

What Makes NGOs Legitimate?

An analysis of Amnesty International UK's, Greenpeace UK's and
Cafod's legitimacy claims in the UK national context

A thesis submitted to the University of Manchester for the degree of
Doctor of Philosophy
in the Faculty of Humanities

2012

Erla Thrandardottir

School of Social Sciences/Politics

Table of Contents

Table of Contents	2
Abstract	5
Declaration.....	6
Copyright Statement.....	7
Dedication	8
Acknowledgements.....	8
Chapter 1 Introduction	9
Legitimacy as a multidimensional concept	18
Legitimacy sources of NGOs' agency	20
NGOs as hierarchies: national versus international	24
Outline of the thesis	26
Chapter 2 Theoretical Framework.....	28
Theories on NGOs and legitimacy	29
Market model	31
Social change model.....	35
New institutional model.....	42
Critical (development) model.....	46
A Beethamite framework: towards a critical political analysis of NGO legitimacy	51
Beetham's legitimacy criteria	54
Conclusion.....	59
Chapter 3 Methods.....	61
Research design	61
Theory and data	61
Operationalising Beetham.....	62
Selecting the case studies	64
The data collected.....	66
Discussion of data sources	67
Documents.....	67
Interviews.....	69
Direct observations.....	71
A template for a Beethamite case study	72
Conclusion.....	73
Chapter 4 Regulation of NGOs in the UK: the political context of legal legitimacy	75
The political context of NGO regulation.....	75
The Charity Commission and Companies House: the Regulators	80
Conclusion.....	84
Chapter 5 A Beethamite assessment of Amnesty International UK's legitimacy claims: a case study of a membership NGO	86
Historical context of Amnesty International's legitimating principles.....	88
The justifiable content (moral persuasiveness) of Amnesty International's legitimating principles; individual freedom of opinion and religion and political impartiality.....	89
Equating law with morality: the political mission of Amnesty International and the national context of regulating universal norms as charitable objectives	93

‘Ideas of a common interest’: The principle of political impartiality and Amnesty Appeal 1961’s relationship with the Foreign Office.....	98
The authoritative sources of Amnesty International’s legitimacy claims: the research library and the members	103
The importance of differentiating between authoritative sources and justifiable content when assessing Amnesty International’s legitimacy claims	107
Identifying the early organisational entities of the Amnesty International hierarchy	111
Internal organisation of power in the Amnesty International hierarchy	115
The incorporated entities that comprise Amnesty International.....	116
The incorporated entities that comprise Amnesty International UK and how they relate to Amnesty International	124
Importance of members for Amnesty International UK.....	126
Amnesty International UK’s membership typology and the status of members.....	130
Managing political and charitable objectives of the Amnesty International hierarchy: the symbiotic relationship between Amnesty International UK and Amnesty International.....	131
The internal process of legitimation in the Amnesty International hierarchy: the limits of representational legitimacy of a membership NGO	136
Conclusion.....	139
Chapter 6 A Beethamite assessment of Greenpeace UK’s legitimacy claims: a case study of an environmental NGO.....	144
Historical context of Greenpeace’s legitimacy claims and institutionalisation.....	146
Early Greenpeace campaigns: identifying Greenpeace’s legitimating principles	149
Organisational consolidation of the Greenpeace hierarchy.....	152
Claiming legitimacy for Greenpeace in the UK	158
Internal organisation of power and Greenpeace UK’s legitimacy claims: Greenpeace International and knowledge production as authoritative sources of legitimacy	163
The Greenpeace Research Laboratories.....	168
Scientific knowledge production as a legitimacy source.....	170
Greenpeace UK and the Kingsnorth case.....	176
The political context of Greenpeace UK’s legitimacy claims.....	177
Greenpeace UK’s legitimacy claims in the Kingsnorth case: scientific knowledge (production) and politics.....	181
The witness statements: the significance of scientific knowledge (and knowledge producing institutions) for Greenpeace UK’s legitimacy claims	184
Conclusion.....	189
Chapter 7 A Beethamite assessment of Cafod’s legitimacy claims: a case study of a faith-based NGO	192
Historical context of Cafod: from a lay organisation to an institutionally embedded agency of the Catholic Church.....	195
The institutional context of Cafod’s authoritative sources of legitimacy: the Holy See and its documents.....	201
The Code of Canons as an authoritative source of Cafod’s Catholic agency	205
Cafod as an institutionally embedded agency of the Catholic Church of England and Wales.....	208
The Second Vatican Council and Catholic social teaching: Cafod’s ‘institutional testimony’	213
Theological interpretations and controversy: the status of the Second Vatican Council documents.....	218
Catholic social teaching as the underpinning of Cafod’s legitimacy claims’ justifiable content (moral persuasiveness)	220

Cafod and the 'condom issue' – the justifiable content of Cafod's legitimacy claims and the challenge of a legitimacy deficit.....	222
The 'condom issue': the challenge to Cafod's authoritative legitimacy sources.....	222
Cafod's HIV policy.....	226
The controversy over the justifiable content of Cafod's HIV policy.....	231
Cafod's Catholic identity and the HIV policy: secular versus ecclesiastical legitimating principles.....	236
Conclusion.....	239
Chapter 8 Conclusion.....	243
An evaluation of the case studies	244
The contributions of this thesis.....	251
Appendices.....	258
Appendix chapter 1	258
NGO factsheet.....	258
Appendix chapter 3.....	263
Example of a letter of intent.....	263
List of interviews conducted.....	264
Appendix chapter 4	265
Legal forms of charity registration.....	265
Appendix chapter 5	266
Amnesty International UK's organisational structure	266
Amnesty International UK's member definition.....	267
Amnesty International's internal process of legitimation	268
Appendix chapter 6.....	269
Greenpeace International's decision making structures.....	269
Greenpeace UK's organisational structure.....	270
Appendix chapter 7	271
Cafod's organisational structure	271
Bibliographical addendum	272
Chapter 2: NGO projects.....	272
Chapter 4: Charity Commission and Companies House.....	273
Chapter 5: Amnesty International.....	273
Chapter 6: Greenpeace.....	275
Chapter 7: Cafod	277
Bibliography	279

Word count: 85,621

Abstract

University of Manchester

Erla Thrandardottir

Degree Title: Doctor of Philosophy

Thesis Title: What Makes NGOs Legitimate? An analysis of Amnesty International UK's, Greenpeace UK's and Cafod's legitimacy claims in the UK national context

Date: 16/July/2012

This thesis examines how non-governmental organisations (NGOs) claim legitimacy in the UK national context with the aim of increasing the understanding of how NGOs' access to power is justified. The thesis argues that the limits of current theories on NGOs and legitimacy do not enable proper scrutiny of the organisational complexities involved and proposes that Beetham's approach to legitimacy is more fruitful. A Beethamite analysis is based on scrutinising NGOs' legitimacy-in-context. This involves examining NGOs' normative structures and internal organisation of power in order to explain and assess their legitimacy claims. It explores the legitimacy claims of three UK NGOs by applying a Beethamite analysis to interrogate their legitimacy claims. The NGOs that are my unit of analysis are enmeshed in complex organisational hierarchies that extend beyond the UK territory. Understanding the internal organisation of power in these hierarchies is important for identifying legitimacy sources that underpin NGOs' legitimacy claims.

The three NGOs are Amnesty International UK, Greenpeace UK and Cafod. The case study of Amnesty International UK shows how the legitimisation of power is justified internally where the members of the UK section legitimise the representational powers of the International Secretariat. This is contrasted with the normative sources of legitimacy that are more commonly used to justify Amnesty International UK's legitimacy claims and which ignore members as an important source of authority. The analysis in the case study of Greenpeace UK demonstrates how it is a representative unit of Greenpeace International. It also highlights how scientific knowledge has become a legitimacy source that justifies Greenpeace UK's legitimacy claims with implications for how to assess their legitimacy claims. The case study of Cafod analyses how Cafod claims legitimacy as a Catholic agency and how it is institutionally embedded in the Holy See. Cafod is primarily a social agency of the Catholic Church in England and Wales. The case study demonstrates how Cafod's sources of legitimacy are primarily Catholic and that this causes legitimacy problems when Cafod uses secular rather than theological sources of legitimacy to justify its policies.

