

CSI REVIEW SERIES

A study of WHO's Official Relations system with Nongovernmental Organizations

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External Relations and Governing Bodies



WORLD HEALTH ORGANIZATION

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1. Introduction

The Civil Society Initiative (CSI) was launched by Dr Brundtland at the World Health Assembly (WHA) in May 2001. Its purpose is to undertake a review of both official and informal relations between WHO and Civil Society Organizations (CSOs); to develop a renewed policy for more effective collaboration, information exchange and dialogue with CSOs and improve the support offered by WHO to Member States in their work with NGOs and CSOs¹.

2. Objectives

This study is one part of the review mentioned above. It focuses on the system for formal relations with NGOs hereafter referred to as the "Official Relations" system (OR). This was set up according to paragraph 2 and 4 in the "Principles governing relations between WHO and NGOs" established at the 1987 World Health Assembly [Resolution: WHA 40.25].

The study will examine the relevance and effectiveness of the OR system and will serve as a tool for improving WHO procedures.

The source used for this study is CSI documentation on interviews conducted with a variety of staff from NGOs, WHO and other United Nations organizations.

3. The reasons for the study

This study has been prompted by the wish by the Director-General to review the official relations system. The following three main problems were identified at an early stage.

3.1 The efficiency and relevance of the OR system has been questioned

The procedure for entering into OR takes between three and four years. It has variously been described as "long", "bureaucratic", "demanding" and "formal". Work plans and reports which must be submitted in order to retain OR status are often seen as "cumbersome" exercises. The view is often expressed that the OR system overlooks the most important NGOs and favour NGOs from the North. NGOs without OR can only attend Governing Bodies (GB) meetings as part of the public or under the umbrella of other NGOs; they feel that their capabilities are not recognized by WHO.

¹ In the context of the present study, it was thought wiser to avoid entering into a theoretical debate on the distinction between NGOs and CSOs. Consequently, here we shall use the terms "non-governmental organization" and the acronym "NGO" to designate all those organizations that are neither part of the public authorities nor for-profit entities in the narrow sense.

Concerns are often expressed that the commercial or political interests of organizations in OR may take precedence over their pursuit of WHO's goals. Many of those interviewed expressed concern over a potential conflict of interest. WHO departments do not consider OR to be an advantage in its own right when selecting NGO partners for collaboration.

3.2 The number of NGOs with official relations status is less than the number of NGOs in informal relations

Currently, 189 NGOs are in OR with WHO. An inventory made by CSI in 2001 showed that an additional 240 NGOs have relations with WHO at Headquarters level but are not in OR. This means that more than 55 % of all relations are not official. It is likely that several hundred other NGOs have relations with WHO at regional and national levels.

3.3 The Official relations system is not effective for WHO Regional and Country relations

The list of the regional or national associations of NGOs belonging to an international NGO is often used for invitations to RO meetings. Other regional or national NGOs, which may be more relevant or culturally useful, but which do not form part of an international NGO, are not invited.

At present, the Principles (5.1 to 5.3 and 6.3) are too vague to offer clear guidance for Regional Offices or Regional Committees: the use of the words "working relations" is not clear; it may be argued that its meaning is not in line with the rest of the Principles.

4. The legal aspects

The legal basis for all aspects of the relations between WHO and NGOs is contained in four texts in the "Basic Documents":

- the WHO Constitution
- the Rules of Procedure of the World Health Assembly
- the Rules of Procedure of the Executive Board
- the "Principles governing relations between the World Health Organization and non-governmental organizations" (the "Principles), established at the 1987 World Health Assembly by Resolution WHA 40.25.

These texts are analysed in Annex 1.

5. The procedures for "Official Relations"

The procedures for obtaining OR and for maintaining relations after three years are elaborated in the Principles.

5.1 The application and review procedure

In order for an application for official relations to be considered, an NGO must have had working relations for at least two years, and a joint 3-year work plan with a technical WHO department.

