood as a specific type of non-state actors, due to their non-governmental and mainly associative nature. In this sense, they are defined as organizations that are distinct from the realm of government and the State, and separate from the realm of businesses and the purely economical⁵, but not necessarily in opposition to both of these spheres⁶.

² It is important to note that the present work will not seek to analyze the entire universe of non-state actors, and, instead, will choose to focus specifically in one particular type of actor: civil society organizations. A characterization of civil society organizations will be presented in the Introduction.

³ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 217.

⁴ Ibid, p. 230.

⁵ COHEN, L.J.; ARATO, A. *Civil Society and Political Theory*. Cambridge, United States: MIT Press, 1992, p. viii.

⁶ Ibid, p. x.

Civil society organizations are comprised by individuals, and its actions are dictated by a commitment to a purpose⁷ to defend particular interests. This characteristic highlights the importance of “solidarity”⁸ in this context, as a link between the organization and those it intends to represent.

Currently, as mentioned above, civil society organizations perform a series of important functions that relate to the protection of human rights structured at the international level. Therefore, it is inescapable that civil society organizations must be viewed as central actors in the evolution of global governance regimes, including the international institutions devoted to the protection of human rights.

This increase in the importance of non-state actors as a whole, nonetheless, has also resulted in inquiries regarding its legitimacy, mainly concerning a potential lack of accountability, transparency, and effective democratic representation.

The examination of accountability, specifically, is a central topic for civil society organizations, due to the central characteristic of these actors: the fact that they are separate from the State. In this regard, they position themselves as members of the public at large, and perform actions in the name of the “public agenda”⁹, claiming “moral authority”¹⁰, but do not have, necessarily, an effective link to any institution or specific community, that is able to directly constrain its activities.

Consequently, as organized civil society assumes a larger role and receives increasing power, more attention is going to be raised to the necessity of establishing strategies for control over the actions of these organizations. In order to be seen as legitimate actors, who justifiably can exert its competencies, civil society organizations have to make themselves accountable to some type of stakeholder. The importance of this examination underlines the justification for the relevance of the present Paper.

Given the stipulated objectives, the study will be divided in the following parts.

⁷ CHARNOVITZ, Steve. Nongovernmental Organizations and International Law. *The American Journal of International Law*. Vol. 100, N. 2, April 2006, p. 348.

⁸ COHEN, L.J.; ARATO, A. *Civil Society and Political Theory*. Cambridge, United States: MIT Press, 1992, p. 17.

⁹ LAVALLE, A.G; BUENO, N. Waves of Change Within Civil Society in Latin America: Mexico City and São Paulo. *Politics and Society*, 2011, Vol. 39, N. 3, p. 444.

¹⁰ CHARNOVITZ, Steve. Nongovernmental Organizations and International Law. *The American Journal of International Law*. Vol. 100, N. 2, April 2006, p. 348.

Firstly, in section 2, it will be presented a historical background for the rise of civil society organizations in the international level, with a specific focus on the changes that happened at the United Nations level since the 1990s that led to the current scenario and consolidated the position that these organizations currently occupy in global governance. By way of a parallel exposition regarding the strengthening of human rights protection at the international level, in the same time period, this section will intend to frame the main aspects that characterize the interaction between international institutions and civil society organizations, in what relates to the protection of human rights, and to describe the current role exerted by these organizations, in this setting.

Following that, in section 3, it will be presented the concept of accountability at the international level, as an idea directly linked to the notion of legitimacy, based on the theoretical approach proposed by Keohane and Grant. This section will intend to analyze how legitimacy, and accountability in particular, can potentially be attained by supranational institutions and by civil society organization that act in the international sphere.

With the purpose of discussing an actual example of institutional mechanism focused on evaluating the accountability of civil society organizations, in the section 4 of this Paper, it will be presented and discussed the case of Accountable Now, previously known as the INGO Accountability Charter¹¹. Accountable Now is an initiative created by third-sector organizations in 2008, characterized as a “cross-sector platform of development, humanitarian, environmental, rights-based and advocacy organizations and networks”¹², devoted to setting standards for third-sector accountability.