One of the main conclusions of the thesis is that a differentiated approach is needed for analysing NGOs' legitimacy claims, one that takes into consideration the context of NGOs' legitimacy claims, their internal process of legitimisation and their sources of legitimacy, when assessing their access to power. The lack of an appropriate regulatory framework, and in particular the systematic exclusion of politically oriented NGOs by UK regulators, hinders the advancement of proper assessment and understanding of NGOs' role in society.

Declaration

No portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

Copyright Statement

The author of this thesis (including any appendices and/or schedules to this thesis) owns certain copyright or related rights in it (the "Copyright") and she has given The University of Manchester certain rights to use such Copyright, including for administrative purposes.

Copies of this thesis, either in full or in extracts and whether in hard or electronic copy, may be made **only** in accordance with the Copyright, Designs and Patents Act 1988 (as amended) and regulations issued under it or, where appropriate, in accordance with licensing agreements which the University has from time to time. This page must form part of any such copies made.

The ownership of certain Copyright, patents, designs, trade marks and other intellectual property (the "Intellectual Property") and any reproductions of copyright works in the thesis, for example graphs and tables ("Reproductions"), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property and/or Reproductions.

Further information on the conditions under which disclosure, publication and commercialisation of this thesis, the Copyright and any Intellectual Property and/or Reproductions described in it may take place is available in the University IP Policy (see <http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=487>), in any relevant Thesis restriction declarations deposited in the University Library, The University Library's regulations (see <http://www.manchester.ac.uk/library/aboutus/regulations>) and in The University's policy on Presentation of Theses.

Dedication

The thesis is dedicated to Thorsteinn.

Acknowledgements

This thesis has been achieved with the help of many good people. I have had to rely on the support, understanding, kindness and love of a number of people, some of who have generously given their time and treasure to help me see this project through. Especially I would like to thank Nick Weaver for his devotion throughout this process. I also want to thank my family for their inspiration, patience and strength, above all my son Thorsteinn King whose energetic and intelligent company made this experience all worthwhile.

I want to thank Peter Grimshaw particularly, for his help and assistance in guiding me to the right people and information in Cafod and the Catholic Church. Many thanks are also due to all those who generously gave their time to talk to me and those who welcomed (or tolerated) my presence in meetings and workshops.

I want to thank my supervisors, Mick Moran and Rorden Wilkinson, who, despite an extremely stressful period during the writing of this thesis, did not give up on me. Their academic insights, support and encouragement were tremendously valuable. Many thanks also to the department staff, in particular Ann Cronley, who were very helpful throughout this process.

Finally I want to thank all who have contributed to the expenses of this project: The Landsvirkjun's Energy Research Fund, the Funds for Women Graduates, the University of Manchester's Norman Chester/Politics competitive Doctoral research fund and the Politics Hardship fund. I would also like to thank the University of Akureyri for their academic support during the early stages of this project. And last but not least the generous financial support from my family and friends.

Chapter 1 Introduction

This thesis is about how NGOs claim legitimacy in the UK national context. The subject of the legitimacy of NGOs is important because NGOs have been steadily increasing their political prominence (Foreign and Commonwealth Office, 2010b; Mathews, 1997; Office of the Third Sector, 2009; The Economist, 2008). Whether NGOs are seen as “a vital part of the economy, a key deliverer of public and community services, and the glue which holds our communities together” (Office of the Third Sector, 2009:6) or as vehicles for delivering global political legitimacy where “[f]unding NGOs that increase citizen participation in the political debate” is key to promoting democracy (Foreign and Commonwealth Office, 2011), it is clear that NGOs’ rise to power has made them more relevant in policy making processes. Yet, how NGOs’ authority, for example as expert consultants to government policymaking, is justified is not clear. The increasing political importance of NGOs has not been matched with increasing research scrutinising their legitimacy claims. How NGOs legitimate power internally in their organisations is, in particular, underexamined. This needs to be examined to better understand and assess NGOs’ legitimacy claims.

The literature is far from decisive on the topic of legitimacy, let alone legitimacy of NGOs. There are two examples of this. First, when legitimacy of NGOs is discussed in the national context it is often mixed with literature on charities and voluntary organisations of the third sector (Kendall and Knapp, 1996). Such an approach often mixes up questions about the legitimacy of NGOs with the organisational structures of NGOs (many of which are hierarchies with national and international units) where questions appropriate in the national context are (perhaps inappropriately) extrapolated into the international context (Anheier, 2008; Cardoso, 2004; Kane, 2008; Salamon and Anheier, 1996, 1997). Furthermore, the approach in Salamon and Anheier’s study focuses on the service delivery functions of a broad range of not-for-profit organisations: including hospitals, various educational establishments, international development and neighbourhood charities. Emphasising the size and

capacity of the third sector the study buries the problem of political advocacy in NGOs, assigning the issue to the realm of definition. The problem with this is that it focuses excessively on service delivery and systematically excludes advocacy roles and politically active NGOs. This is unhelpful when trying to explain and understand how NGOs claim legitimacy when their main function is not service delivery.

Secondly, when legitimacy of NGOs is discussed in the international context it is often mixed with literature on intergovernmental organisations and legitimacy deficits therein (Steffek, Kissling, et al., 2008). This literature touches more upon NGOs' advocacy role and their constitutive abilities from democratic or normative perspectives (Keohane, 2002; Schuppert, 2006; Steffek, Kissling, et al., 2008; Vedder, 2007c). The approach in the international context thus often leads to arguments about NGOs as legitimacy gap fillers with representative abilities rather than service delivery roles. However, the legitimacy of NGOs also gets sidestepped here in discussions about legitimacy in global politics and how to place effective limits on power in international relations (Collingwood, 2006; Lister, 2003). The shortcomings of this literature are that it is focused on legitimacy in more general terms, such as legitimacy of the global order or legitimacy of particular intergovernmental organisations. It is therefore unhelpful in explaining NGOs' legitimacy claims and organisation of power because in many cases NGOs are not the unit of analysis.

These problems in the literature are indicative of something being missing in the way NGOs' legitimacy claims are approached or explained. It indicates that there is a need for a theoretical framework to coherently address the legitimacy of NGOs. This framework should distinguish the issue of NGOs' legitimacy claims from other debates in the literature to clarify the process of internal legitimation in NGOs' hierarchies. Instead of focusing on NGOs in the context of charity only or intergovernmental institutions mainly, such a framework would make NGOs its unit of analysis.

This thesis proposes a Beethamite framework to explore the legitimacy claims of NGOs and clarify their legitimacy-in-context (Beetham, 1991:23). The contextualisation of NGOs' legitimacy claims is important because it enables one to take into account the national and international dimensions of each NGO. Hence, it is important to make a note here of the legal status and political role of NGOs as this justifies my choice of focus on the national context. NGOs are national entities by law. Their legal legitimacy is primarily generated in the context of national sovereignty and this is the main focus of this thesis. Although NGOs do not have a legal persona in international law (with exceptions), the extent of their legal status in international law is considerable (Kissling, 2008; Lindblom, 2005). Because this thesis is looking at NGOs as hierarchies the international context is often of relevance when it comes to legitimacy questions in the national context. Also, NGOs have a political voice, which can often be best explained in the national context. Thus, the international dimension of NGOs has implications for the analysis of NGOs' legitimacy claims at the national level. The focus on the national context is potentially problematic from the point of view of the NGOs that like to downplay their national side and emphasises that they are a single entity that operate with one voice. It is also problematic from the point of view of arguments that regard NGOs as legitimacy gap fillers that can provide much needed democratic legitimacy to global institutions. Both of these standpoints have their insights and offer useful critical analysis of NGOs. However I want to make clear at the onset, that this thesis is set in the UK national context. The case studies examine the national units of international hierarchies, weaving in their international dimension through the analysis of the internal organisation of power in the NGOs' hierarchies themselves. This is reflected in the content and structure of the thesis and the case studies.

