

H. E. Kofi A. Annan
Secretary-General
United Nations, S-3800
New York, NY 10017
USA

1 September 2004

Dear Secretary-General

I write on behalf of the non-governmental organizations in consultative status listed below. We refer to the Report of the Panel of Eminent Persons on United Nations-Civil Society Relations: "We the Peoples: Civil Society, the United Nations and Global Governance" (A/58/817), released on 21 June 2004, and wish to convey some general comments concerning the report and the proposals it contains. These comments, however, do not purport to be a comprehensive response to what is a very wide-ranging report.

Firstly, we wish to thank you for your demonstrated commitment to the enhancement of interaction between the UN and civil society. Due in large part to your leadership, the importance of this challenge for global governance in the 21st century is increasingly widely recognized.

Likewise, we are grateful for the Panel's efforts to explore new directions for the enhancement of this relationship. We believe that many of the measures proposed have great potential for enhancing UN-civil society interaction, and for making an important contribution to improved global governance.

In particular, we wish to affirm the report's emphasis on measures to de-politicize the non-governmental organizations (NGO) accreditation process. We believe that NGO accreditation is, or should be, a technical rather than a political function. We strongly support the intent of all proposals that seek to emphasize the technical nature of this function, and to minimize political involvement therein such as has characterized the proceedings of the Economic and Social Council's Committee on NGOs.

We also strongly support all proposals having the intent and effect of increasing UN engagement with civil society at the country level, and in particular in countries of the South, as well as increasing Southern civil society participation in the UN's global deliberative processes.

Our principal concern, however, relates to the manner in which the report's proposals assimilate fundamentally different groups. Indeed, the difficulty flows from the terms of reference themselves, which call for proposals "for enhancing interaction between the Organization and civil society, including parliamentarians and the private sector" (emphasis added). Though the term 'civil society' is notoriously vague, and although the issue of whether that description also covers business entities is highly contested, we would argue that it certainly does not cover parliamentarians - in view of their direct participation in the structures and processes of government.

The surest foundation for an examination of the present and future shape of UN-civil society relations must be the relevant provisions of the UN Charter. The report, however, makes only

a passing and non-specific reference to the Charter arrangements for consultation with non-governmental organizations. Article 71 of the Charter gives special and unique recognition to the UN's consultative relationship with NGOs, based on the drafters' recognition of the important contribution that NGOs can make towards achieving the purposes of the United Nations. Within the wider penumbra of "civil society" (wherever the outer limits of that term might be set), NGOs therefore have a standing with the UN that is privileged by its own founding instrument.

Though the term "non-governmental organization" is not itself defined in the Charter, successive resolutions of the Economic and Social Council and longstanding practice have recognized certain fundamental characteristics of this type of entity. Those fundamental characteristics include:

- separation and independence from the structures and processes of government; and
- aims and purposes that are not primarily commercial, or 'for profit'.

None of this is to suggest that the UN is precluded from engaging, where appropriate, with other constituencies, including parliamentarians and business entities. However, the relationship between the UN and NGOs has a special character, based on its foundation in the Charter. It seems to us that some of the proposals contained in the report, which appear to treat NGOs and other constituencies alike, do not reflect the Charter basis from which this discussion must proceed.

Accordingly, any proposal for a uniform accreditation procedure (such as that contained in Proposal 19 of the report) that extends to constituencies beyond those properly described as "non-governmental organizations" risks moving outside of the existing Charter framework. Clarification is needed as to whether that is the intention or expected consequence of the proposal.

Even if the distinction between NGOs and other groups with which the UN seeks to engage (such as parliamentarians and business) is intended to be maintained, the proposal to collect them all under an Office of Constituency Engagement and Partnerships (Proposal 24) could, in practice, lead to increased confusion about NGOs and their Charter relationship to the UN. A reasonable concern might exist regarding the possible attenuation of the relationship with NGOs, when all these constituencies are gathered together under this umbrella office.

Many of the related proposals in the report lack a sufficient degree of precision to enable their practical implications to be clearly discerned. For example, the reference in Proposal 20 to an "advisory body" gives no guidance on this body's likely composition. While, as indicated above, we support efforts to bring a technical orientation back to the process of accreditation, more details on the proposed composition and mandate of this body would be required in order to form any meaningful view of its likely impact. In our view, any such advisory body should include the expertise of the main stakeholders, including NGOs. The reference to a "designated General Assembly committee" to decide on accreditation causes similar difficulties, absent further information on the identity/composition and mandate of this committee.

In general, we are concerned that many of the report's proposals tend towards ambiguity, providing as much potential for misuse by those who seek to exclude civil society, as for the genuine enhancement of the relationship.

We are equally concerned by the report's omission of certain key issues. For example, the report gives no attention at all to the increasingly vexed issue of 'disciplinary' action concerning NGOs alleged to have breached the terms of the consultative relationship, and the application of the sanctions of suspension or withdrawal of status. Recent events in the Committee on NGOs and ECOSOC have underlined the rampant politicization of this aspect of the relationship, and consequently the importance of addressing the issue. It is regrettable that the opportunity was not taken in the Panel's report.

In addition, attention to the issue of private sector accountability is weak or absent. The existing (and presumably any future) arrangements for NGO consultative status provide quite strict accountability requirements. There needs to be some sort of accreditation and accountability process for business entities too - and not just their associations - when they seek to interact with the UN system.

Finally, no indication is given in the report as to how, practically, follow-up to the report is to be advanced. We imagine, however, that your next report to the General Assembly on this matter will provide direction in this regard.

We hope that these comments will be of some assistance to you as you formulate your plans and recommendations to the General Assembly, and as you continue to promote the enhancement of the valued relationship between the United Nations and civil society.

Yours respectfully,

Baha'i International Community

Friends World Committee for Consultation (Quakers)

Human Rights Watch

International Alliance of Women

International Service for Human Rights

The Lutheran World Federation