It is the first initiative established with the objective of being global and cross-sectoral¹³. In this regard, it has broad aspirations in what relates to the universe of civil society organizations, encapsulating all the different types of entities acting at the international level. This global reach of the organization makes it an interesting object for analysis¹⁴, since it enables the identification

¹¹ Due to the organization’s recent name change, it is possible to find studies that make reference to the name Accountable Now as well as to the old name, INGO Accountability Charter. In this sense, in the present Paper, both names will be used, indiscriminately. Also, in this Paper, and specifically in the examination of the development of the INGO Accountability Charter, the terms “NGO” and civil society organizations will be utilized as synonyms.

¹² Information about Accountable Now can be accessed at < <https://accountablenow.org/about-accountable-now/>> Access at: 06/10/2018.

¹³ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 419.

¹⁴ However, it is important to recognize that the INGO Accountability Charter/Accountable Now initiative is only one of a series of initiatives aimed at securing more accountability to civil society organizations, at different levels. Therefore, the case study proposed in this Paper does not aim to be a comprehensive analysis of the universe of these

of larger trends in the context of civil society organizations, not limited to the scope of a certain region or subject matter.

Based on the elements exposed throughout the study, the conclusion of this Paper will be dedicated to identifying the major problems that are currently experienced by civil society organizations, in what relates to their accountability and legitimacy, and proposing potential actions that can help further improve the interaction between them and international institutions, in this aspect.

II. Historical Context

Civil society has, for a very long time, been vocal regarding the need to protect human rights, at the international level. There are numerous accounts of movements and initiatives developed by non-governmental actors, throughout contemporary history, focused on the importance of establishing a more thorough and complete protection of individual and collective rights. One such example is the effort made by a civil society group, the Commission to Study the Organization of Peace (CSOP), in the 1940s, to push for the inclusion of human rights provisions in the United Nations Charter¹⁵.

In this perspective, it is interesting to observe how, in the second half of the 20th Century, civil society organizations came to gradually be more included in international spaces of deliberation and decision making, reaching a point, in the 1990s, in which these organizations established a more institutionalized link with supranational institutions. It is important, in this context, to analyze the relationship between organized civil society and the United Nations.

The first institutional step taken by the United Nations towards fostering engagement with non-state actors happened at its inception, with the inclusion of Article 71 in the UN Charter. Said Article established that the “Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence”¹⁶.

initiatives, and, instead, seeks to identify significant trends that can be important to better the current understanding of organized civil society accountability.

¹⁵ MITOMA, G.T. Civil Society and International Human Rights: The Commission to Study the Organization of Peace and the Origins of the UN Human Rights Regime. *Human Rights Quarterly*. Vol. 30, N. 3, August 2008, p. 629.

¹⁶ UNITED NATIONS CHARTER. June 26th, 1945. Available at: < <http://www.un.org/en/sections/un-charter/un-charter-full-text/>> Access: 05/31/2018.

However, it took a number of decades until interaction between civil society and the United Nations developed into a more meaningful and institutionalized relationship. It was only in 1996, based on the existing provision of Article 71, that the United Nations Economic and Social Council (ECOSOC) approved the ECOSOC Resolution 1996/31¹⁷, which can be pointed out as the “entrance door”¹⁸ for this process of more serious engagement with civil society. This Resolution established a mechanism for granting “consultative status”¹⁹ to certain non-state actors, permitting their official presence in international forums of decision-making.

In this regard, it can be observed that, since the 1990s, there has been a movement, at the international level, of amplified participation of civil society in international forums and interaction with global governance institutions.

This process is motivated by the emergence of “polycentric governance”²⁰ and the increase of the role exercised by supranational institutions in the shaping of rules and regulations that directly affect States and the daily lives of its citizens. Keohane²¹ characterizes this process of greater influence of international rules over domestic policies as “intrusive intervention” and identifies it as being a relevant factor in the start of the 21st century.

These transformations in the international sphere led to a change in civil society’s mode of operation, with a shift in attention from the State to “other sites of governance, including global regulatory institutions”²². This process gradually resulted in an increased role performed by non-state actors in such spaces, as it has been described.

In parallel to the emergence of civil society, it can be noted that, after World War II, human rights also experienced an increase in its importance and scope, with the reinforcement of the need

¹⁷ ECOSOC RESOLUTION 1996/31. July 25th, 1996. Available at: <<http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>> Access: 05/31/2018.