There are a few concepts that I want to clarify before moving on. It is impossible when discussing NGOs' legitimacy claims in their national context to avoid the contingency of power and agency as well as the definitions of NGOs, the third sector and international law. I start by saying how I use the terms power and agency and then explain what I mean by NGOs and their place in the third sector and international law.

Legitimacy is about power. Power can be defined as “agents’ abilities to bring about significant effects, specifically by furthering their own interests and/or affecting the interests of others, whether positively or negatively” (Lukes, 2005:65), and is often distinguished conceptually as being about decision making (Dahl, 1957, 1961), agenda setting (Bachrach and Morton, 1962), or as multidimensional (Lukes, 2005). There are two aspects of NGOs’ power that I intend to explore through Beetham’s theory which map onto what I refer to here as their internal and external power. The first aspect is the internal organisation of power within the NGOs themselves. The internal process of legitimisation of power is directly linked to how one evaluates NGOs’ exercise of power externally because the internal organisation of power can reveal how NGOs’ mandate is legitimated internally and thus indicate in what capacity they speak as agents. This is the starting point for evaluating their legitimacy claims in a democratic context. Thus the second aspect of power in relation to NGOs’ legitimacy impinges on their external power, that is, how should their power be assessed externally. The thesis argues that NGOs’ external power should be assessed based on how NGOs justify legitimacy internally as this clarifies what mandate they have and with what authority they can speak in a democratic context. When NGOs are increasingly seen as, or incorporated as, agents that are part of a democratic context, this is primarily an external evaluation. What is often overlooked is how NGOs organise power internally and their agency is either assumed or explained with reference to an external system of power rather than their internal system of power. This division between internal and external power can also be used to make a distinction between ‘power over’ and ‘power to’.

In this thesis I mainly analyse the internal power of NGOs as ‘power over’. An NGO’s ‘power over’ refers to the internal organisation of power in the NGO and the power relationship between different entities of the NGO, its members or trustees, impinging on issues such as who has control over the agenda, decision making and funds. This type of power is what Beetham refers to as the social arrangements of relative power

relations between the dominant and the subordinate “that is specified by the rules” and determines “processes of exclusion” such as “access to key resources, activities and positions of command” (Beetham, 1991:46-51, 63). According to Beetham, a system of power has a normative structure that maintains and reproduces legitimacy based on rules of power that govern power relations and are in need of legitimation (Beetham, 1991:103-4). However, an NGO’s ‘power over’ is directly linked to questions about NGOs’ ‘power to’ in the context of this thesis. An NGO’s ‘power to’ refers to the role of NGOs in structures external to itself and its ability to influence or have impact on that environment. This involves different audience to its legitimacy claims such as target audience (typically governments or corporations), beneficiaries (although they can also be in a subordinate position to an NGO), and the general public. This type of power can be associated with ‘soft power’ and how NGOs can influence other powerful actors such as governments or intergovernmental organisations (Keohane and Nye, 1998:86; Scholte, 2001).

Power is also closely linked to another legitimacy related concept that is agency. In this thesis I use agency to refer to the most basic understanding of the concept, the ability to act and make choices:

... social life can only properly be understood as an interplay of power and structure, a web of possibilities for agents, whose nature is both active and structured, to make choices and pursue strategies within given limits, which in consequence expand and contract over time. (Lukes, 2005:69)

In the case of NGOs this is divided between the internal and external spheres of NGOs’ legitimacy claims with different audiences. The internal audience is the members of the NGOs whilst their external audience can be divided into beneficiaries, target audience and the general public as stated above. As NGOs’ agency reflects their ability or capacity to present legitimacy claims it is also linked to the concept of representation. Although this is discussed in the case studies I briefly note here that NGOs’ representation can be on behalf of their members or in the name of their mission or ideas. What I wish to highlight here is that agency, as a legitimacy relevant concept, is derived from NGOs’ mandate as expressed in their governing documents

and affects how one analyzes NGOs' legitimacy claims in their national and international contexts.

The discussion of what constitutes an NGO involves a degree of complexity that is present throughout this thesis. This is evident in the following. First, their roles and functions as defined by governmental institutions that engage with NGOs where they are perceived to have a national role and an international role (whether this is to deliver welfare services or promote universal values) these definitions and perceptions can be confusing. Second, various literatures that discuss or analyse NGOs do so under different subject headings (civil society, social movements, charities and philanthropy to name a few) which can be confusing. Third, legal definitions in English law tend to focus on NGOs as charities (this problem also applies at the international level where the shortcomings of legal definitions of NGOs are ubiquitous, in particular their exclusion from international law, bar the Red Cross) that can cause an unnecessary organisational confusion. And fourth, the institutional complexities and organisational arrangements of NGOs themselves as hierarchies with national and international functions. The thesis attempts to address these issues throughout but it should be noted that no precise definition of NGOs is offered.

The attempts at defining NGOs are many (Götz, 2008; Hall, 2006; Martens, 2002; Vakil, 1997). NGOs are evolutionary organisations and their mission and structures can change over time making technical definitions elusive. Jordan and van Tuijl (2006) define NGOs from their position in a wider political structure: "An NGO is generally an intermediary organization with a defined legal body and organizational shape, which qualifies it to receive assistance from donors" (Jordan and Tuijl, 2006:9). A common definition of NGOs is the structural-operational definition that identifies five features that need to be present for an organisation to qualify as a nonprofit. This includes: organised, private, non-profit distributing, self-governing, and voluntary (Salamon and Anheier, 1997:33-34). This accommodates the inclusion of universities, hospitals and art establishments in addition to local charities and development NGOs. The minimal

requirement of the structural-operational definition of what constitutes an NGO is that the board of directors is voluntary thus facilitating the inclusion of business-like NGOs based on the payment scheme of their board members. That is, hospitals and education establishments are classified as NGOs if their board of directors are voluntary despite the organisation's operational functions being more akin to business models (privately run and financially oriented). Although Salamon and Anheier's classification system is frequently referred to in the literature, it does not make an adequate conceptual distinction between the mission, role, and function of NGOs and therefore does not properly capture their purpose in order to enable clarification of their agency and normative structure. It should also be noted here that there is a colloquial difference in the North-American and European literatures. The term non-governmental organisation is commonly used in Europe whilst the term non-profit is frequently used in North America to describe NGOs. Some contextual differences also impinge on the definition of NGOs. For instance, in the US, hospitals and universities are often privately run businesses whilst in Europe these activities are more often part of welfare states.

The problem of definition remains that even if one were to sort NGOs by issues, for instance by separating health and education from other issues, one is quickly confronted with the organisational complexities within the NGOs themselves and how they are registered for regulation. For example, in the UK, an NGO considered too political can register separate trusts as charities that have education and health as their operational goals to comply with charity law. The main income of the NGO is registered under company law and thus not included in the numbers of the charitable entity despite being the same NGO. The problem this imposes is that one may be comparing for example Eton College, which is a registered charity delivering compulsory education in the UK, with the charitable trust of Amnesty International UK which harbours a small amount of their total income. Very few in the UK would classify Eton College as an NGO, let alone a charity, if asked, yet it qualifies as an NGO under Salamon and Anheier's structural-operational definition. The point I wish to

make here is that defining NGOs is problematic. Associating NGOs with the third sector should therefore be done cautiously as some figures may be based on very wide definitions that produce measures that do not necessarily account for the diverse operational missions of organisations (for an elaborate discussion on the empirical definition of the third sector in Europe see Evers and Laville (2004)).

However, NGOs are frequently associated with the third sector. The importance of NGOs as agents of the third sector is repeatedly found in speeches and media reports where political leaders, such as the UK's past three Prime Ministers, are promoting the role of NGOs in society. For example Tony Blair talked about the Third Way, Gordon Brown emphasised the importance of voluntary and charity organisations in many of his speeches and David Cameron launched his idea about the Big Society. All envision a significant and vital role for NGOs in delivering a better society (Blair, 1998; Brown, 2007a, 2007b; Brown and Rudd, 2009; Cameron, 2010; Jones, 2011; Monday Developments, 2010). There is, however, a notable difference in emphasis between Labour's embracing of the Third Way (Giddens, 1997) and the Conservatives idea about the Big Society that is more related to philanthropy. Although NGOs as a sector can have different relations to the state (Chambers and Kopstein, 2008), both parties are clearly talking about NGOs in the context of a third sector that is different from the private and public sectors. The legitimacy challenge in this context is that theoretical understanding of legitimacy in the private sector is understood as a principle-agent contract with enforceable legal sanctions and in the public sector as elections, neither of which can be applied to NGOs as a sector to analyse and account for their legitimacy. Most theories embrace legitimacy in the context of either the contractual arrangements found in the private sector or the popular sovereignty of the public sector. This is problematic because NGOs as agents of the third sector are neither understood as companies or political representatives. Thus a lack of elaborate theoretical understanding of their legitimacy ensues. And hence the need for clarification of how NGOs claim legitimacy and their legitimacy-in-context.

