

# SEARCHING FOR AN ADVOCACY VENUE: HOW LGBTI ORGANIZATIONS ARE GETTING ACCESS TO THE UNITED NATIONS

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*Social movement scholars are showing a growing interest for lesbian, gay, bisexual, transgender, and intersex (LGBTI) activism. This article aims to address the LGBTI advocacy towards international organizations by studying the applications of 12 LGBTI organizations for consultative status at the United Nations Economic and Social Council between 2006 and 2014. In doing so, this article collects official reports from the Committee on Nongovernmental Organizations and the Economic and Social Council. This article argues that the general assumption that LGBTI organizations have had limited or no access to the work of the United Nations is unfounded. Indeed, through textual analysis it is found that LGBTI organizations have had the favor of some sympathetic country delegates who have helped them in achieving consultative status.*

This article discusses the case of the application to consultative status of LGBTI (lesbian, gay, bisexual, transgender, and intersex) organizations. Between 2006 and 2014, the Committee on Nongovernmental Organizations (NGOs Com) decided on the consultative status of 12 LGBTI organizations.<sup>1</sup> All of these nongovernmental organizations (NGOs) have eventually been granted consultative status, but nine had first been rejected by the NGOs Com and then the decision was overturned by the United Nations Economic and Social Council (ECOSOC). This paper aims to explain this dynamic with

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1 The 12 organizations include: the European branch of the International Lesbian Gay Bisexual Trans Intersex Association (ILGA Europe) (2006), Danish National Association for Gays and Lesbians (2006), Lesbian and Gay Federation in Germany (2006), Coalition gaie et lesbienne du Québec (2007), Federación Estatal de Lesbianas, Gays, Transexuales y Bisexuales (2008), Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit (COC Nederland) (2008), Associação Brasileira de Gays, Lésbicas e Transgêneros (2009), International Gay Lesbian Human Rights Committee (IGLHRC – now OutRights International) (2010), International Lesbian Gay Bisexual Trans Intersex Association (ILGA) (2011), Australian Lesbian Medical Association (ALMA) (2013), Homosexuelle Initiative Wien (2013), and Allied Rainbow Community International (ARC International) (2014).

a social movement theoretical framework, and in particular, through the lenses of the political opportunity approach.

LGTBI activism has become critical to the social movement debate.<sup>2</sup> Scholar Sidney Tarrow has noted that the majority of social movement academics study social movements with a primary focus on the domestic perspective,<sup>3</sup> with a particular country focus,<sup>4</sup> or on comparative study between two or more countries.<sup>5</sup> Among these country-focused studies, two essay collections analyzed a large number of country-based LGBTI social movements and then drew conclusions on the LGBTI social movement from a global perspective. First, Adam, Duyvendak, and Krouwel found that LGBTI social movements are more likely to be successful in consensus democracies; in countries that recognize minority groups; countries with a powerful left-wing coalition; and countries where homosexual conduct is legal.<sup>6</sup> Second, Tremblay, Paternotte, and Johnson found that LGBTI social movements can be more successful in consociational democracies – i.e. countries characterized by several cultural, religious, and ethnic differences; in countries organized as federative states; and when radical state transformations and political ruptures occur.<sup>7</sup> Although both essay collections flagged the relevance of a “global” or “transnational” LGBTI social movement,<sup>8</sup> they still focus on political domestic factors. Indeed,

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2 See especially David Paternotte and Manon Tremblay, *The Ashgate Research Companion to Lesbian and Gay Activism* (Farnham, Burlington: Ashgate, 2015).

3 Sidney G. Tarrow, *The New Transnational Activism* (New York: Cambridge University Press, 2005), 24.

4 Verta A. Taylor and Mary Bernstein, *The Marrying Kind? Debating Same-Sex Marriage within the Lesbian and Gay Movement* (Minneapolis: University of Minnesota Press, 2013); Mary Bernstein, “Identities and Politics: Toward a Historical Understanding of the Lesbian and Gay Movement,” *Social Science History* 26, no. 3 (2002); Robert Rhodes-Kubiak, *Activist Citizenship and the LGBT Movement in Serbia: Belonging, Critical Engagement, and Transformation* (New York: Palgrave Macmillan, 2015); Lynette J. Chua, “Pragmatic Resistance, Law, and Social Movements in Authoritarian States: The Case of Gay Collective Action in Singapore,” *Law & Society Review* 46, no. 4 (2012); Lynette J. Chua and David Gilbert, “Sexual Orientation and Gender Identity Minorities in Transition: LGBT Rights and Activism in Myanmar,” *Human Rights Quarterly* 37 (2015).