¹⁸ ASTON, J.D. The United Nations Committee on Non-Governmental Organizations: Guarding the Entrance to a Politically Divided House. *European Journal of International Law*. Vol 12, N° 5, p. 946.

¹⁹ ECOSOC RESOLUTION 1996/31. July 25th, 1996. Available at: <<http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>> Access: 05/31/2018.

²⁰ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 214.

²¹ KEOHANE, R.O. *The Contingent Legitimacy of Multilateralism*. Garnet Working Paper, n° 09, September 2006, p. 21.

²² SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 214.

for human rights protection at the international level²³, as a way to overcome the limitations of domestic norms regarding the subject²⁴.

Gradually, it was developed a series of mechanisms, globally as well as regionally, to address the topic of human rights. In this context, it is necessary to highlight the consolidation of the importance of human rights in international discourse via the production of a series of documents, in the second half of the 20th Century, including the UN Charter itself, the Universal Declaration of Human Rights²⁵, from 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁶ and the International Covenant on Civil and Political Rights (ICCPR)²⁷, from 1966.

Regionally, it can be pointed out the emergence of European, Interamerican, and African human rights systems, seeking to guarantee human rights in these particular settings²⁸. Additionally, it can be observed the implementation of a number of global treaties devoted to specific subjects, with a focus on the elimination of certain types of discrimination. Examples of this types of instruments are the International Convention on the Elimination of All Forms of Racial Discrimination²⁹, from 1965, and the Convention on the Elimination of All Forms of Discrimination Against Women³⁰, from 1979, both adopted by the United Nations General Assembly.

By way of these processes, human rights came to be recognized as a major topic for concern for the international community. Particularly, in the last thirty years, with the end of the Cold War³¹, and increasing globalization, human rights have ultimately been positioned as a central aspect of International Law dialogue and practice, as a phenomenon with “international, transnational and

²³ ONUMA, Yasuaki. *International Law in a Transcivilizational World*. Cambridge University Press, 2017, p. 406.

²⁴ *Ibid*, p. 366.

²⁵ UNIVERSAL DECLARATION OF HUMAN RIGHTS. December 10th, 1948. Available at: <https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf> Access: 11/27/2018.

²⁶ INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. December 16th, 1966. Available at: <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>> Access: 11/27/2018.

²⁷ INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS. December 16th, 1966. Available at: <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>> Access: 11/27/2018.

²⁸ ONUMA, Yasuaki. *International Law in a Transcivilizational World*. Cambridge University Press, 2017, p. 389.

²⁹ INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION. December 21st, 1965. Available at: <<https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>> Access: 11/27/2018.

³⁰ CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN. December 18th, 1979. Available at: <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>> Access: 11/27/2018.

³¹ PEGRAM, T. Global Human Rights Governance and Orchestration: National Human Rights Institutions as Intermediaries. *European Journal of International Relations*. October 2014, p. 1.

transcivilizational dimensions”³². This has led to some critics pointing out a “human-rightization of global politics”³³.

The landmark moment for this new scenario was the Vienna Declaration of 1993, which highlighted the “universality, indivisibility and interdependence of human rights”³⁴. The Vienna Declaration is seen, today, as “the authoritative and representative view of the global community on human rights at the end of the twentieth century”³⁵, due to the fact that it was established by the consensus of 171 States and counted with the participation of a large number of civil society organizations.

It is, therefore inescapable, that International Human Rights Law has established itself as a major contemporary topic in International Law, specially since the 1990s and the universal recognition of its importance, and that there is, currently, among States and other actors, an increased focus on the implementation of human right rules and a growing preoccupation regarding strategies for human rights enforcement.

International concern regarding human rights protection can be observed and exemplified in claims for humanitarian intervention, in recent years, and the gradual development, in the UN system and in other regional systems, of mechanisms for monitoring and assessing human rights compliance.

Thus, from this brief historical perspective, it can be detected, simultaneously, a rise in the scope and importance of human rights protection and a rise in the profile and standing of civil society organizations in international law. In the case of human rights protection, specifically, it can be highlighted that non-state actors, in a variety of situations, assume a central role, as previously indicated. The participation of civil society is crucial in monitoring human rights compliance and assessing human rights violations³⁶.