One final point to address is the relevance of international law to an analysis of NGOs' legitimacy claims. In this thesis I focus on the UK context but the international context is important because, and as the case studies will demonstrate, NGOs are often part of an organisational hierarchy that has its own internal legitimation process where the international dimension can directly impact on the national dimension and vice versa. This thesis discusses NGOs as legal entities under English law (see chapter four). However, the analysis of UK NGOs' legitimacy claims in terms of their legal validity is often confronted with the incongruence between the UK and the international office of the same NGO hierarchy, since their legal registration is not necessarily shared. For example, in the case of Greenpeace UK, which is registered under English law, its corresponding international office, Greenpeace International, is registered under Dutch law. This discrepancy is rarely discussed directly in the literature when it comes to assessing their legitimacy claims, despite it generating many interesting legitimacy questions about NGOs. There is an emerging notion of NGOs' legal status in international law and global institutions (Kissling, 2008; Lindblom, 2005) that is directly linked to theories about their democratic role in the new world order (Brown, 2008; Korten, 1990; Slaughter, 2004). Although Kissling speaks of a partial legal personality of NGOs that is derived from their status within global institutions and Lindblom emphasises how NGOs' participation is already influencing international law-making, NGOs' legal rights to participate are limited since international law is about regulating the relationship between states and intergovernmental organisations (the main exception here being the Red Cross). Associated with this discussion is the issue of self-regulation, in particular efforts such as the Global Reporting Initiative that was emerging and under construction at the time of writing this thesis. As NGOs align to corporate interests with reporting mechanisms such as the Global Reporting Initiative at the same time they state the importance of maintaining a distance from corporate powers, it gets harder to disentangle whose agenda NGOs are serving and perhaps more difficult to justify legitimate criticisms NGOs may raise about corporations (Cashore, 2002).

The rest of this introduction focuses on important aspects of my argument that are relevant for introducing a Beethamite framework to scrutinise NGOs' legitimacy claims, such as: sources of legitimacy, access to power, and legitimacy criteria. I emphasise the complexity of legitimacy as a concept and how Beetham's (1991) theory is a fruitful starting point for analysing the legitimacy claims of NGOs. Beetham's theory enables one to look at NGOs' legitimacy claims in a holistic way, which includes explaining NGOs' legitimacy-in-context and providing an immanent assessment (and critique) of their organisation of power (Beetham, 1991:23). I then argue that NGOs need to be defined as agents that in conceptual terms have different sources of legitimacy than either governments or businesses. This is especially important for assessing their legitimacy claims in the context of regulation and democratic accountability. Thereafter I point out the complications involved in the interplay between national and international dimensions in NGOs' legitimacy claims. Finally I review the *raison d'être* of my thesis and provide a short outline of the structure of the following chapters.

Legitimacy as a multidimensional concept

Legitimacy is a pivotal concept in a number of academic subjects. The disciplines of law (Fallon, 2005; Green, 1989), social sciences (Barker, 2001; Beetham, 1991; Zelditch, 2004), and philosophy (Christiano, 2004; Estlund, 2008; Steffek, 2003) each have their own traditions, ontology and range of approaches to define what it means to study legitimacy. Each discipline displays different facets of legitimacy; ranging from rightful procedures, to beliefs and moral obligations. The details of definition, context and application of legitimacy are therefore important contributing features when studying legitimacy. There is no general consensus on what creates legitimacy, but fundamentally different ontological positions can produce fruitful theoretical convergences. Beetham's theory of the legitimation of power emphasises this and tries to account for the variety embedded in the concept by interrogating legitimacy using the criteria of legal validity, justifications of rules, and expressed consent of those subject to authority in order to highlight their complicit roles in creating legitimacy

(Beetham, 1991). I use Beetham's theory as an organising framework for my exploration of the legitimacy claims of NGOs. Beetham's three dimensional legitimacy criteria are universal criteria that form the normative structure of legitimacy. Beetham's theory has mainly been applied to political systems at national and supranational levels (Beetham and Lord, 1998). However in this thesis a Beethamite analysis is applied at the organisational level. This is used to develop, by empirical research, a much needed differentiated legitimacy theory for NGOs. Applying Beetham's theory in this way allows scope for exploring legitimacy contexts and sources associated with the legitimisation of power and thereby to carve out the contours of what NGOs' own context is like in detail. Beetham's theory enables a multi-dimensional approach that equally embeds the normative structure of legitimacy and its social organisation.

In liberal democracies the basic principles of popular sovereignty, the right to associate, and the protection of individual rights are important contextual settings to bear in mind when inquiring about NGOs' legitimacy. The societal context impinges on contingent concepts of legitimacy such as representation (Keohane, 2002:18; Vedder, 2007a:14), especially in cases where NGOs' support base is predominately in a liberal democracy whilst their operational capacity often extends beyond that context. The relationship between the sources of legitimacy and the processes of legitimisation in liberal democracy has, according to Beetham, an inbuilt critical function via the principles of popular sovereignty and meritocracy. This implies that the reproduction of legitimacy is a social construction that can be debated because "power rules are open to revision by public debate and decision between equal citizens" (Beetham, 1991:113). The forces behind legitimacy that give impetus to its contestability lend legitimacy a radical potential because it can change how power is practiced and how its authority is justified. Although I discuss the various meanings and applications of legitimacy in full in chapter two, I point here to the importance of this contextual nature of the concept.

The driving research question of this thesis is: what makes NGOs legitimate? I address the question by developing a Beethamite framework for analysing NGOs and apply it to three case studies in the UK. This thesis is above all an empirical study of legitimacy claims of three NGOs that aims to clarify how these are justified. In particular how NGOs justify their legitimacy claims in the context of their internal organisation of power and whether that suffices to claim legitimacy in governmental halls of power. That the legitimacy of NGOs has been called into question is an indication of their increasing authority.¹ Consultation and service contracts that governmental institutions make with NGOs have reached a level that has triggered a series of questions raised in concern about their legitimacy: why do NGOs get a seat at the table? How representative are they of their constituencies? In what capacity is their role justified as legitimate when it comes to access of power? (Jordan and Tuijl, 2006; Kamminga, 2007; Peruzzotti, 2006). NGOs are often included in decision making processes as representatives of disempowered peoples or as topical experts on a particular issue (for example human rights). As such NGOs are perceived to represent the people defined as their supporters, members, beneficiaries or stakeholders² when they are involved in designing and promulgating legislation in the form of codes of conduct for the NGO sector as well as at the higher echelons of political power (Clark, 2001). Hence the importance of identifying the sources used to justify NGOs' agency.

Legitimacy sources of NGOs' agency

In order to grasp the appropriate legitimacy criteria for NGOs it is important to emphasise that the characteristics of NGOs as agents, and as a sector, are different from other agents and sectors. To understand the legitimacy of NGOs it is therefore important to establish the contextual specifications of NGOs' sources of legitimacy, as

¹ Clare Short in her capacity as the Development Secretary famously criticised NGOs' legitimacy by asking: "Who is better placed to speak on behalf of the poor, middle-class white people in the north or the elected representatives of the poor of Africa themselves?" (quoted in Seabrooke, 2001). Her statement implied that NGOs' legitimacy had so far been taken for granted and with their increased political influence that assumption was now being called into question.