Since the term “working relations” has a very specific meaning in the Principles, an NGO may well have relations of work with WHO without it being possible to refer to them as “working relations”. Similarly, relations between a given NGO and WHO may be official although it would not be accurate to describe them as “official relations”.

The 3-year plans for collaboration are not aligned to the WHO’s 2-year work plans and their contents vary greatly in quality and depth. The 3-year review reports suffer from the same lack of consistency and are frequently delayed. The system is considered to be bureaucratic.

There seem to be a variety of reasons which could explain why NGOs not having OR do not apply for it: it may be that they do not fulfil the criteria. It may also be that they consider the requirement of a joint work plan to be a) too demanding with respect to their resources or b) a threat to their independence.

5.2 The role of the Executive Board

The Principles state that the EB should decide on the admission of NGOs into OR and they empower the EB to review their status periodically. The Principles also define what criteria and what procedure to respect in such situations. They also define the role of the EB’s Standing Committee on Non-Governmental organizations (EB SC).

In recent years, the report from the Secretariat summarizing the new applications and the 3-year review reports has been approved with very few questions, whether at the SC meeting itself or when the Chair of the SC has reported to the EB.

6. Analysis of the use of privileges of NGOs in OR

6.1 Attendance of NGOs at meetings of EB and WHA

Over the last four years, an average of 55 NGOs (or 25% of those in OR) have attended the January sessions of the EB, with an average of 125 persons registered.

For the WHA, the figure for NGOs was approximately 75 (or 40 % of those in OR), involving some 330 persons, and representing around 20 % of the total number of delegates. The composition of the mix of NGOs attending has remained more or less unchanged over this period.

Most delegations only include one or two persons, but a few delegations are very large: at the 55th session of the WHA (2002), one NGO even included 46 delegates. This is explained by the fact that some NGOs act as umbrellas for others: they welcome into their delegation persons from other NGOs which do not have OR with

WHO – either because the latter do not qualify for it, or because they have not applied for it.

In other cases, NGO representatives may decide to attend as part of the public, although this does not allow them to wear a badge to identify the organization they represent. Certain NGOs state that attending the statutory meetings is of great value for networking, providing and receiving information and keeping abreast of current issues. In their view, there is no doubt that, as a matter of principle, NGOs should continue to have the right to attend as observers. However, others feel that limits should be placed on the number of NGOs enjoying this right. Others still would prefer the system to be more open and flexible. This difference of views also prevails among WHO staff.

There are two contrasting trends: on one hand, about 60 % of NGOs with OR do not attend GB meetings; on the other hand, a number of NGOs without OR want to attend and do so under an “umbrella” NGO or as part of the “public”.

The fact that certain NGOs with OR do not attend GB meetings may be linked to various factors such as: the agenda does not include areas of their specific interest or work and lack of resources in terms of personnel or budget. Some NGOs may also be more interested in the official recognition provided by the “OR” title than by the Governing Bodies meetings themselves.

6.2 The right to make a statement

Over the last four years, an average of between 15 to 25 % of the NGO delegations present at Governing Bodies meetings have made statements. In total, this has resulted in between 8 and 18 statements per session of the EB or WHA see .

Some NGO representatives state that it is important to have the possibility to speak. However, the majority consider the process and conditions to be complex. The fact that they are limited to a pre-submitted speech makes it impossible to participate fully in the debate (e.g., to react to unforeseen issues arising out of the discussion).

No evidence was found on the practice of a distinction established by the Principles between “statements of an expository nature” and “additional statements for purposes of clarification” (6.1).

The right to make a statement should undoubtedly be retained. However, if the number of NGOs exercising the right to make statements were to increase significantly, this would need to be managed strictly by the Secretariat. Joint statements from groups of NGOs need to be encouraged.

6.3 Access to non-confidential documents

For NGOs, this right is more important for the saving that it represents in costs rather than in terms of ease of access to information: WHO does not restrict information only to NGOs having OR. In addition, the fact that this dissemination of information is made at the discretion the Director-General means that this advantage for NGOs can hardly be described as a real “privilege”.