5 Stephen M. Engel, *The Unfinished Revolution: Social Movement Theory and the Gay and Lesbian Movement* (Cambridge: Cambridge University Press, 2001); Ana Cristina Santos, *Social Movements and Sexual Citizenship in Southern Europe* (Houndmills: Palgrave Macmillan, 2013); Lynette J. Chua and Timothy Hildebrandt, “From Health Crisis to Rights Advocacy? HIV/AIDS and Gay Activism in China and Singapore,” *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations* 25, no. 6 (2014).

6 Barry D. Adam, Jan Willem Duyvendak, and André Krouwel, *The Global Emergence of Gay and Lesbian Politics* (Philadelphia: Temple University Press, 1999), 350–369.

7 Manon Tremblay, David Paternotte, and Carol Johnson, *The Lesbian and Gay Movement and the State Comparative Insights into a Transformed Relationship* (Burlington: Ashgate, 2011), 214–218.

8 Adam, *The Global Emergence of Gay and Lesbian Politics*, 368; Tremblay, *The Lesbian and Gay*

there are still a limited number of works that directly use social movement paradigms to explain LGBTI advocacy from a transnational and international perspective.

This article aims to tackle such a gap in the scholarship by addressing LGBTI NGOs' access to the work of the UN. Looking at NGOs as a way to study social movements places the article within the realm of scholarship that recognizes a growing NGOization – intended as professionalization, institutionalization, and bureaucratization – of social movements.<sup>9</sup> The formal procedure for NGOs to collaborate with some UN organs is through obtaining consultative status with the ECOSOC. This consultative status comports legal privileges like being able to submit written communications to some UN organs and participating in human rights conferences organized by the UN itself. Moreover, obtaining consultative status is a very important step for NGOs to become recognized as international actors.<sup>10</sup> In particular, Thoreson has noted that the accreditation of LGBTI organizations to the ECOSOC has more important social meanings than the legal privileges because “ECOSOC has been a deeply symbolic venue for LGBT NGOs seeking recognition in the human rights arena.”<sup>11</sup>

The three primary factors that impact the success of social movements at the UN are access, allies, and political alignments.<sup>12</sup> A systematic study of these three factors is useful in uncovering the complex dynamics of the LGBTI advocacy at the UN. However, for reasons of brevity, the scope of this paper is limited to the first two features, because both are strongly related to each other. Indeed, Joachim has explained that when NGOs participate in the work of the UN, they can connect with sympathetic state representatives, UN functionaries, and the media.<sup>13</sup> In other words,

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*Movement and the State Comparative Insights into a Transformed Relationship*, 216.

9 Sabine Lang, *NGOs, Civil Society, and the Public Sphere* (Cambridge: Cambridge University Press, 2013); Kiyoteru Tsutsui, Claire Whitlinger, and Alwyn Lim, “International Human Rights Law and Social Movements: States’ Resistance and Civil Society’s Insistence,” *Annual Review of Law and Social Science* 8, no. 1 (2012); David Paternotte, “The NGOization of LGBT Activism: ILGA-Europe and the Treaty of Amsterdam,” *Social Movement Studies* 15, no. 4 (2015).

10 Kerstin Martens, “Bypassing Obstacles to Access,” *Human Rights Review* 5, no. 3 (2004): 82.

11 Ryan R. Thoreson, *Transnational LGBT Activism: Working for Sexual Rights Worldwide* (Minneapolis: University of Minnesota Press, 2014), 200.

12 Some social movement theorists add a fourth element called “repression.” However, Sikkink explained that repression can be seen as an aspect of access; indeed, the author continued, repression is an extreme form of excluding social movements to political participation. Kathryn Sikkink, “Patterns of Dynamic Multilevel Governance and the Insider-Outsider Coalition,” in *Transnational Protest and Global Activism: People, Passions and Power*, eds. Donatella Della Porta and Sidney G. Tarrow (London: Rowman & Littlefield Publishers, 2004), 155.