² The term beneficiary is derived from charity law and usually refers to charitable NGOs that deliver services. The term stakeholder is derived from company law and usually refers to advocacy NGOs that promote rights/ideas. The distinction is however superficial.

these provide the justifications for their access to power and assessment of their legitimacy claims. I have identified five sources of legitimacy for NGOs that serve to support legitimacy claims made by and about NGOs. These are:

- History: both the history of the NGO itself and/or historical relations it has enjoyed with governmental institutions
- Representation: this can be of members, ideas, or beneficiaries
- Procedural: this is mainly organisational structures of NGOs and their internal organisation of power relations
- Normative: this includes justifications based on the mission and values NGOs want to aspire to as an organisation or the content of their legitimacy claims
- Regulation: this is mainly relevant for NGOs' legal validity

These sources are frequently used or alluded to when NGOs' access to power is discussed. However, their political context is often omitted. The case studies in this thesis analyse the sources of NGOs' legitimacy claims but I will briefly explain here the wider context in which this argument is made. At the heart of many questions about NGOs' legitimacy is access to power and the interface between public and private legitimacy; involving, for example, national law, international law and codes of conducts. It is therefore important to point out how NGOs relate to governmental structures to understand the relevance of legitimacy claims surrounding access to power and the role of NGOs as democratic agents in those structures.

There is an active political interest seeking to involve NGOs in governmental services and institutions (Halpin, 2009; Kissling, 2008). This is evident both from governmental policies as well as in global institutions at the intergovernmental level such as the United Nations system. Whether the aim is to outsource governmental services or to 're-democratise' the civil society to pursue liberal democratic values, NGOs are seen as key agents – 'agents of democracy' – with noticeable access to power

(Halpin, 2009).³ NGOs' access to power is manifest in many forms and ways, this includes NGOs' ability to mobilise global public opinion (Cardoso, 2004) and to influence industry (Sasser, Prakash, et al., 2006) and public policy making (Foreign and Commonwealth Office, 2010a; Keck and Sikkink, 1999). NGOs can have access through their formal status granted by intergovernmental institutions such as the United Nations (UN) and the European Union (EU) (Martens, 2005; Willetts, 2006), through governmental contracts for service delivery (Saperstein, 2003), but also because of the recognition of their expert knowledge and promotion of specific principles such as human rights (Slim, 2002). Access to power can be informal (for example many large NGOs accept invitations to the annual Economic Forum at Davos) or it can be based simply on their size and economic power (for example some NGOs have budgets that outstrip local authorities in the communities where they work).

As a sector the functions of NGOs cover a wide range of activities such as running hospitals, universities, art galleries as well as local charities and global development NGOs (Salamon and Anheier, 1997). The subject areas covered are widely varied too: including wildlife, animals, the environment, human rights, and children and much more. Some NGOs are single issue charities whilst others cater for a variety of topics. A common division often made between NGOs is to demonstrate the difference between NGOs that advocate issues and those that provide services to communities. However, an NGO is rarely defined by only one thing. Most NGOs that deliver services also do advocacy work and vice versa (nonetheless this distinction between advocacy and service delivery is reflected in how NGOs are regulated in the UK as I discuss in chapter four). The purpose of an NGO is defined by its mission statement and its objectives: why does the NGO exist and what does it hope to achieve. The mission statement is usually a normative goal whilst the objectives are an attempt at operationalising that mission (Phills, 2005). The organisational purpose of an NGO can

³ For a further discussion on the 'hollowing out of the state' and reduction of political power, see Holliday (2000) and Rhodes (1994).

therefore be decisive in justifying its access to public policy processes as well as in defining its regulation under the law.

There are two key positions that NGOs take when it comes to access to power, one emphasises the managerial and executive approach, the other emphasises the campaigning and activist approach. The former is influenced by executive politics where NGOs actively seek to participate in decision making processes at the negotiating table in order to get their objectives across. The latter is often an oppositionist approach employed outside the power system, actively campaigning against those who hold power. When looking at the executive position it is possible to observe the advocacy-service delivery distinction. NGOs can engage with governmental departments as providers of services bound by a contract or as expert consultants on topical issues at the policy level. Although the executive-activist roles can overlap at the policy level this distinction is also embedded in the organisational structures of the NGOs themselves. In some NGOs there is a significant gap between the ultimate authority of the executive leadership and the activist grassroots side of the same organisation.

NGOs that take the executive approach either seek participation or accept invitations to participate in policy processes, and although the status granted to them is often informal (such as advisors, commentators, consultants or auditors), the power they exercise can be significant. An example is the UK Foreign and Commonwealth Office's policy stance on human rights that promotes democratic institutions and civil society. NGOs play an important role in the execution of that policy and the Foreign Office directly funds NGOs whose mission aligns with their own goals (Foreign and Commonwealth Office, 2011). An initiative linked to this is a recently formed Human Rights Advisory Group to the Foreign Minister composed of executive directors of NGOs and other specialists (Foreign and Commonwealth Office, 2010a). The role of NGOs in intergovernmental institutions at the global level is highly political (Clark, 2001; Lindblom, 2005; Martens, 2005; Willetts, 2006). This has led some academics to

question whether NGOs have too much access to the political leadership and if such a position is appropriate for NGOs (Hulme and Edwards, 1997; Kelly, 2005). Others have demonstrated that some NGOs have access to power in policy and decision making processes to a degree that they actually draft the policies which are then implemented by the political authorities of the institution in question (Clark, 2001).

NGOs as hierarchies: national versus international

An important aspect of NGOs is the interplay between their national and international dimensions and how this maps onto their organisational realities. Some NGOs have consolidated structures whilst others are free standing or with loose ties to external hierarchies. The NGOs in the following case studies reflect this. Each NGO is part of a hierarchy that has both a national and an international dimension. Part of the purpose of this thesis is to clarify the organisation of the relationship between these two dimensions. In order to do so I focus on the UK context and how a UK NGO relates to its international counterpart (such as Amnesty International UK and Amnesty International). This is especially important to enable a clarification of their legal legitimacy as well as for explaining the legitimate scope of their mandated agency.⁴

The access to executive power that NGOs have both at the national and international levels needs to be justified. NGOs have become powerful agents and questioning their legitimacy is about questioning their use of that power (Interview 16, 2009). The exposure to criticism has increased the need for clarification of legitimacy criteria: “How long can NGOs afford to turn a blind eye to the nagging demand that they improve their legitimacy while at the same time run the increasing risk that states will take the initiative to impose their own criteria on them?” (Kamminga, 2007:195).

⁴ In a workshop deliberation I attended for international NGOs about implementing industry self-regulation at a sectoral level it was clear that sometimes a national NGO within an NGO hierarchy knew little if anything about the process that was conducted by the international NGO in that hierarchy. NGO self-regulation can be decided at the global level whilst implemented at the national level even though the national group had no access to the global deliberation process despite forming part of that particular NGO hierarchy. Thus, a national NGO may be directly affected by the international deliberations about regulation in which it took no part (Interview 14, 2009; Interview 15, 2009; Personal notes by author, 2009).

Whilst NGOs suffer shortcomings in credibility as democratic agents the lack of democratic scrutiny of NGOs in the UK is highlighted by the shortcomings of appropriate criteria for defining NGOs as a sector with various actors in English law.⁵ If NGOs are to be included as democratic agents and theoretical force given to their role, there should also be an equivalent input of democratic scrutiny and control of their access to power. This is evident in discussions about the role of NGOs (including the more general category of non-state actors) in the political process (Keohane, 2002; Lindblom, 2005; Mansbridge, 2003; Mansbridge, Bohman, et al., 2010; Slaughter, 2004). As mentioned above, NGOs are often viewed as legitimacy gap fillers from the point of view of global institutions, but by shifting the unit of analysis onto NGOs it is possible to examine in more detail how they claim legitimacy in their role as 'democratic agents' (Halpin, 2009:277).

