

NON-GOVERNMENTAL ORGANISATIONS AND INTERNATIONAL LAW
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OVER THE past century, non-governmental organisations (NGOs) have played a large role in shaping and implementing international law, yet the legal scholarship on this subject has continued to be fragmented and, in many respects, insufficient. NGOs have transformed from simple voluntary groups focused on humanitarian and philanthropic work into sophisticated transnational players that participate in every aspect of international legal life, including treaty negotiations, standard-setting, fact-finding, litigation support, and corporate accountability.¹ In recent years, the growing influence of organisations such as Amnesty International, Greenpeace, Human Rights Watch, and Transparency International has led many scholars to reconsider the traditional state-centric conception of public international law.² Nevertheless, there is very limited literature that seeks to portray NGOs positively within the doctrinal or institutional framework of international law.

Although the existing literature is rich and valuable, most of it focuses on the philosophical basis for NGO involvement in global governance or sector-specific aspects of NGOs such as international human rights law and international environmental law.³ There are few studies that have thoroughly investigated the legal status of NGOs, how they interact with inter-governmental organisations, the role they play in international law in different areas such as business and human rights and environmental protection, as well as their involvement in international courts and tribunals.⁴ Against this backdrop, the book *Non-Governmental Organisations and International Law* by Prof. Dr. Prahlad Rai, Professor and Head of the Department of Law at the University of Rajasthan and a Doctoral Fellow of The Hague Academy of International Law, constitutes a significant contribution to the scholarship on NGOs in international law.⁵

The book under review is a monograph authored by a single author that thoroughly records and examines the evolving roles and activities of NGOs in the international legal system from a doctrinal perspective. The 388-page book, which was released by Springer Nature Singapore in 2024, is divided into four thematic sections with 14

1 Steve Charnovitz, “Non-Governmental Organizations and International Law” 100 *American Journal of International Law* 348, 348–56 (2006).

2 Alan Boyle and Christine Chinkin, *The Making of International Law* 51–79 (Oxford University Press, Oxford, 2007); *Supra* note 1, at 348–67.

3 *Ibid.*; Peter Willetts (ed.), *The Conscience of the World: The Influence of Non-Governmental Organisations in the UN System* 1–27 (Hurst & Company, London, 1996).

4 *Supra* note 1, at 348–67; *Supra* note 2, at 51–79.

5 Prahlad Rai, *Non-Governmental Organisations and International Law* (Springer Nature Singapore, Singapore, 2024).

chapters. In addition to the leading edge of NGO accountability and ethical concerns regarding corporate cooperation with NGOs, it addresses basic topics like what constitutes an NGO and whether it has international legal personality. This book presents a comprehensive doctrinal analysis of the role of NGOs across current international law areas in a single volume with the support of comprehensive case study analysis.⁶

The publication of this book is particularly timely, as the post-Cold War era has witnessed the growing influence of civil society in global governance. At the same time, this expansion has generated significant debates concerning the democratic legitimacy of NGO participation, the regulatory restrictions imposed on NGOs in authoritarian and repressive States, and the accountability of non-state actors operating outside formal democratic processes.⁷ Given the growing role of NGOs in enforcing international law, and that NGOs are now “*norm entrepreneurs*”, mobilisers of public opinion and litigants with international courts, as well as monitors of state compliance with international obligations, a thorough legal treatment of the status, powers and limitations of NGOs is essential for students, practitioners, policy makers, and scholars of international law.⁸

The book employs mainly a doctrinal methodology, conducting an extensive analysis of treaties, institutional frameworks, judicial rulings, and scholarly works related to the involvement of NGOs in international law.⁹ It covers the analysis of the constitutive instruments of international organisations, resolutions of the United Nations Economic and Social Council (ECOSOC)¹⁰, procedural rules of international courts and tribunals, statutory rules of main NGOs etc.¹¹ Embedded in this normative and analytical exercise are case studies of noteworthy NGOs in Chapter 14, which offer an important empirical component to the study.¹² The book adopts an interdisciplinary approach, “an inquiry, analysis and overview” that has been drawn from a broad selection of sources from various disciplines including political science, sociology, management studies and public policy wherever it illuminates the legal questions at hand.¹³

6 *Ibid.*

7 Thomas Carothers and Saskia Brechenmacher, *Closing Space: Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, Washington DC, 2014).