13 Jutta Joachim, “Framing Issues and Seizing Opportunities: The UN, NGOs, and Women’s Rights,”

when NGOs have access to UN work, they also have the possibility to construct powerful alliances. Since the application for consultative status is obtained with the favorable vote of UN member states, LGBTI NGOs already have allies in sympathetic country delegates, which help them in obtaining access to UN agendas. Although UN member states are highly divided on the topic of LGBTI rights,<sup>14</sup> LGBTI NGOs have had privileged access to the ECOSOC. After all, LGBTI NGOs have powerful allies who have pressured UN agencies – namely the NGOs Com and the ECOSOC – to grant them greater access in a virtuous circle of alliance-access-alliance.

First, the article briefly reviews the literature on LGBTI social movement theories regarding international organizations and political opportunities. Second, it presents a description of the NGOs consultative status decision process. Third, the article presents the case study of NGO applications for consultative status with the ECOSOC. In doing so, the article collects the official reports of the NGOs Com and of the ECOSOC and summarizes the discussions regarding the applications of 12 LGBTI NGOs. The analysis aims to show that LGBTI NGOs have received unusual treatment at the NGOs Com and at the ECOSOC. Finally, the third part of the article presents some conclusions on the consultative status application process.

### **The Political Opportunity Approach: Looking for an Advocacy Venue**

Social movement theories seek to explain why and how people gather together in groups to change some aspects of society, and under which circumstances social movements are successful in their actions. Social movement theories have developed a diverse methodology emphasizing three approaches: identity, resource mobilization, and political opportunity. Identity approaches look at how social movements frame identities to impact the international human rights discourse.<sup>15</sup> Meanwhile, resource mobilization approaches study the tactics chosen by social movements, and the ability to access money, labor, and leadership.<sup>16</sup> Finally, political

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*International Studies Quarterly* 47, no. 2 (2003): 251–252.

14 Francine D'Amico, "LGBT and (Dis)United Nations: Sexual and Gender Minorities, International Law, and UN Politics," in *Sexualities in World Politics: How LGBTQ Claims Shape International Relations*, eds. Markus Thiel and Manuela Lavinias Picq (London: Routledge, 2015).

15 Kelly Kollman, *The Same-Sex Unions Revolution in Western Democracies* (Manchester: Manchester University Press, 2013), 34.

16 Melinda D. Kane, "Social Movement Policy Success: Decriminalizing State Sodomy Laws, 1969–

opportunity approaches address the political and institutional factors that influence social movements' advocacy. This paper aims to deal primarily with a political opportunity approach.

Tsutsui, Whitlinger, and Lim have used social movement paradigms to study a country's compliance with international human rights law. With regards to the two political opportunity features in analysis in this study, the authors explain that the success or failure of a social movement depends upon the openness/closure of an institutionalized political system (access), and presence/absence of elite allies (alliance).<sup>17</sup> In particular, international human rights NGOs have provided social movements the access to "many new venues for contestation."<sup>18</sup> Furthermore, elite allies as powerful foreign governments and officers of UN agencies – for example, the High Commissioner for Human Rights – have been critical to the development of NGOs' advocacy efforts.

LGBTI NGOs have had difficulties in bringing their claims before the UN. Indeed, Tsutsui, Whitlinger, and Lim have argued that LGBTI NGOs have found serious difficulties in advocating for LGBTI rights at the UN because of a dynamic of "overextension." This means that social movements advocating for human rights might lose support when they advocate for issues that "go beyond what other social actors deem reasonable,"<sup>19</sup> as indeed sexual orientation and gender identity issues do.

Other authors have pointed out that LGBTI movements often find more points of access with European international organizations than at the UN. Ayoub and Paternotte have argued that in the 1980s, LGBTI movements historically preferred the Council of Europe to the UN. Activists considered the Council of Europe a more favorable venue for their advocacy. Indeed, from 1979 activists tried unsuccessfully to make the UN adopt an international convention eliminating all forms of discrimination based on sexual orientation. However, they ceased advocating such a convention when the European Court of Human Rights ruled favorably on the case of *Dudgeon v the United Kingdom*.<sup>20</sup> Dudgeon was a gay rights activist from Northern

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1998," *Mobilization: An International Journal* 8, no. 3 (2003): 317.