The preceding passages have shown that the role of NGOs raises big issues about their legitimacy. I propose to examine this in more detail in three case studies. The case studies in the thesis are based on NGOs in the UK. These are Amnesty International UK, Greenpeace UK and Cafod. All three are part of organisational hierarchies that extend beyond their UK borders which has implications for their regulation. The legitimacy claims surrounding their access to power are based on various reasons such as their expertise as knowledge producers, their reputation and history, their membership, and their voluntary nature and access to networks that can deliver services. Two of them have enjoyed a long-standing relationship with governmental departments in the UK and in global institutions. Given the growth of NGOs since the Second World War it seems likely that NGOs will grow in numbers, strength and importance as 'democratic agents' especially at the institutional level (Boli and Thomas, 1999). One of the conclusions of this thesis is that if NGOs' democratic participation in political systems is to increase, as envisaged by theorists, politicians

⁵ I use the term UK to reflect the territorial proclamations of the NGOs in this thesis. However, in legal terms this can be complicated as Scotland is often excluded. The complexities surrounding this are ignored for practical reasons.

and even NGOs themselves – their legitimacy claims need more scrutiny. Hopefully the body of the thesis will support the accuracy of the conclusion of this study.

In this introduction I have teased out the importance of studying NGOs' legitimacy claims and provided a context for my argument. The analysis is based on an examination of their sources of legitimacy, regulation and access to power, and legitimacy claims. This enables me to underscore, using Beetham's criteria, the need for further scrutiny of NGOs and how they use their powers.

Outline of the thesis

Chapter two explains my theoretical framework. This chapter gives structure to my argument and is based on an examination of the existing literature on legitimacy and NGOs and how it relates to Beetham's theory. I outline four models of NGO research (market, social change, new institutional and critical), discussing what they contribute and their shortcomings from the point of view of NGO legitimacy. The chapter proposes a Beethamite framework to examine the unaddressed problems in the literature.

Chapter three is the methods chapter. This chapter explains the case studies and how they are organised. The chapter outlines my methods and how I have operationalised Beetham in the case studies. It includes my propositions, selection of case studies, the data sources, and the method of analysis.

Chapter four contextualises the case studies by explaining the legal status and regulation of NGOs in the UK. Its purpose is to introduce the national context for scrutinising the legitimacy claims of the NGOs in my case studies. The chapter outlines the UK regulatory regime, how NGOs are defined in legal terms and how the legal forms available to NGOs are problematic for the advocacy functions inherent in many NGOs. This context is important for analysing the legal legitimacy of NGOs and the status of their relationship with the UK government.

Chapters five, six and seven are my case studies of Amnesty International UK, Greenpeace UK and Cafod. Each chapter follows the same general format based on the template for a Beethamite analysis of NGOs outlined in chapter three. The case studies contextualise the history and internal organisation of power of the NGOs which provides a platform for a Beethamite assessment of their legitimacy claims.

Chapter eight is a conclusion. It summarises the previous chapters, reviews the results of the case studies, comparing and contrasting them highlighting the contributions of this thesis.

Chapter 2 Theoretical Framework

This chapter explains and conceptualises the theoretical framework of the thesis. The theoretical framework developed links Beetham's theory of legitimation to the NGO literature to demonstrate the analytical benefits of Beetham's multidimensional and contextualised approach. The aim of the chapter is to demonstrate that a Beethamite framework enables a more contextualised analysis of NGOs' legitimacy claims, one that treats the socio-normative aspects of NGOs holistically, not only as social constructs but also as a result of justificatory reasoning.

There is a vast amount of research to choose from on NGOs. I have, however, decided to build my theoretical framework by relating to literature from four leading NGO research projects because of their influence in debates about NGOs' roles and functions and structural contexts.⁶ Each project has informed my categorisation of four models of NGO analysis that I have labelled the 'market model', the 'social change model', the 'new institutional model' and the 'critical (development) model'. Although my focus is on the national context, NGOs' legitimacy problems are often addressed by theories in international relations. I include this literature in the models where relevant to demonstrate the international conceptions of the role of NGOs in power structures and also because it has relevance for understanding and analysing the organisation of power within NGOs' hierarchies.

The literature on NGOs and legitimacy has a fault line that divides the discussion between charitable or voluntary organisations at the national level on the one hand and the role of NGOs in international relations on the other hand. By maintaining the focus on NGOs it is possible to create a framework where Beetham is engaged with this literature from the standpoint of legitimacy. The current literature that

⁶ Because of this I decided the most constructive way to narrow my review was to stay focused on the NGOs and approach the legitimacy question from the standpoint of my unit of analysis, the NGO. The choice of literature limits my discussion in some sense. I do not, for instance, cover the difference between legal, philosophical and sociological approaches to the concept legitimacy.

specifically addresses NGOs' legitimacy suffers from overly narrow perspectives where NGOs as organisations are often, unwittingly, sidelined or demoted to secondary importance with the focus lying elsewhere.

The chapter is organised in the following way. The first part discusses the literature that I have categorised into four models. It explains what each model contributes to questions about NGO legitimacy and what is missing when it comes to critical analysis of NGOs' legitimacy claims. The models are arranged according to structure and agency to tease out a Beethamite measurement criteria of NGO legitimacy. My analysis of each model states what it contributes and what is missing in the current literature, thus identifying the gaps or problems this thesis intends to address. The second part introduces the Beethamite framework. It starts with teasing out themes from the literature that can be engaged in a Beethamite analysis: external legitimacy, internal legitimacy and legitimacy claims. These are important to keep in mind as they are broad legitimacy themes that are recurrent in the case studies. It then explains how Beetham's theory can be used to develop a differentiated approach to the issues raised in the literature. Using Beetham's theory I argue that a multidimensional analysis of NGOs' legitimacy-in-context – that is inclusive of both the normative structure and social constructions of legitimacy – can better enable scrutiny of NGOs' legitimacy claims. The chapter finishes with a short summary.

Theories on NGOs and legitimacy

Much of the literature tends to focus either on structure or agency, which undermines the analytical interface between NGOs' structure and agency particularly when it comes to the normative structure of NGOs' legitimacy claims. I have therefore organised the literature in the models accordingly to highlight this gap and the importance of a multidimensional approach such as is provided by Beetham's theory. The literature is grouped into literature discussing power structures external to NGOs that is linked to their roles and status in various governmental institutions national or international, and literature discussing power structures internal to NGOs linked to

how NGOs generate legitimate agency that is used to justify their legitimacy claims. However, I have also involved literature that I have identified as relevant for my research question to clarify what is meant by NGO legitimacy, and thus the demarcation of its measurement criteria. This is reflected in the models.

The models are inspired by four research projects associated with the universities of Harvard, John Hopkins, Stanford and Manchester (see bibliographical addendum). I use these to examine the main problems in the literature discussing NGOs' legitimacy. The models can and often do overlap and interact. This categorisation is used to clarify different theoretical approaches to NGOs and legitimacy and provide analytical support for this thesis. It should therefore be viewed with a certain level of caution as it is based on my research question rather than theoretical traditions. This means that I focus on literature that either discusses NGOs' legitimacy claims directly, or discusses contingent legitimacy issues such as accountability, representation and so forth. However, I also include literature on NGOs that is only partly relevant to my research question about NGO legitimacy to emphasise how NGOs are discussed as organisations in the literature as this has implications for understanding their legitimacy claims.⁷

The analytical models are as follows:

- Market model: this model emphasises a neo-liberal approach to NGOs as global actors (Brown and Jagadanada, 2007; Brown, 2008) but also builds on domestic market analysis of demand and supply (Frumkin, 2005). This model is inspired by research at Harvard's Hauser Center (President and Fellows of Harvard College, 2008-2011).

⁷ While it should be stressed that although this is not intended as an exhaustive account of these literatures in general and the vast amount of research they have undertaken, it is an exhaustive account of those aspects of the literatures needed to provide the theoretical underpinnings for my research focus on NGOs' legitimacy. For example, I include international relations theories that directly discuss NGO legitimacy but I do not discuss international relations theories on NGOs in general. Because it is sometimes difficult to separate the national and international aspirations in the literature I have accommodated an international dimension in each model where relevant. The international relations theories that I have included are associated with the neoliberal and critical theory agendas in the international relations literature. The market, social change, and new institutional models largely map onto the neoliberal project whilst the critical (development) model aligns with the critical project of constructivism.