Since documents related to Governing Bodies meetings are fully available on the Internet, this OR privilege is not significant.

6.4 The right to submit a memorandum

No evidence has been found of memoranda being submitted in relation to this provision. However, memoranda submitted by NGOs with OR may not provoke any response (beyond a simple acknowledgment of receipt), while a memorandum from an NGO not having OR can on occasion succeed in being seriously considered.

A genuine commitment on the part of WHO to pay attention to the concerns of NGOs would appear more useful than conferring on NGOs the right to write something that the Organization is free to disregard. In practice, therefore, this is not an essential privilege.

7. Recommended changes

This analysis highlights a number of changes which should be incorporated into any new system or strategy:

7.1 Breaking the link between collaboration with WHO Secretariat and participation in Governing Bodies meetings:

The Principles establish a link between two elements: collaboration between WHO and an NGO on the one hand, and on the other hand participation of that NGO at the meetings of WHO Governing Bodies (GB).

The only real privilege conferred by OR status (apart from the sense of recognition that OR status may encourage) is the right to attend GB meetings. However, this status does not give the organization concerned the right to be consulted. Consequently, it is debatable whether the criterion of “collaboration” should be used as the basis for granting OR status. It would seem more appropriate for both aspects - collaboration with the Secretariat and attendance at GB meetings – to be kept separate.

It is true that collaboration between NGOs and WHO needs to be more effective. It is therefore essential for WHO to know who its partners are. The terms under which collaboration should take place need to be transparent and sometimes formal. In this context, the 3-year work plans required by the current Principles may be useful, but there is no reason to link them with attendance at GB meetings. In addition, all WHO relations with NGOs need to be screened in a similar way as is done for WHO’s other relations (e.g., for experts invited to Consultations). Existing WHO guidelines for “Declaration of Interest” for individuals should be modified so that they can be used to manage a conflict of interest in organizations.

7.2 A more efficient system for recognizing NGOs qualifying for attendance at GB meetings

As is the case with other UN agencies, WHO will continue to need an accreditation system for NGOs as a base for invitation to GB meetings. Any new system for selecting observers to attend meetings of Governing Bodies should be part of a broader strategy dealing with various types of relationships between WHO and NGOs.

Clear criteria and processes are needed to enable NGOs to attend and address such meetings. The fundamental criteria for inviting any observer to a GB meeting should be the mutual benefits brought by that observer's attendance. These mutual benefits should be understood to involve not only the right to speak before the meeting, but also (and mainly) as the opportunity to network and to communicate with delegates of Member States, WHO staff and representatives from other NGOs.

A new strategy should clearly acknowledge that attendance at GB meetings is only one of the various types of relationship between NGOs and WHO. In other words, the arrangements defined in article 18.h of the Constitution are only one of the various forms of collaboration and consultation referred to in article 71 of the Constitution.

The OR system provides for each qualifying NGO to be assigned a Designated Technical Officer (DTO) at the collaborating WHO department. This system works well provided that the persons concerned remain in their posts. In the past, however, this has not always been the case. A functional approach, based on contacts at department level and knowledge about NGOs in their area of expertise, may be more efficient in a future system.

ANNEX I

The legal basis for the OR system

The legal basis for all aspects of the relations between WHO and NGOs is constituted of four texts: the WHO Constitution, the Rules of Procedure of the World Health Assembly, the Rules of Procedure of the EB and the “Principles governing relations between the World Health Organization and non-governmental organizations” (the “Principles”).