17 Tsutsui, "International Human Rights Law," 376.

18 *Ibid.*, 376.

19 *Ibid.*, 385.

20 *Dudgeon v United Kingdom* 45 Eur. Ct. H.R. (ser A) (1981). For a commentary on the case, see especially Paul R. Johnson, *Homosexuality and the European Court of Human Rights* (New York: Routledge, 2013), 46–61. For information regarding the nongovernmental advocacy around the case, see Mark Bromley and Kristine Walker, "The Stories of Dudgeon and Toonen: Personal Struggles to Legalize Sexual Identity," in *Human Rights Advocacy Stories*, eds. Deena R. Hurwitz,

Ireland<sup>21</sup> who argued the criminalization of sexual intercourse between same sex consenting adults violated his human rights. The Court found the United Kingdom in violation of the European Convention of Human Rights and was asked to repeal the law. Dudgeon signaled the first international adjudication in favor of a gay applicant. Ayoub and Paternotte have argued that European activists viewed the positive adjudication in Dudgeon as a signal of the different European attitude towards LGBTI issues.<sup>22</sup>

Swiebel has further explained this observation, noting that the political opportunities offered by the European Union (EU) have facilitated LGBTI advocacy in the European region. The LGBTI movement has been more successful at the EU in that it has been able to navigate the EU system by knowing “how the system works and how to work the system.”<sup>23</sup> On the other hand, the LGBTI movement at the UN has been unable to apply the same strategy because it was “not admitted to the ‘game.’”<sup>24</sup> In other words, LGBTI NGOs had acquired limited alliances and limited access at the UN.

On the contrary, this paper argues that LGBTI NGOs have steadily gained influence at the UN. In particular, through strategic and powerful alliances with Western European and American states, LGBTI NGOs have been successful in obtaining ECOSOC consultative status. Prior to analyzing the NGOs Com and ECOSOC official reports, the paper will describe the procedures under which NGOs are granted consultative status.

### **Consultative Status: NGOs Com and ECOSOC's Procedures**

The ECOSOC is composed of 53 member states of the UN, elected by the General Assembly.<sup>25</sup> The ECOSOC can initiate studies, make recommendations – both to UN member states and to UN agencies – and call international conferences on economic, social, cultural, and health-related matters, as well as human rights issues.<sup>26</sup> Article 71 of the Charter

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Margaret L. Satterthwaite, and Douglas B. Ford (New York: Foundation Press, 2008).

21 Michael D. Goldhaber, *A People's History of the European Court of Human Rights* (New Brunswick: Rutgers University Press, 2007), 33.

22 Phillip M. Ayoub and David Paternotte, “Challenging Borders, Imagining Europe: Transnational LGBT Activism in a New Europe,” in *Border Politics: Social Movements, Collective Identities, and Globalization*, eds. Nancy Naples and Jennifer Bickham Mendez (New York: NYU Press, 2014), 239.

23 Joke Swiebel, “Lesbian, Gay, Bisexual and Transgender Human Rights: The Search for an International Strategy,” *Contemporary Politics* 15, no. 1 (2009): 30.

24 Ibid.

25 United Nations, *Charter of the United Nations* art. 61, 24 October 1945, 1 UNTS XVI.

26 Ibid., art. 62.

of the UN allows the ECOSOC to make arrangements for consultation with NGOs, with resolution 1996/31 regulating such relationships.<sup>27</sup> NGOs can possess general consultative status when they “are concerned with most of the activities of the [ECOSOC];”<sup>28</sup> special consultative status when they “are concerned with some of the activities of the ECOSOC;”<sup>29</sup> and “Roster” status when they do not fall in either of the two categories, but when the ECOSOC considers that they “can make occasional and useful contributions”<sup>30</sup> to its work.