From a more general perspective, Scholte³⁷ points out that civil society organizations perform actions of “monitoring and reviewing global policies”, “seeking redress for mistakes and harms attributable to global regulatory bodies”, “advancing the creation of formal accountability

³² Ibid, p. 414-415.

³³ Ibid, p. 414.

³⁴ CASELLA, P.B.; ACCIOLY, H.; SILVA, G.E.N. *Manual de Direito Internacional Público*. Saraiva, 2012, p. 493.

³⁵ ONUMA, Yasuaki. *International Law in a Transcivilizational World*. Cambridge University Press, 2017, p. 383.

³⁶ BOYLE, A.; CHINKIN, C. *The Making of International Law*. Oxford University Press, 2007, Location 2502 (Kindle Version).

³⁷ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 217.

mechanisms”, that ultimately result in an increase in “public transparency of global governance operations”.

In the specific case of human rights protection at the international level, it is observed that civil society organizations act in a number of different ways in its interaction with international organizations, such as participating in treaty monitoring and verification processes³⁸, naming and shaming³⁹, advocacy⁴⁰, in helping bring cases to international courts⁴¹, and in producing reports.

One specific example of role exercised by civil society organizations in human rights protection is its participation in the Universal Periodic Review (UPR), implemented by the United Nations Human Rights Council, created in 2006. The UPR procedure includes the presentation of a series of reports, including a “Summary of stakeholder’s information” developed by civil society organizations⁴².

With the consolidation of this scenario, where non-state actors, specifically civil society organizations, became integral parts of the human rights regime and, currently, perform important functions in the promotion of human rights protection, at the international level, it is important to propose an examination of their legitimacy and accountability.

Civil society organizations are, by definition, institutions separate from the State, and are, therefore, not directly subject to any kind of oversight, particularly at the international level. Given this present setting, in which civil society organizations established themselves as integral parts of human rights protection’s systems but remain separate from any kind of direct institutional control, it is important to question how organized civil society can be held accountable to relevant stakeholders.

III. Concept of Accountability

³⁸ BOYLE, A.; CHINKIN, C. *The Making of International Law*. Oxford University Press, 2007, Location 2502 (Kindle Version).

³⁹ Ibid, Location 2502 (Kindle Version).

⁴⁰ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 221.

⁴¹ ONUMA, Yasuaki. *International Law in a Transcivilizational World*. Cambridge University Press, 2017, p. 403.

⁴² RAMOS, André de Carvalho. *Teoria Geral dos Direitos Humanos*. Saraiva, 2005, p. 170-171.

In the past section, it was introduced that, in contemporary International Law, even though it can still be observed a primacy of the State⁴³ in matters of rulemaking and rule implementation, there is also a clear rise in the profile of non-state actors.

In recent years, civil society representatives have been accepted into international forums of deliberation and have become important agents in performing relevant actions for international organizations and regimes, especially in respect to human rights protection. In this sense, there is a clear strengthening of civil society position at the international level, that is evidenced by the role it plays in the “emergence of international norms”⁴⁴.

Brown-Weiss⁴⁵ highlights, in this respect, that there is a necessity, in present times, of adopting a “bottom-up approach”, where “institutions are accountable not only to the states that established them but, significantly, to the communities, groups, and individuals they are intended to serve”. Thus, this consolidates the current importance of organized civil society, since they can establish a link between the public at large and these institutions.

However, civil society organizations are also potentially problematic. Critics point out that these organizations can be “often non-democratic”⁴⁶ and do not effectively represent the interest of citizens. In this sense, there is a clear conflict concerning the discrepancy between the impact and importance of civil society organizations in International Law and, specifically, in the field of human rights, and the doubts regarding its potential lack of accountability and legitimacy.

In order to properly examine the issue of civil society organization's accountability, it is important to understand how legitimacy and accountability can be evaluated at the international level. In this sense, in the first place, it will be presented a framework, based on the work developed by authors dedicated to this theme, that will identify which factors are important for the examination of legitimacy of global governance institutions, with a specific focus in highlighting how accountability established itself as a central notion, in this context.