1) *The WHO Constitution*

Several articles of the WHO Constitution deal with relations with NGOs. They establish the following:

- One of the functions of the Organization, i.e.: the establishment and maintenance of effective collaboration with
 - “the United Nations, specialized agencies, governmental health administrations, *professional groups and such other organizations as may be deemed appropriate*”. (article 2.h)
- The establishment of relations between the WHO Director-General and various organizations:
 - “The Director-General or his representative may establish a procedure by agreement with Members, permitting him, for the purpose of discharging his duties, to have direct access to their various departments, especially to their health administrations and to *national health organizations, governmental or non-governmental*. He may also establish direct relations with *international organizations* whose activities come within the competence of the Organization. He shall keep regional offices informed on all matters involving their respective areas.” (article 33).
- Consultation and co-operation with various organizations:
 - “The Organization may, on matters within its competence, make suitable arrangements for *consultation and co-operation with non-governmental international organizations* and, with the consent of the Government concerned, with national organizations, governmental or non-governmental.” (article 71).
- The function of the Health Assembly in respect of invitations to meetings as an observer, i.e.:
 - “to invite any organization, *international or national, governmental or non-governmental*, which has *responsibilities related to those of the Organization*, to appoint representatives to participate, without right of vote, in its meetings or in those of the committees and conferences convened under its authority, on conditions prescribed by the Health Assembly; but in the case of national organizations, invitations shall be issued only with the consent of the Government concerned” (article 18.h).

This article defines the general conditions under which NGOs and other organizations can attend WHO meetings. Four key elements can be identified:

- an organization can be invited only if its responsibilities are related to those of WHO;
 - attendance does not include the right to vote;
-

- the other conditions for participation should be established by the WHA;
- the consent of the Government concerned is required for inviting national NGOs, as also established by articles 33 and 70 for other types of relationship.

Unless Member States decide to modify the Constitution, these elements will constitute limits to the evolution of the system. They also require that any modification of the conditions of participation receive the approval of the WHA.

It is also worth mentioning that none of the provisions of the Constitution related to WHO regional organizations include a provision on observers, apart from a reference to the fact that regional committees should adopt their own rules of procedure. These rules may therefore include the possibility for NGOs to attend meetings of the regional committees as observers¹.

2) The Rules of Procedure of the WHA

Two provisions are relevant in regard to the OR system:

“Plenary meetings of the Health Assembly will, unless the Health Assembly decides otherwise, be open to attendance by (...) invited representatives of the United Nations and of other participating intergovernmental and non-governmental organizations admitted into relationship with the Organization.” (Rule 19).

“Representatives of non-governmental organizations with which arrangements for consultation and co-operation have been made, in accordance with Article 71 of the Constitution, may be invited to attend plenary meetings and meetings of the main committees of the Health Assembly and to participate without vote therein in accordance with those arrangements, when invited to do so by the President of the Health Assembly or by the chairman of a main committee, respectively.” (Rule 49).

Rule 19 introduces the concept of “admission into relationship”, while Rule 49, which merely reiterates Article 18.h of the Constitution, is also related to the right to speak before the meetings of the WHA.

3) The Rules of Procedure of the EB

The participation of observers at EB meetings are dealt with by the Rules of Procedure of the EB:

“Representatives of nongovernmental organizations in official relations with the Organization may participate in the deliberations of the Board as is provided for participation in the Health Assembly in the <<Principles governing relations between the World Health Organization and non-governmental organizations>>.”(Rule 4, § 2).

This article mentions the titles “Principles governing relations between the World Health Organization and non-governmental organizations” and “official relations”. Therefore, unless the Rules of Procedure were be amended by the EB, any re-naming of these titles would require the Rules of Procedure to be interpreted.

¹ This issue should be explored more in-depth. However, Rules of Procedure of the Regional Committee for Europe do not include any provision on this aspect.

4) The “Principles governing relations between the World Health Organization and non-governmental organizations” (Principles)

The Principles, adopted by the WHA in 1987 (Annex 2) are the most detailed element of the OR system legal basis. The Principles stipulate that “WHO recognizes only one category of formal relations, known as official relations” and that “(a)ll other contacts, including working relations, are considered to be of an informal character” (2.1).

The relations between an NGO and WHO follow a process which starts with “first contacts” made in order to “create mutual understanding and assist in developing mutual interests” (2.3). Informal contacts of this type “may continue on an *ad hoc* basis without time limit and without written agreement” (2.3).