The procedure for granting consultative status to NGOs is as follows. First, the NGOs Com – a standing committee of the ECOSOC composed of 19 members – decides on whether to recommend granting consultative status to an NGO applicant. Second, upon the recommendations of the NGOs Com, the ECOSOC formalizes the decision on whether to grant the status, usually following the recommendations of the NGOs Com.<sup>31</sup> Martens has explained that the NGOs Com’s decisions can be “highly political” and argued that common practice for countries is to reject the application of NGOs that seek to undermine their authorities.<sup>32</sup> Aston has echoed this, saying that deferring NGOs applications and submitting further questions is a usual practice to postpone unwanted controversial decisions.<sup>33</sup> The NGOs Com receives hundreds of requests but can only decide upon a fraction of them. As a consequence, the application process for NGOs often lasts several years.<sup>34</sup> The following sections analyze in detail the LGBTI NGOs’ applications to consultative status.

### Speedy Rejection

Between 2006 and 2014, 12 LGBTI NGOs submitted applications to obtain ECOSOC consultative status. Contrary to Martens and Aston’s observations,

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27 Economic and Social Council Resolution 1996/31, *Consultative Relationship between the United Nations and Non-Governmental Organizations*, E/RES/1996/31 (25 July 1996).

28 *Ibid.*, para. 22.

29 *Ibid.*, para. 23.

30 *Ibid.*, para.24.

31 Jurij Daniel Aston, “The United Nations Committee on Non-Governmental Organizations: Guarding the Entrance to a Politically Divided House,” *European Journal of International Law* 12, no. 5 (2001): 949.

32 Martens, “Bypassing Obstacles to Access,” 83.

33 Jurij Daniel Aston, “The United Nations Committee on Non-Governmental Organizations: Guarding the Entrance to a Politically Divided House,” 950.

34 Martens, “Bypassing Obstacles to Access,” 83.

I demonstrate that initially some members of the NGOs Com applied an unusual strategy in order to block LGBTI organizations from obtaining consultative status. Indeed, an analysis of the NGOs Com records shows that some country delegates proposed to vote abruptly on the rejection of consultative status to LGBTI NGOs without allowing even a minimum level of discussion. This strategy was initially successful and LGBTI NGOs were denied access to the work of the UN. However, some country delegates sympathetic to LGBTI issues promoted the overturning of NGOs Com's recommendations at the ECOSOC, initiating a virtuous cycle of alliance that benefitted LGBTI NGOs.

The International Gay Lesbian Bisexual Trans and Intersex Association (ILGA) obtained consultative status at the ECOSOC in 1993, was suspended in 1994 for three years,<sup>35</sup> and was recommended to re-submit an application in 2000; however, this attempt was unsuccessful.<sup>36</sup> ILGA applied again for consultative status in 2006, but at the 5<sup>th</sup> session of the NGOs Com, the representative from Iran maintained that the answers provided by ILGA in its applications were not satisfactory and recommended that the NGOs Com not grant consultative status to ILGA.<sup>37</sup> The German delegate noted that the Iranian proposal was unprecedented because NGOs are usually given the opportunity to respond to additional questions if delegates are not satisfied.<sup>38</sup> Still, the Iranian proposal to deny consultative status to ILGA passed.<sup>39</sup> Moreover, at the same meeting, an application from the Danish National Association for Gays and Lesbians was discussed with the same outcome. Once the request for consultative status was denied, Denmark declared that "so many Committee members stood ready to reject, without deliberation, the application for consultative status of the organization,"<sup>40</sup> and that such behavior went against the principle of freedom from discrimination on the grounds of sexual orientation.

Four more LGBTI NGOs were rejected without the usual time allowed

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35 ECOSOC Resolution, 1994/L 48, *Arrangement for Consultation with Non-Governmental Organizations: Status of the International Lesbian and Gay Association with the Council E/1994/L 48* (25 January 1995). For further information on ILGA's consultative status suspension, see especially David Paternotte, "The International (Lesbian And) Gay Association and the Question of Pedophilia," *Sexualities* 17 (2014); Joshua Gamson, "Messages Of Exclusion: Gender, Movements, and Symbolic Boundaries," *Gender & Society* 11 (1997).

36 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2006 Regular Session* para. 36. E/2006/32 (Part I) (19-27 January 2006).

37 *Ibid.*, para. 37.

38 *Ibid.*, para. 41.