- Social change model: this model emphasises 'bottom-up' comparative approaches to NGOs (Salamon and Anheier, 1996; 1997:5) and theories on the democratic and moral agency of NGOs. This model is inspired by the Johns Hopkins nonprofit sector project (Lester M. Salamon (director)).
- New institutional model: this model emphasises organisational structures and management of NGOs (Powell, Gammal, et al., 2005; Powell and Steinberg, 2006). This model is inspired by Stanford's nonprofit project (Stanford Graduate School of Business, 2009).
- Critical (development) model: this model emphasises the role of NGOs in international development and engages critically with NGOs (Bebbington, Hickey, et al., 2008a; Edwards and Hulme, 1996b). This model is inspired by the work of Edwards and Hulme and others at the Institute for Development Policy and Management (IDPM) at Manchester (Edwards, 2008a).

I now turn to discuss the relevant theoretical constituents of each model.

Market model

The analytical emphasis of the market model is on supply and demand. The model mainly addresses the question of NGOs' functionality in the market. The initial issues associated with the market model pertained to the functional aspects of NGOs as delivering government services where they either have comparative advantage as an alternative to state services or are seen to be providing complementary services alongside the state (Weisbrod, 1998; Clemens, 2006). Frumkin (2005) has tried to address this by broadening the approach by explaining different functions within NGOs, although keeping within the market analysis. The theories in the market model analyse NGOs mainly through market supply and demand and regulation is largely seen to be private (via contracts or self-regulatory mechanisms) and based on performance criteria. However, there are also concerns about the normative agenda of NGOs and how these fit into the regulatory aspect of NGOs as private agents responsible to shareholders (Clark, 2006; Ebrahim, 2006; Leonard, 2006). At the international level Brown (2008) has argued for peer review as an alternative to electoral or contractual regulation. In broad terms the market model aligns with the

neo-liberal agenda focusing on trade, political economy, human rights, and the new world order where NGOs' legitimacy is linked with creating credibility reinforced by regulation by peers. I now briefly expand and explain these approaches.

A question posed by Weisbrod (1998) about the inherent functions of NGOs, whether NGOs should be seen primarily as alternative providers of services or as complementary to the state's welfare delivery, nudged the market model towards the social model and the question of internal functions of NGOs eventually raising the issue of democratic agency. The expansion of NGO-government partnerships in service delivery and increased outsourcing of welfare programmes shifted the risk onto NGOs and led to an increased "politicization of nonprofits as providers of public services, even as they are increasingly wary of engaging as political actors" (Clemens, 2006:215). The issue of accountability is a response to this worry as accountability has been removed from a relationship between government and citizens to a relationship between government and nonprofits with increased emphasis on monitoring and evaluation of their performance. This has changed the conception of nonprofits. Service delivery provisions made by nonprofits are increasingly seen to be a private contractual arrangement. Clemens argues that the increased outsourcing of welfare functions to NGOs has trivialised their relationship with the government in democratic terms where public services are (mis)recognised as private benefits which "undermine[s] political support for continued public spending on these services" (Clemens, 2006:216). Clemens also points out the importance of the international dimension and how the 'transnational turn' of privatisation and devolution has shifted the focus onto democratic aspects of NGOs as having a "capacity to constitute citizens" which enables them to address and voice "articulated interests and values" (Clemens, 2006:216).

To clarify the role of nonprofits in the market Frumkin (2005) introduces a wider approach to their analysis. He points out the potential problems of power relations and structures by looking at different NGO functions and how they intersect with the

government and business sectors (Frumkin, 2002:163-165). He defines the four basic functions of NGOs as: service delivery, social entrepreneurship, civic and political engagement, and values and faith. He discusses these in terms of demand or supply orientation and an instrumental or expressive rationale. Frumkin claims that the different functions of NGOs brings them into contact with vested interests of government and businesses which raises issues of who benefits from the sector, what kind of activities are appropriate, and how NGOs should operate (Frumkin, 2002:177). Based on his analytical insights Frumkin argues that there is a need for more balanced and diverse functional approaches. It is necessary to focus on the diverse internal functions of NGOs rather than the diverse functions between them.

Frumkin argues that in order to secure long-term support for the NGO sector it is necessary to address issues of policy outcomes at the sectoral level as well as management structures at the organisational level. He argues that to in order to maintain legitimacy all the functions need to be active and in balance. When NGOs rely on a single function they become one dimensional and the risk of legitimacy problems increases. To prevent legitimacy problems at the sectoral level Frumkin suggests three possible approaches:

- leaving it up to the market and relying on an ‘invisible hand’ to even things out at the sectoral level and achieve a long term balance;
- rely on collective and coordinated actions by NGOs to regulate themselves for increased balance between functions, and;
- change the regulatory framework which involves “[r]elying on government to structure the activities of nonprofits more actively than it does now” (Frumkin, 2002:179).

Although Frumkin detects problems with all three approaches he favours the free market solution mainly because NGOs are unable to undertake coordinated action and because increased government control would push the sector into a “service-delivery function at the cost of other functions” (Frumkin, 2005:179). It should be noted that Frumkin is addressing the US national context and possible solutions within that context. Although he points out the importance of keeping a balance between different

functions within NGOs for the long term stability of the sector vis-à-vis other sectors he fails to recognise that NGOs are often global hierarchies dependent on their own internal power structures for generating change.

The Hauser Center produced a series of papers exploring the normative role of mission statements in regulating NGOs in terms of governance and accountability. These papers focus on legal duty through moral obligation that NGOs might have to others and how different audiences can be empowered to hold NGOs to account against their mission statements (Clark, 2006; Ebrahim, 2006; Leonard, 2006). This involves disentangling mission statements into categories that can be scrutinised because “taxpayers providing the subsidy [...] have a legitimate interest in knowing whether it is being served effectively and efficiently or not” (Leonard, 2006:16). The main point I take from these articles is that the normative and political agendas of NGOs are not properly scrutinised despite being of interest to the public from a democratic point of view as well as from a moral point of view. That is not to say that other registered companies (that are not NGOs) do not face moral questions and dilemmas but they, unlike NGOs, are not inherently set up for moral reasons but for profit reasons. Due to the inherent moral organisation of NGOs, which sets them apart from businesses, the issue of regulation is a dilemma because the legal system has a “reduced role in the regulation of nonprofits as opposed to for profits” (Clark, 2006:37-38).

A more comprehensive approach to the regulation of NGOs is posited by Brown and Jagadanada (2007) who use the criteria of credible information in their theory of NGO legitimacy where they argue for peer review of NGO accountability juxtaposed with the public sector contracts (elections) and private sector contracts (principal-agent). A self-regulatory regime for international NGOs is introduced to create credibility within the new institutional world order using peer pressure and industry standards (Brown and Jagadanada, 2007; Brown, 2008). Although their approach can solve some problems relating to democratic control and representation by creating credibility at

the sectoral level through shared goals and values, it places the regulatory aspect within the private sector where “[p]eer networks enforce expectations with identity and reputation sanctions” (Brown and Jagadanada, 2007:12). This only tackles accountability on mutual terms between NGOs to strengthen the image of the industry per se. It does not invite a democratic scrutiny of NGO power structures but reinforces them as politically homogenous agents in global politics with credibility at the sectoral level because of this mutual accountability encouraged by self-regulation.⁸

There are problems with the analytical insights of the market model. Insufficient democratic control or regulation of organisations can lead to elitism (see for example Moran (2007; 2008)). The market model in general works best for analysing and understanding NGOs’ service delivery function. It however downplays or ignores the advocacy function of NGOs and their more politically targeted objectives. This gap is best demonstrated in their failure to analyse NGOs as internal hierarchies. At the national level NGOs are almost exclusively seen as service-delivery providers and their legitimacy is measured in performance and outcome targets based on a principal-agent relationship. Self-regulatory mechanisms introduced for NGOs at the international level do not take into account, for instance, how an international office of an NGO might rely on its national offices for legitimacy claims. The approach of the market model has an inbuilt fault line drawn between the national and international offices of an NGO, possibly aligning international NGOs with powerful global interests at the cost of local legitimacy.