8 *Supra* note 1, at 348–67; Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change” 52 *International Organization* 887, 895–905 (1998).

9 *Supra* note 5.

10 United Nations Economic and Social Council, *Consultative Relationship between the United Nations and Non-Governmental Organisations*, ESC Res 1996/31, UN Doc E/RES/1996/31 (July 25, 1996).

11 *Supra* note 5.

12 *Id.* at 363–386.

13 *Ibid.*

Part I: Status of NGOs

The first chapter (Chapter 1) undertakes a basic definitional task which is crucial to the rest of the book¹⁴. Professor Rai offers a review of the different scholarly definitions of ‘NGO’ that have been proposed in the literature ranging from Peter Willetts’ functional definition¹⁵ to Katarina Martens’ more structural definition¹⁶, and then critically explores the definition contained in the ECOSOC as set forth in Resolution 1996/31.¹⁷ The chapter then outlines the typology of NGOs (advocacy organisations, operational NGOs, hybrid NGOs and transnational social movements) as well as the theoretical lineage of civil society from Aristotle, Locke, Kant, Hegel, Gramsci and Habermas to its current form as part of global civil society discourse. Although comprehensive in its scope, the book performs the important function of articulating a persuasive case for the unique and indispensable place of NGOs within the architecture of international governance.

Chapter 2, “A Short History of NGOs”, charts the evolution of the NGO phenomenon, from the early international humanitarian organisations of the 19th century (International Committee for the Red Cross, Inter-Parliamentary Union) to the profusion of non-governmental organisations under the League of Nations system and the explosive growth of civil society under the framework of the United Nations Charter.¹⁸ The author charts the origins of the modern understanding of the international NGO in the era of abolition and peace in the nineteenth century, as well as in successive waves of decolonisation, the human rights movement and the environmental movement.

The topic of “Legal Personality” in Chapter 3 is one of the most analytical chapters in the volume.¹⁹ The author examines the doctrinal conundrum arising from the fact that, while States and intergovernmental organisations are recognised subjects of international law possessing international legal personality, NGOs generally do not enjoy a comparable status. The chapter analyzes the notions of international legal personality and legal capacity concerning NGOs, investigating how NGOs can be seen as entities under international law considering treaty stipulations, institutional practices, judicial rulings, and scholarly research. The chapter addresses classic works

14 *Id.* at 3–27.

15 *Supra* note 3, at 3–12.

16 Katarina Martens, “Examining the (Non-)Status of NGOs in International Law” 10 *Indiana Journal of Global Legal Studies* 1, 1–24 (2003).

17 *Supra* note 10.

18 *Supra* note 5, at 29–53.

19 *Id.* at 55–84.

by Lador-Lederer and Rechenberg in the *Encyclopedia of Public International Law*,²⁰ and then draws conclusions that, in the absence of special treaty provisions and institutionalised arrangements, NGOs in general do not possess general international legal personality, although for specific purposes, certain NGOs may be granted limited functional personality.

Chapter 4 reviews the “Consultative Status” regime of Article 71 of the United Nations Charter and the implementing resolution of ECOSOC (Resolution 1996/31).²¹ The author looks at how the classifications of general, special, and roster consultative status were introduced, the criteria for being accredited, rights of participation of NGOs at UN conferences, as well as at committee meetings, and the procedures for suspension and withdrawal from status. This chapter illuminates the complicated negotiations that have been longstanding around the issue of NGO access to the UN system as well as the debates that followed the Fourth World Conference on Women²² and the Millennium Summit process. The discussion of the Committee on NGOs is an interesting case study as it discusses about its role as a gatekeeper to enable civil society participation in the ECOSOC.

Part II: NGO's relations with international actors

Chapter 5, “Operative Methods” examines the array of methods and tactics by which NGOs try to shape international law and policy.²³ The author gives a detailed description of the ways in which NGOs can use ‘soft power’ in international relations, which have been described by scholars as lobbying, information provision, alternative reporting, fact-finding missions, publishing of reports, public mobilisation campaigns, and strategic litigation. The chapter is based on the literature of the advocacy network of Keck and Sikkink²⁴, and that of civil society more broadly, introduced by Teegen, Doh, and Vachani.²⁵ It explains how NGOs form transnational coalitions to leverage their impact beyond what formal legal status would allow.