39 *Ibid.*, para. 49.

40 *Ibid.*, para. 54.



for discussion in 2006 and 2007. When some countries complained about the Iranian proposal to deny consultative status to the Lesbian and Gay Federation in Germany without discussion,<sup>41</sup> the representative from Pakistan backed up the Iranian position, remarking that the NGOs Com should not be forced to ask other questions if it did not wish to do so.<sup>42</sup> Similarly, Iran gave its usual proposal to reject ILGA Europe's application without further discussion. France noted that the speedy rejection was in violation of paragraph 5 of ECOSOC resolution 1996/31, which states that an NGO applying for consultative status "shall have the opportunity to respond to any objections being raised in the Committee before the Committee takes its decision."<sup>43</sup> Despite the controversy, the Iranian application was voted on and passed.<sup>44</sup>

Eventually, the NGOs Com recommended to not provide consultative status to any of the LGBTI NGOs that applied in 2006. However, the ECOSOC overturned all but one of these recommendations by the NGOs Com. The EU members recommended re-discussing the decisions of the NGOs Com on the consultative status of the Danish National Association for Gays and Lesbians, Lesbian and Gay Federation in Germany, and ILGA Europe. These three NGOs were granted consultative status with three draft resolutions issued by the ECOSOC. On that occasion, the representative of the Russian Federation expressed concerns that the ECOSOC was undermining the work of the NGOs Com.<sup>45</sup> NGOs Com's decision on ILGA's consultative status was re-discussed at the ECOSOC, but without overturning the NGOs Com's recommendation to deny ILGA consultative status.<sup>46</sup> Similar dynamics where LGBTI NGOs' applications for consultative status occurred in 2007 for the Swedish Federation for Lesbian, Gay, Bisexual, and Transgender Rights,<sup>47</sup> and Coalition gaie et lesbienne du Québec.<sup>48</sup> Both organizations

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41 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its Resumed 2006 Session* para. 24 E/2006/32 (Part II) (10-19 May 2006).

42 *Ibid.*, para. 32.

43 ECOSOC Resolution, *Consultative Relationship between the United Nations and Non-Governmental Organizations*.

44 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its Resumed 2006 Session*.

45 ECOSOC Resolution, *Provisional Summary Record of the 47th Meeting: Held at Headquarters E/2006/SR.47*, (11 December 2006).

46 ECOSOC Resolution, *Substantive Session of 2006, General Segment: Provisional Summary Record of the 34<sup>th</sup> Meeting*, 5-6. ILGA consultative status was discussed again a few years later, E/2006/SR.34.

47 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2007 Regular Session 17*, E/2007/32 (Part I), (22-31 January 2007).

48 *Ibid.*, 13.

found themselves faced with a speedy and unusual rejection at the NGOs Com. In a second round of negotiations, NGOs Com's decisions on the two organizations were overturned by the ECOSOC and both organizations were granted consultative status.<sup>49</sup>

In sum, NGOs Com members had initially proposed to vote on LGBTI NGOs' applications without allowing the usual time for discussion. In stressing this procedure, these countries aimed to prevent LGBTI NGOs from acquiring consultative status. Such a strategy was at first successful, but some country delegates acted as allies to LGBTI organizations, and they forwarded motions to overturn NGOs Com's recommendations at the ECOSOC. Therefore, after 2008, NGOs Com members opposed to LGBTI organizations abandoned the speedy rejection tactic and instead used the usual strategy of indefinitely delaying LGBTI NGOs' applications, as described by Martens and Aston. However, the section below shows that not even such a common strategy worked to block LGBTI NGOs from obtaining consultative status. Again, some country delegates acted as allies of LGBTI NGOs by overturning NGOs Com's recommendations at the ECOSOC, as well as limiting the question and answer sessions at the NGOs Com to speed up the process and grant access to LGBTI NGOs.