Collaboration may be taken a stage further, i.e., by establishing “working relations”. This is a period, normally of a temporary character, which starts with an exchange of letters on collaboration. It is intended to “last usually two years” (2.4) and to lead, if collaboration is successful, to “official relations”.

4.1 The privileges of NGOs with OR²

- a. Participation at meetings of WHO Governing Bodies
- b. The right to make a statement

The “Principles” (6.1.i), stipulate that an NGO having OR has

“the right to appoint a representative to *participate, without right of vote*, in WHO’s meetings or in those of the committees and conferences convened under its authority, on the following conditions:

whenever the Health Assembly, or a committee or conference convened under WHO’s authority, discusses an item in which a related NGO is particularly interested, that NGO, at the invitation of the chairman of the meeting or on his acceding to a request from the organization, shall be entitled to *make a statement* of an expository nature, and may, with the consent of the meeting, be invited by the chairman to make, in the course of the discussion of the item before the meeting, an additional statement for purposes of clarification”.

Therefore, participation at WHO Governing Bodies meetings includes two elements: attendance and the possibility to make a statement.

- c. The right to submit a memorandum

According to the Principles (6.1.iii), an organization having OR has

“the right to *submit a memorandum* to the Director-General, who would determine the nature and scope of the circulation”.

¹ Annex 2 included at the end of the document.

² The NGOs having OR may also enjoy other benefits such as the purchase of medical supplies and equipment for public health programmes at reduced costs, at the discretion of the Director-General. But these are derived from the practice and not necessarily reserved to NGOs having OR. Deciding which organizations enjoy this benefit should be kept to the appreciation of the Secretariat, as it is for the time being.

The Principles also include another provision (6.2) regarding the follow-up that the Director-General may want to give to a memorandum:

“In the event of a memorandum being submitted which the Director-General considers might be placed on the agenda of the Health Assembly, such memorandum shall be placed before the Executive Board for possible inclusion in the agenda of the Assembly.”

4.2 The responsibilities of NGOs with OR

The Principles (part 7) define the responsibilities of NGOs having OR. All responsibilities relate to concrete collaboration, especially to the idea that NGOs must assist WHO in implementing its statutory tasks. These responsibilities are as follows:

- the implementation of the mutually agreed programme of collaboration;
- the duty to inform WHO as soon as possible if for any reason they are unable to fulfil their part of the agreement they have with WHO;
- the exploitation of opportunities available to them through their normal work in order to disseminate information on WHO policies and programmes;
- individual or collective collaboration in WHO programmes so as to further health-for-all goals;
- individual or collective collaboration with the Member States where their activities essentially concern the implementation of national/regional/global health-for-all strategies.

The link between these responsibilities and concrete aspects of collaboration reflects the overall link between OR and collaboration.

ANNEX 2

WHA40.25 Principles Governing Relations between WHO and Nongovernmental Organizations

The Fortieth World Health Assembly,

Recalling Article 71 of the Constitution whereby WHO may make suitable arrangements for consultation and cooperation with nongovernmental organizations in carrying out its international health work;

Recalling that the Working Principles Governing the Admission of Nongovernmental Organizations into Official Relations with WHO were adopted by the First World Health Assembly and amended by the Third, Eleventh and Twenty-first World Health Assemblies (resolutions WHA1.130, WHA3.113, WHA11.14 and WHA21.28);

Recognizing the important role of nongovernmental organizations, as emphasized by the Thirty-eighth World Health Assembly in resolution WHA38.31, and the complementarity of the resources they represent in the network of governments, peoples and WHO striving for health development;

Emphasizing the need to mobilize national and international nongovernmental organizations for accelerated implementation of health-for-all strategies;

Taking into account the usefulness of a broad framework dealing with the development of informal relations with nongovernmental organizations as well as with their admission into official relations with WHO;

DECIDES to adopt the revised Principles Governing Relations between the World Health organization and Nongovernmental Organizations. 1