20 J.J. Lador-Lederer, “International Non-Governmental Organizations” in Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law* (North-Holland Publishing Co., Amsterdam, 1983); Helmut Steinberger, “Subjects of International Law” in Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law* (North-Holland Publishing Co., Amsterdam, 1984).

21 *Supra* note 5, at 85–107.

22 United Nations, *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995*, UN Doc. A/CONF.177/20 (October 17, 1995).

23 *Supra* note 5, at 111–133.

24 Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Cornell University Press, Ithaca, 1998).

25 Hildy Teegen, Jonathan P. Doh, et. al., “The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda” 35 *Journal of International Business Studies* 463 (2004).

Chapter 6 “NGO Relations with Inter-Governmental Organisations”, examines the formal and informal mechanisms by which NGOs engage with the major inter-governmental institutions outside the United Nations, such as the World Bank, the International Labour Organisation, the World Health Organisation and the World Trade Organisation.²⁶ The author charts the differing regimes of recognition and involvement that have been implemented by inter-governmental actors, and observes the significant variation in the degree of access that NGOs enjoy throughout the multilateral system. The analysis of the tripartite structure of the ILO and the much more reserved attitude of the WTO regarding civil society involvement is illuminating, as is the examination of how the Breton Woods institutions became more attuned to civil society, following the governance reform agenda of the 1990s.

Among the book’s most significant contributions is Chapter 7, “NGOs Before International Courts and Tribunals”, which examines the procedural and substantive role of NGOs in international adjudication.²⁷ The author explores the position of NGOs before the International Court of Justice, international criminal tribunals, international arbitral institutions and regional human rights courts. Since the Statute of the International Court of Justice confers standing only upon States, the principal avenue through which NGOs may participate in international judicial proceedings is by way of *amicus curiae* submissions before those international courts and tribunals that permit such participation.²⁸ The author’s analysis of the pathbreaking WTO Appellate Body’s decision in *Shrimp-Turtle*²⁹ is instructive as it recognised its authority to accept and consider unsolicited *amicus curiae* briefs submitted by NGOs, thereby significantly expanding the scope for NGO participation in WTO dispute settlement proceedings. The chapter also examines the comparatively more receptive approach adopted by regional human rights courts towards NGO participation, both as third-party interveners and, where permitted, as applicants, with particular reference to the Inter-American Court of Human Rights³⁰ and the European Court of Human Rights.

Part III: Role of NGOs in making of international law

Together Chapters 8 and 9 form the central thread of the book’s contribution to the study of NGOs in human rights law. Chapter 8, “NGOs in the Making of Human Rights”, examines the transformative contribution that civil society organisations have

26 *Supra* note 5, at 135–160.

27 *Id.* at 161–192.

28 The Statute of the International Court of Justice, art. 34(1).

29 United States—Import Prohibition of Certain Shrimp and Shrimp Products, Report of the Appellate Body, WT/DS58/AB/R (October 12, 1998), paras 89–91.

30 Rules of Procedure of the Inter-American Court of Human Rights, arts. 2(3) and 44 (as applicable to *amicus curiae* participation).

made in the negotiation and adoption of key human rights instruments, including the Universal Declaration of Human Rights³¹; the Covenant on Civil and Political Rights³²; the Convention against Torture³³; and the Rome Statute^{34, 35}. The author demonstrates that NGOs are not simply bystanders at diplomatic meetings, but act as strong norm entrepreneurs, contributing to treaty drafting, mobilising expert opinion, and building political coalitions that facilitated the negotiation and eventual adoption of international treaties.

Building upon the preceding discussion, Chapter 9, titled “Human Rights Enforcement”, shifts the focus from the creation of international human rights norms to their enforcement.³⁶ The chapter examines the role of NGOs in monitoring and facilitating the enforcement of international human rights obligations through mechanisms such as shadow reporting before United Nations treaty bodies, engagement with the special procedures of the Human Rights Council, and the strategic use of individual communications procedures under international human rights treaties. The author also analyses the legal framework for the protection of human rights defenders and considers the significance of the United Nations Declaration on Human Rights Defenders, 1998,³⁷ for NGO activists operating in hostile and restrictive environments.