### **Attempts to Indefinitely Delay Applications**

As the speedy rejection tactic proved unsuccessful, NGOs Com members began to employ a new tactic of delaying decisions on LGBTI NGOs' consultative status indefinitely. Indeed, in 2008, once the organization *Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit (COC Nederland)* answered all the questions posed to them both in writing and orally, Egypt and Qatar attempted to delay the decision by posing further questions. Frustrated by the attempt to cause delay, the UK cut short the discussion and requested to move to vote on the application; indeed, COC Netherlands was then granted consultative status.<sup>50</sup> In the same year, the UK again pushed the NGOs Com to recommend consultative status for the Spanish NGO *Federación Estatal de Lesbianas, Gays, Transexuales y*

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49 ECOSOC Resolution, *Provisional Summary Record of the 38<sup>th</sup> Meeting: Held at the Palais Des Nations, Geneva, 11, E/2007/SR.38, (20 July 2007).*

50 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its Resumed 2008 Session, 19, E/2008/32 (Part II), 25 June 2009.*

Bisexuales in a speedy manner. Initially, the application was rejected,<sup>51</sup> but it was later overturned at the ECOSOC.<sup>52</sup>

Furthermore, in 2010 at its 27<sup>th</sup> meeting, the NGOs Com discussed the application for consultative status of the International Gay and Lesbian Human Rights Commission or IGLHRC (now OutRights Action International). The representative from the United States recommended that the NGOs Com grant consultative status to the organization because the members of the NGOs Com had had enough time to consider the 44 questions posed to IGLHRC. As a pretext, the representatives from Egypt and Qatar posed further questions and then proposed a no-action motion to perpetuate the delay. The no-action motion passed.<sup>53</sup> However, not satisfied with the result at the 39<sup>th</sup> meeting of the ECOSOC, the US representative stated that the NGOs Com had refused to grant consultative status to any organization dealing with LGBTI rights for more than a decade, and that “it had become obvious that the application of [IGLHRC] would remain deferred indefinitely.”<sup>54</sup> Therefore, the United States proposed that a draft resolution be voted on at the ECOSOC, which would grant consultative status to IGLHRC.

There was sizeable opposition to the US decision to take action through the ECOSOC. Critics pointed out that an ECOSOC decision on the matter would undermine the authority of the NGOs Com itself. Other countries expressed concern over the number of applications in rotation and similar procedural considerations. The representative from the Russian Federation emphasized this point by explaining that since “over 530 NGO applications were currently under consideration by the [NGOs Com], it was hard to imagine what would happen if the ECOSOC were to consider all of them.”<sup>55</sup> However, the motion of the US representative passed and IGLHR was granted consultative status at the ECOSOC.

The NGOs Com discussion on ILGA’s application provides a further example of Western European and American countries acting as allies of LGBTI NGOs. In 2011, the representative of Burundi complained that ILGA deliberately avoided answering the questions posed by members of the

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51 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2008 Regular Session*, 14, E/2008/32 (Part I), (21-30 January 2008).

52 ECOSOC Resolution, *Resolutions and Decisions Adopted by the Economic and Social Council at Its Substantive Session of 2008*, 126, E/2008/INF/2/Add.1, 30 June 0 25 July 2008).

53 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2010 Resumed Session*, 29 E/2010/32 (Part II).

54 ECOSOC Resolution, *Provisional Summary Record of the 39<sup>th</sup> Meeting: Held at Headquarters*, 5, E/2010/SR.39, (19 July 2010).

55 *Ibid.*, 9.

NGOs Com and the representative of Belgium cut short the discussion by asking to move to vote.<sup>56</sup> The attempt did not work out well for ILGA because the proposal to recommend granting consultative status was rejected.<sup>57</sup> However, this decision was contested by Belgium at the 43<sup>rd</sup> meeting of the ECOSOC in July 2011, where ILGA was eventually granted consultative status after a motion promoted by Belgium, Germany, and the US.<sup>58</sup>

The Australian Lesbian Medical Association (ALMA) was also subjected to an overwhelming number of questions. After having responded in a satisfactory manner to 54 questions over seven consecutive sessions, some members of the NGOs Com continued to defer the decision on ALMA's application. As a consequence, Bulgaria asked to vote on the proposal to recommend granting consultative status to the organization without allowing further discussion; eventually, ALMA was recommended for consultative status.<sup>59</sup> Moreover, at the discussion on Homosexuelle Initiative Wien's application, some LGBTI critics expressed concerns that the tactic of delaying NGOs' applications was losing effectiveness. The Sudanese representative emphasized this point, saying that "[r]ushing towards action in the consideration of certain organizations had become a regrettable precedent of the [NGOs Com]."<sup>60</sup>