Legitimacy as a concept used in international relations, is different than the idea of legitimacy applied in the domestic sphere, which is clearly linked to the notion of “democratic

⁴³ ONUMA, Yasuaki. *International Law in a Transcivilizational World*. Cambridge University Press, 2017, p. 192.

⁴⁴ BOYLE, A.; CHINKIN, C. *The Making of International Law*. Oxford University Press, 2007, Location 1720 (Kindle Version).

⁴⁵ BROWN-WEISS, E. *International Law in a Kaleidoscopic World*. *Asian Journal of International Law*. Vol. 1, Nº 1, January 2011, p. 27.

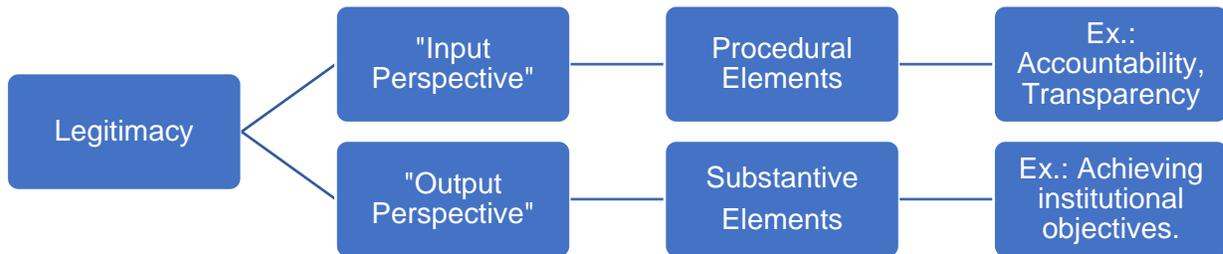
⁴⁶ BOYLE, A.; CHINKIN, C. *The Making of International Law*. Oxford University Press, 2007, Location 2024 (Kindle Version).

standards”⁴⁷. Given the lack of a global public (a global “*demos*”⁴⁸), legitimacy in the international sense needs to take into account a new set of factors, other than strict democratic participation. This proposition is true both for the evaluation of legitimacy in the context of global governance institutions as well as for the context of non-state actors, such as civil society organizations, that act in the international level.

Authors in this field propose an analysis of global governance institution’s legitimacy with basis on different perspectives, that can take into account substantive and “procedural”⁴⁹ elements of said institutions. In this sense, a supranational organization can be understood as legitimate if it observes some procedural requirements in its actions, such as transparency and accountability⁵⁰, and if its actions produce substantive results and lead to the fulfillment of the “desired outcomes”⁵¹ of the regime.

Keohane⁵² characterizes this as being the “input” and “output” perspectives of the concept of legitimacy. The output perspective referring to the “achievement of the substantive purposes of the organization”, and the input perspective relating to the “processes by which decisions are reached”⁵³. This idea is summarized in Figure 1 below.

Figure 1. “Input” and “output” perspectives of the concept of legitimacy



Source: Made by the author based on Keohane (2006).

⁴⁷ BUCHANAN, A; KEOHANE, R.O. The Legitimacy of Global Governance Institutions. *Ethics & International Affairs*. Vol. 20, N. 4, December 2006, p. 405.

⁴⁸ BODANSKY, Daniel. The Legitimacy of International Governance: A Coming Challenge for International Environmental Law. *The American Journal of International Law*. Vol. 93, N. 3, July 1999, p. 606.

⁴⁹ BODANSKY, Daniel. The Legitimacy of International Governance: A Coming Challenge for International Environmental Law. *The American Journal of International Law*. Vol. 93, N. 3, July 1999, p. 612.

⁵⁰ KEOHANE, R.O. *The Contingent Legitimacy of Multilateralism*. Garnet Working Paper, n° 09, September 2006, p. 23.

⁵¹ BODANSKY, Daniel. The Legitimacy of International Governance: A Coming Challenge for International Environmental Law. *The American Journal of International Law*. Vol. 93, N. 3, July 1999, p. 612.

⁵² KEOHANE, R.O. *The Contingent Legitimacy of Multilateralism*. Garnet Working Paper, n° 09, September 2006, p. 3.

⁵³ *Ibid*, p. 3.