The analysis of NGO participation in human rights enforcement continues in Chapter 10, “Regional Machinery”, which discusses the main regional systems: the European Convention on Human Rights machinery, the Inter-American human rights system and the African Charter system.³⁸ The comparative treatment of these three systems is useful for highlighting both the points of convergence and the important regional differences in the level and nature of NGO involvement in the regional systems. The chapter could have been more comprehensive in its treatment of the ASEAN human rights mechanism, particularly in light of the increasingly significant role played by civil society in regional governance within ASEAN. Nevertheless, this omission is relatively minor and does not detract from an otherwise thorough and well-balanced survey of regional human rights systems.

31 UN General Assembly, Universal Declaration of Human Rights, GA Res 217 A (III), GAOR, UN Doc A/RES/217(III) (December 10, 1948).

32 International Covenant on Civil and Political Rights, 999 UNTS 171 (December 16, 1966).

33 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 UNTS 85 (December 10, 1984).

34 Rome Statute of the International Criminal Court, 2187 UNTS 90 (July 17, 1998).

35 *Supra* note 5, at 195–221.

36 *Id.* at 223–245.

37 UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, GA Res 53/144, GAOR, UN Doc A/RES/53/144 (December 9, 1998).

38 *Supra* note 5, at 247–270.

Chapter 11, “Protection of the Environment”, discusses the contribution and involvement of NGOs in the process of the development and enforcement of international environmental law.³⁹ The author traces the evolution of the international environmental movement from the Stockholm Conference of 1972⁴⁰ to the Rio Earth Summit of 1992⁴¹, including the adoption of the Convention on Biological Diversity⁴², the United Nations Framework Convention on Climate Change⁴³, and, more recently, the Paris Agreement⁴⁴. The chapter effectively demonstrates the unique role that NGOs have played in advancing sustainable development, both by influencing treaty negotiations and by monitoring States implementation of their obligations under multilateral environmental agreements (MEAs). In particular, the discussion of Greenpeace’s contribution to the negotiation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal⁴⁵, as well as the World Wide Fund for Nature’s (WWF) role in shaping biodiversity conservation law, is well-developed and provides valuable insight into the growing significance of civil society in international environmental governance.

Chapter 12 provides insight into the growing internationally oriented “Business Ethics”, which includes NGO involvement in corporate governance and corporate social responsibility.⁴⁶ The author analyses how NGOs have influenced the UN Global Compact⁴⁷, the Guiding Principles on Business and Human Rights (the ‘Ruggie Principles’)⁴⁸ and various voluntary certification and labelling programmes for various industries, including the extractive industries, fisheries and forestry. The tension between an adversarial and collaborative approach to NGO-corporate relations is more complex and nuanced, and represents the complexity of civil society’s relationship with private economic power in the current global order.

39 *Id.* at 271–304.

40 *Declaration of the United Nations Conference on the Human Environment*, UN Doc. A/CONF.48/14/Rev.1 (June 16, 1972).

41 *Rio Declaration on Environment and Development*, adopted at the United Nations Conference on Environment and Development, Rio de Janeiro, 14 June 1992, UN Doc. A/CONF.151/26 (Vol. I) (1992).

42 Convention on Biological Diversity, 1760 UNTS 79 (opened for signature on June 5, 1992, entered into force on December 29, 1993).

43 United Nations Framework Convention on Climate Change, 1771 UNTS 107 (opened for signature on May 9, 1992, entered into force on March 21, 1994).

44 Paris Agreement, TIAS No. 16-1104 (adopted on December 12, 2015, entered into force on November 4, 2016).

45 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1673 UNTS 57 (adopted on March 22, 1989, entered into force on May 5, 1992).

46 *Supra* note 5, at 305–336.

47 UN Secretary-General, *The Global Compact* (2000).

48 Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, UN Doc. A/HRC/17/31 (March 21, 2011).