Finally, the application of Allied Rainbow Community International (ARC International) provides further evidence that some county delegates act as allies of LGBTI NGOs and stretch NGOs Com's procedures. At the 20<sup>th</sup> meeting of the NGOs Com, the representative from Morocco asked whether the organization considered sexual orientation and gender identity to be universal rights as stipulated in international human rights instruments, in order to slow down the approval process.<sup>61</sup> Belgium responded by stating that because the history of the NGOs Com was not to grant consultative status to LGBTI organizations, there was no need to wait several sessions in order to block ARC International for reasons unrelated to ECOSOC resolution 1996/31. Belgium requested a vote, bypassing a more extensive review

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56 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2011 Resumed Session*, para. 21-26, E/2011/32 (Part II), (16-24 May 2011 and 16 June 2011).

57 *Ibid.*, para. 27.

58 ECOSOC Resolution, *Provisional Summary Record of the 43<sup>rd</sup> Meeting: Held at the Palais Des Nations, Geneva*, 5, E/2011/SR.43, (25 July 2011).

59 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2013 Resumed Session*, 33, E/2013/32 (Part II), (20-29 May and 7 June 2013).

60 *Ibid.*, 36.

61 ECOSOC Resolution, *Report of the Committee on Non-Governmental Organizations on Its 2014 Resumed Session*, 31, E/2014/32 (Part II), (19-28 May and 6 June 2014).

period, and the NGOs Com recommended granting consultative status to ARC International.<sup>62</sup> The delegate of the Russian Federation criticized this action, complaining that the NGOs Com was asked to vote while the representative of Pakistan was not present.<sup>63</sup>

In sum, deferring NGOs applications and submitting further questions is a well-known practice to postpone unwanted controversial decisions. However, what is uncommon is the reaction of some pro-LGBTI member states. The ECOSOC usually follows the recommendations of the NGOs Com, but pro-LGBTI delegates stretched the procedures to provide LGBTI organizations with consultative status. Moreover, some pro-LGBTI country delegates promoted speedy reception of LGBTI NGOs' applications, to the point of pushing for decisions when specific country delegates were unable to express their votes.

## Conclusion

This article has used a social movement framework to analyze the case study of LGBTI NGOs' applications to the ECOSOC for consultative status. Its first contribution is demonstrating that the general assumption that LGBTI organizations have limited or no access to the work of the UN is unfounded. Indeed, all the LGBTI organizations that tried to gain consultative status between 2006 and 2014 eventually obtained it. For the most part, NGOs often wait for years before having their application considered. In contrast, it is apparent that the applications of LGBTI organizations have undergone a much more rapid and unusual process. This largely stems from the support of sympathetic country delegates from the US and Europe, who have acted as allies to LGBTI NGOs. With the support of these country delegates at the ECOSOC, LGBTI NGOs were able to achieve consultative status and become entitled to be part of the UN "game," along with all the benefits that such a status entails. In particular, country delegates that have supported the applications of LGBTI NGOs have initiated a virtuous cycle of alliance-access-alliance. Moreover, the paper has shown that the LGBTI NGOs' allies stretched the usual NGOs Com and ECOSOC's procedures, for example, by overturning already decided upon NGOs Com recommendations, cutting short discussion sessions, and even calling for a vote when a country

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62 Ibid.

63 Ibid., 32.

delegate – especially one well-known for being a strong opponent of allowing LGBTI NGOs a channel of participation to the UN – was outside the room and therefore unable to participate in the vote.

In conclusion, this paper has provided enough evidence to support the claim that the process of granting consultative status to NGOs is slow and jumbled. The NGOs Com should check whether NGOs comply with the characteristics required by ECOSOC resolution 1996/31. Instead, NGOs Com and ECOSOC's member states use their votes to support or block the NGOs that they "like" or "dislike." A review of the applications mechanisms would be required to promote a more democratic and transparent decision process. However, until the outcomes of consultative status applications are decided upon by bodies formed by governmental delegates, the process will remain highly politicized. **Y**