As presented before, the present study is concerned with the examination of civil society organization's potential for accountability, specifically. Therefore, in order to investigate that, it will be used the same framework proposed by Keohane, in what regards the "input" perspective of an institution's legitimacy, due to its direct connection to the notion of accountability.

The present examination will, thus, focus on analyzing the capacity of civil society organization securing a level of legitimacy from the "input" perspective, as previously introduced.

It is important to understand that, at the international level, civil society organizations are an important agent in keeping global governance institutions accountable. Scholte⁵⁴ points out that, through the performance of their action, such as monitoring and reviewing the activities of supranational institutions, civil society elicits greater accountability from global authorities.

Regarding this specific relationship, Grant⁵⁵ highlights that the verification of accountability presupposes that the actors involved in a certain situation are perceived as legitimate.

In relation to that, is necessary to consider that, in order to be perceived as legitimate agents, civil society organizations must be able to present themselves as accountable institutions as well. Historically, at the international level, they have had trouble in doing that, operating "limited and unimaginative accountability mechanisms"⁵⁶.

Grant⁵⁷, in his examination of accountability in the international sphere, highlights the importance of proper accountability mechanisms in exposing and sanctioning abuses of power. They are, in this sense, instrumental for restraining the unauthorized and illegitimate use of power, and unjust or unwise decision-making⁵⁸.

Continuing with the examination, Grant⁵⁹ identifies two basic concepts of accountability: (i) delegation, regarding the idea that, in certain situations, power-wielders need to hold themselves accountable to the agents that empower them, in the first place; and (ii) participation, where power-

⁵⁴ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 217.

⁵⁵ GRANT, R.W.; KEOHANE, R. O. Accountability and Abuses of Power in World Politics. *American Political Science Review*. Vol. 99, N. 1, February 2005, p. 29.

⁵⁶ SCHOLTE, J.A. Civil Society and Democratically Accountable Global Governance. *Government and Opposition*. Vol. 39, N. 2, Spring 2004, p. 230.

⁵⁷ GRANT, R.W.; KEOHANE, R. O. Accountability and Abuses of Power in World Politics. *American Political Science Review*. Vol. 99, N. 1, February 2005, p. 30.

⁵⁸ *Ibid*, p. 30.

⁵⁹ *Ibid*, p. 31.

wielder's decisions are evaluated by the actors directly affected by them. In the case of civil society organizations, it is relevant to consider both perspectives of accountability.

In the first place, it is pointed out that the principal agents that empower civil society organizations are, in most situations, their "major contributors"⁶⁰. Therefore, it is established that organized civil society, in general, needs to be accountable to donors. This form of "market accountability"⁶¹ is directly linked to the idea of delegation.

However, civil society organizations are also concerned about their reputation, which is connected to the idea of participatory accountability⁶². In this setting, the way the public perceives the actions of organized civil society is also incredibly relevant for the capacity of these organizations to keep performing their action in pursuit of their institutional objectives. Consequently, the public can exert a sort of "soft power" over civil society organizations, which, ultimately constitutes a form of "public reputational accountability"⁶³.

By way of this examination, it can be, therefore, observed that civil society organizations working at the international level are subject to mainly two different kinds of stakeholders: (i) the public at large; and (ii) their donors, in a more specific fashion. This situation generates the need for organized civil society to develop different strategies for accountability.

In this context, proving themselves accountable to these stakeholders is an integral factor in establishing its legitimacy. Consequently, as a way to substantiate its claim to the spaces and roles that it currently occupies at the international level, particularly in the field of human rights, it is important for organized civil society to increasingly be recognized as accountable to third parties.

In the next section, it will be analyzed one particular relevant example of civil society organization's effort in securing accountability: the establishment of the INGO Accountability Charter, subsequently transformed into Accountable Now.

IV. The Case of INGO Accountability Charter/Accountable Now

⁶⁰ GRANT, R.W.; KEOHANE, R. O. Accountability and Abuses of Power in World Politics. *American Political Science Review*. Vol. 99, N. 1, February 2005, p. 38.

⁶¹ Ibid, p. 38.

⁶² Ibid, p. 38.

⁶³ Ibid, p. 37.