Part IV: Recent developments

Chapter 13, titled “NGO Accountability”, addresses one of the central questions confronting the contemporary NGO sector: if NGOs claim to represent civil society and participate in international governance processes, what mechanisms of accountability exist to regulate and constrain the exercise of their influence and authority?⁴⁹ The author examines the emergence of new regimes of NGO self-regulation, including the INGO Accountability Charter⁵⁰, and engages with the growing body of scholarship on the legitimacy and accountability of NGOs. The chapter also analyses the increasing tendency of States to enact legislation regulating the activities of NGOs, particularly through restrictions on foreign funding and the involvement of foreign nationals in domestic civil society organisations. It offers an incisive discussion of issues relating to transparency, financial accountability, internal governance, and the contested representativeness of NGOs in international law-making. In doing so, the chapter makes a significant contribution to the normative debate on the conditions under which NGO participation in international law-making may be regarded as democratically legitimate.

The “Case Study” chapter (Chapter 14) looks closely at the five big NGOs: Amnesty International, Human Rights Watch, Greenpeace, Transparency International, and MSF, to explore their constitutional provisions, tasks, working methods and role in international law in the areas covered in the preceding chapters.⁵¹ This chapter provides a convenient empirical basis for the theoretical analyses that follow in the rest of the book, and it includes representatives of organisations working in the spheres of human rights, the environment, anti-corruption and humanitarian issues.

The architectural comprehensiveness of the book is among its most noteworthy strengths. By bringing together these diverse issues within a single volume and analysing them through a coherent doctrinal framework across the principal branches of contemporary international law, Professor Rai has produced a valuable and enduring reference work. His systematic treatment of questions relating to the international legal personality of NGOs, consultative status before international organisations, and *amicus curiae* participation before international courts and tribunals is particularly commendable. The book will be of considerable value to lawyers, practitioners, and scholars seeking a rigorous and systematic account of the positive legal framework governing NGO participation in international institutions and international adjudication.

49 *Supra* note 5, at 339–362.

50 Accountable Now, *INGO Accountability Charter* (2006), available at: <https://accountablenow.org/charter/> (last visited on July 10, 2026).

51 *Supra* note 5, at 363–388.

The work's interdisciplinary dimension is also a great strength. The author is well versed in civil society theory and stakeholder theory as well as social movements and public policy and so is able to add to the work beyond a purely doctrinal legal perspective. Such an interdisciplinary method is appropriate as the NGO phenomenon is not a matter of law and therefore is not simply one law but rather shaped by both political and sociological forces in the context of modern-day civil society. By linking legal theory to these kinds of broader theoretical frameworks, the book presents a deeper and richer picture of the capacity of NGOs in international law and global governance.

Although the book is a comprehensive one and makes a contribution to the study of NGOs in international law, some aspects could be further developed in future editions. The introduction on the philosophical basis of civil society is noteworthy but a discussion of doctrinal framework of international law would have benefited the entire text as well. A more detailed analysis of the jurisprudence of treaty bodies, the WTO dispute settlement system, and regional human rights courts on NGO participation would have added to the analysis. Regional human rights mechanisms are informative but more attention to the emerging developments in Africa and Asia would have augmented the comparative lens.

Likewise, given the rapidly changing nature of civil society, future editions may add to the discussion of the digital nature of the challenges, to include the emergence of digital NGOs, social media used as a means of advocacy and mobilisation, and the role of digital activism for international law. These themes should not detract from the substance of the work and rather suggest where an already solid contribution to the literature can be further developed in light of the development of international law and global governance.

Non-Governmental Organisations and International Law (2024) is a very important and timely contribution to the work of NGOs in international law. The book is a comprehensive and systematic account of the legal status, functions, and institutionalization of NGOs in the current international legal order. It is a valuable document for students and scholars in public international law, international human rights law, international environmental law, and the law of international organisations to understand the legal aspects of NGOs engaging in global governance. The coverage of institutional systems of governance in which NGOs work with international organisations and participate in international adjudication will be also very valuable for practitioners involved in international advocacy, compliance, and dispute resolution. In the same way, the interdisciplinary approach to the study of policy research, NGO practitioners, political scientists, sociologists, and public administration provides a well-articulated and unified view of NGO work in the context of the normative structure of international law and international governance.

By drawing on international scholarship and NGO practice in the developing world, and the experiences of NGOs working with NGOs, Professor Prahlad Rai provides a perspective which adds to the existing international legal scholarship. With a strong doctrinal analysis in conjunction with other related fields, this book fills an important gap in the literature and makes a fundamental contribution to the way NGOs are being perceived as more and more relevant actors in international law.

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