Presently, it is estimated that there are as many as 350 regulatory mechanisms for civil society organizations in existence⁶⁴. This information highlights the existence of a scenario in which organized civil society recognizes the importance of accountability and transparency. However, it is also observed that most of these initiatives are fairly limited in their scope, with doubts regarding its actual effectiveness.⁶⁵

The INGO Accountability Charter, a mechanism created in 2008, is the first of these regulatory mechanisms that established itself with the purpose of being a global and cross-sectoral instrument. In this sense, it communicates a clear objective in setting more solid standards of accountability and transparency for the third-sector⁶⁶.

Therefore, the intent in examining the INGO Accountability Charter development is to evaluate in to what extent those standards are capable of being incorporated as a thorough accountability mechanism for organized civil society at the international level, and identify its positive and negative aspects. In order to analyze that, it will be taken into account the previously introduced notion, sustained by Grant, that civil society organizations need to prove themselves accountable to the public and to its donors both.

The INGO Accountability Charter, as previously mentioned, was established in 2008 by a consortium of leading NGOs, and is funded by annual membership fees from these organizations⁶⁷. It is, in essence, a self-regulatory mechanism devised by civil society organizations⁶⁸.

While most peer regulation initiatives are mainly limited to the creation of superficial codes of conduct and the establishment of self-imposed commitments, the Charter aimed to be more thorough in its mechanisms of control and examination⁶⁹. In this sense, the organization presents a “Reporting and Assessment Framework”, which was recently reexamined and altered in 2017⁷⁰. In

⁶⁴ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 419.

⁶⁵ *Ibid*, p. 419.

⁶⁶ *Ibid*, p. 421.

⁶⁷ *Ibid*, p. 421.

⁶⁸ Presently, there are 27 member organizations. This information is available at the Accountable Now website at: <<https://accountablenow.org/about-accountable-now/members/>> Access: 06/16/2018.

⁶⁹ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 420.

⁷⁰ NEW REPORTING AND ASSESSMENT FRAMEWORK. Accountable Now. Available at: <<https://accountablenow.org/wp-content/uploads/2018/02/Accountable-Now-Reporting-and-Assessment-Framework.pdf>> Access: 06/16/2018.

addition to that, it implemented a complaints mechanism, an independent vetting procedure, and introduced sanctions clauses that enables it to expel members that are non-compliant⁷¹.

The reporting and assessment procedure itself is based on the verification of the fulfillment of certain commitments. These commitments are divided into three different types of criteria: (i) impact-oriented (justice and equality, women's rights and gender equality, healthy planet); (ii) stakeholder-oriented (people-driven work, strong partnerships, advocating for fundamental change, open organizations); and (iii) organizational-oriented (empowered and effective staff and volunteers, well-handled resources, responsive decision-making, responsible leadership)⁷².

For each theme, there are specific undertakings that must be observed. In this context, it is interesting to note that this assessment framework, even though it is focused on the idea of accountability, includes elements of the previously introduced "output" perspective of legitimacy. This facet can be noted, specifically in the evaluation of impact-oriented commitments, that analyzes, in some sense, the achievement of certain institutional objectives.

Considering the commitments made by the NGOs in the context of the Charter, it is important to observe that members must produce periodic reports (an executive summary and a more detailed report). The periodicity, which can be annual or biennial, depends on the member's previous accountability performance. Interestingly, there is no established form for the presentation of the reports⁷³. This can be a potential obstacle for establishing comparisons between organizations, since there is no homogenous form of display.

The reports are then submitted to an Independent Review Panel, composed by respected accountability experts, which provide targeted feedback, advising on how the member's reporting and performance should be improved⁷⁴. As pointed out before, member organizations could be expelled "if they are found to be in contravention of the Charter commitments or if they fail to submit reports without sufficient explanation"⁷⁵.

⁷¹ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 420.

⁷² Information about the commitments can be obtained at the Accountable Now website at <<https://accountablenow.org/accountability-in-practice/reporting-standards-process/>> Access at: 06/16/2018.

⁷³ NEW REPORTING AND ASSESSMENT FRAMEWORK. Accountable Now. Available at: <<https://accountablenow.org/wp-content/uploads/2018/02/Accountable-Now-Reporting-and-Assessment-Framework.pdf>> Access: 06/16/2018.

⁷⁴ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 422.

⁷⁵ *Ibid*, p. 422.

In studies devoted to examining the perception of member organizations regarding the efficacy and effectiveness of Accountable Now's evaluation, it is exposed that participants identify as benefits the "peer learning opportunities" and the "occasions for knowledge exchange" that occur during the proceedings⁷⁶. They also highlight the high quality of the feedback provided⁷⁷. Overall, there is evidence that membership in the organization does provoke progressive reforms in policy and practice, and that participants internalize a certain level of accountability norms⁷⁸.

However, there are also problems regarding the development of the Charter. The initiative still has a very low-profile among the relevant public. There is a clear difficulty in communicating the work made within the organization to relevant stakeholders. Specifically, in the case of donors, it is identified that no major donors, for example, stipulate membership in Accountable Now as a precondition of funding⁷⁹.

Therefore, it can be concluded that, despite the enumerated benefits, there are still relevant shortcomings that need to be addressed. In this context, it can be specifically highlighted the importance of increasing public and donor awareness regarding the initiative, in order to maintain Accountable Now's relevance to existing members and to enhance the attractiveness of membership to other organizations⁸⁰.

In this sense, ultimately, Accountable Now can be understood as a relevant initiative that signals a preoccupation of organized civil society in attaining a level of accountability and legitimacy at the international level. However, there are still significant problems to be considered. It still waits to be seen if recent changes made to the reporting and assessment framework can possibly produce an improvement in the initiative's profile among the relevant audience.

V. Conclusion

Based on the elements presented throughout this Paper, it is clear to see that, at the present time, civil society organizations occupy a central role in the functioning of International Human

⁷⁶ Ibid, p. 424.

⁷⁷ Ibid, p. 424.

⁷⁸ Ibid, p. 426.

⁷⁹ Ibid, p. 423.

⁸⁰ CRACK. M.A. The Regulation of International NGOS: Assessing the Effectiveness of the INGO Accountability Charter. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*. Vol. 29, N. 2, April 2018, p. 422, p. 423.

Rights Law, a position that has been increasingly consolidated since the 1990s. Organized civil society perform relevant activities at the international level, and is particularly instrumental in holding other actors accountable, specifically in the field of human rights protection, where organizations assume a critical part in reporting violations and monitoring compliance to human rights obligations.

Due to this relevant profile, it is important to consider civil society organization's accountability, as an integral factor of its legitimacy, based on the framework proposed by Keohane. In the present examination, it was detected that it is fundamental for civil society organization's activity to ensure that the organization is accountable to the public at large and to its donors. In this sense, it was explored one example of accountability mechanism developed by civil society, the INGO Accountability Charter, currently named Accountable Now.

In the examination of the Charter's development, it was identified that there are clear benefits of participating in the proceedings, especially in the potential internalization of accountability norms. The initiative functions, in this respect, as an important tool in helping civil society organizations developing better internal mechanism for accountability and transparency. It is clear, therefore, that Accountable Now is an important agent for promoting greater organized civil society legitimacy at the international level.

However, further development is also needed. Presently, the initiative has a very limited membership. This exacerbates a scenario in which the work performed by the institution does not resonate further than the circle of organized civil society itself. There is still a clear difficulty for the members of Accountable Now in properly engaging with the relevant stakeholders, which is a crucial step in respect to advancing civil society organization's accountability.

Therefore, the case study indicates that establishing an effective link with stakeholders is potentially a major problem for organized civil society's accountability, one that can negatively affect the way that these organizations are perceived by the public and by the institutions that they interact with.

In this sense, as a way of concluding the study developed in this Paper, it is important to consider the necessity of establishing a level of more direct engagement with other relevant actors. Accountability of all actors at the international level would hugely be benefitted by more direct communication between global institutions, civil society organizations and its stakeholders.

Therefore, it is inescapable the need for further establishing accountability mechanisms for organized civil society at the international sphere, that can signalize its results to supranational organizations and donors, but also to the public at large.

Further research is clearly needed in this topic. The present work aimed to develop a brief characterization of the problem of civil society organizations' accountability and, surely, more data, regarding the strategies that these entities develop to ensure a level of transparency to its stakeholders, will benefit additional scientific development over this theme.

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