Social change model

The social change model focuses on the role of NGOs. It shifts the discussion onto the agency of NGOs and their internal social life, within the context of democracy. The model raises the issue of representation and internal democratic organisation of

⁸ The Hauser Center is loosely connected to the Civicus: World Alliance for Citizen Participation and was pivotal in the creation of the global International NGO Charter aimed at increasing the credibility of NGOs in the new world order (Brown, 2008; Brown and Timmer, 2006; IANGOWorkshop, 2009; INGO Accountability Charter, 2005; Personal notes by author, 2009). For details see bibliographical addendum for chapter two.

NGOs. NGOs are seen to be created from the 'bottom-up' and therefore as having a constitutive dimension. The social change model views NGOs as agents performing a complementary role and focuses on consensus and compacts. At the international level the issues here align with the neoliberal agenda but with their focus being to highlight the role of NGOs as agents of democracy that can have legitimating functions within global institutions as representatives of civil society (Cardoso, 2004). Rather than focusing on the status of NGOs in a legal and/or institutional order the focus is on their (legitimizing) *role* in that context. It should be noted that the social change model feeds into the other models in many ways because it addresses NGOs' agency. The overlap of the social change model with the other models is sometimes considerable. Edwards (critical model) uses the conception of NGOs as depicted by the social change model extensively, the same can be said for Brown (market model) and Skocpol (new institutional model).

The NGO project at Johns Hopkins University is the key source for this model. The research undertaken by Salamon and Anheier in the nineteen-nineties (Salamon and Anheier, 1992a, 1992b, 1993, 1996, 1997) defined nonprofit agents operating in the non-profit sector in terms of their structure and operations (Kendall and Knapp, 1996:18). The project grew into a cross-country analysis of comparative studies based on national statistics and has more recently contributed to the global civil society reports (Anheier and Katz, 2009; Anheier, 2008; Kumar, Scholte, et al., 2009; Stares, 2009). The original research identified twelve categories of operational activities which could be used to statistically map the third sector. The minimal requirement of the definition of what constituted an NGO was that the board of directors was voluntary. This accommodated the inclusion of universities, hospitals and art establishments in addition to local charities and development NGOs.

Salamon and Anheier's classification system is generated by the structural-operational definition of what counts as an NGO. The definition identifies five features that need to be present for an organisation to qualify as a nonprofit. It has to be: organised, private,

non-profit distributing, self-governing, and voluntary (Salamon and Anheier, 1997:33-34). This facilitates classification of businesses as NGOs based on the payment scheme of their board members. Thus, hospitals and education establishments are classified as NGOs if their board of directors are voluntary despite the organisation's operational functions being more akin to business models; that is, privately run and financially oriented. Phills (2005) has, however, pointed out that even the non-profit label is a problem as many NGOs aim to increase their income and often focus on generating revenues with significant proportion of their resources committed to media and marketing strategies.

The national application of the Johns Hopkins project in the UK was undertaken by Kendall and Knapp (Kendall and Knapp, 1996). They statistically mapped the voluntary sector in the UK. However, they had problems with applying the classification system to the UK context when it came to politically motivated NGOs because: "[it] tends to focus attention on the sector's service provision functions at the expense of its mutual aid, campaigning and advocacy" (Kendall and Knapp, 1996:21). This is indicative of a wider problem of the structural-operational definition. When classifying NGOs in the UK, Kendall and Knapp decided to exclude the 7 300 group of political organisations, but include those NGOs that are deemed 'too political' by UK's Charity Commission (Kendall and Knapp, 1996:17-24).

In a recent study undertaken at the University of Birmingham the political agency of NGOs is examined to enable the separation of politically active NGOs and politically passive NGOs (McKay and Hilton, 2009:4).⁹ Halpin, in this same publication, on the topic of the democratic nature of NGOs and the issue of social change refers to the role of NGOs as "agents of democracy" that are sought after by the state to "provide a link between the governed and those doing the governing" (Halpin, 2009:261). However, and in line with Skocpol's (2003) analysis, Halpin points out that the changed

⁹ Politically passive NGOs in this sense refers to service delivery NGOs and are defined by terminology such as 'voluntary' or 'charity'. For more detail on this research see the bibliographical addendum to chapter two.

organisational structure of NGOs has dislocated its members from group life and that the internal democracy of NGOs has been hollowed out. The “changing democratic practice” of NGOs has led to the questioning of their internal democracy and how to reconcile NGO group life with their democratic role in society treading the line between solidarity and representation (Halpin, 2009:270; 277).

Social change theories stress the associational aspects of NGOs, hence they explore the importance of participation and community bonding and, in more general terms, the ‘bottom-up’ creation of civil society (Putnam, 2000; Salamon and Anheier, 1996). The social change model maintains that decentralisation of government powers can lead to a vibrant and revitalised NGO sector with complementary functions. The theories converge on the issue of regulation and argue that it should be minimal or self-regulation emphasising the liberal agenda of issuing rights not regulation. The overarching question in the social change model that spills over into the other models is about the limits of accountability and representation when it comes to the legitimacy of NGOs. To what degree can NGOs claim legitimacy as democratic agents?

The main emphasis of the social change model is on NGOs’ agency and their capacity as agents for social change, and although the form of interacting with their supporters has changed Hilton et al. (2010) argue that their loyalties remain intact and attempts to regulate their activities will undermine their potential as agents for change:

[The NGO sector in the UK] has grown alongside an expanding state and complemented the work of the welfare services. Attempts to control and direct its activities are likely to fail and possibly to backfire, especially if sectors call on the state for further intervention. However, its vibrancy can be embraced, and its comparative advantages exploited, but not in a manner that sees it as an alternative to state provision. Indeed, its cheque-book supporters might readily switch their allegiances if this is the role envisaged for civil society. (Hilton, McKay, et al., 2010:8-9)

This line of arguing ignores the democratic agency of NGOs in power structures and bypasses normative questions of democratic legitimacy that are directed at the justificatory reasoning for holding this power without democratic scrutiny and control. In order to highlight this problem, I now briefly outline the issue of accountability in the social change model theories discussing NGO legitimacy

(Peruzzotti, 2006; Vedder, 2007b). This is to emphasise how the accountability criteria relate to my research questions.

The issue of accountability highlights how different functions of NGOs matter when it comes to looking at their legitimacy. This is because when accountability criteria are applied to advocacy NGOs it tends to raise questions about the democratic role and representative nature of NGOs (rather than their performance in service delivery). Thus, when the issue of accountability is raised in the market model theories it is to discuss their performance. The issue of accountability in the social change model is, however, contingent on representation.

Addressing the notion of the contractual power relationship behind accountability by drawing an analogy with its public (elections) and private (principal-agent) mechanisms, Peruzzotti argues that accountability “is always ‘upwards’ ” (Peruzzotti, 2006:55). The implication is that talking about accountability vis-à-vis beneficiaries amounts to nothing more than technical nonsense because there has not been any delegation of powers. Looking at NGOs as constitutive organisations he argues that accountability mechanisms of representation “undermine one of the most valuable features of civil society” (given that accountability is a form of questioning trust), and because NGOs are engaged with disempowered and needy populations the term accountability should be used cautiously (Peruzzotti, 2006:55-6). He then turns to substantive and normative arguments and says that the question that should be asked of NGOs is “*What do you represent?*”. It is not numbers, but the force of their arguments that gives legitimacy to their claims.” (Peruzzotti, 2006:52-53). He concludes that:

If civil society represents a specific form of society that aims at moulding social relationships around the normative principles entailed in modern constitutionalism, the question of how to democratize social beliefs, practices and associational life should become a key priority of democratizing forms of civic engagement. (Peruzzotti, 2006:56)

Peruzzotti argues for higher ethical and legal standards “to improve the quality of the associational terrain” and maintains this is imperative to prevent “the development of

a class of detached civil officials that live off funding from the public, donors, governments or multilateral agencies” (Peruzzotti, 2006:56).

This emphasis on norms and epistemic aspects of NGO legitimacy is also present in the international literature that can be usefully discussed under the heading of the social change model.

The legalistic approach to NGO legitimacy as introduced by Vedder (2007) outlines a theory of moral agency for NGOs at the international level but with a particular twist where he claims NGO legitimacy should be assessed on a case by case basis. Vedder takes a Rawlsian approach to explain NGO legitimacy in international law and treats their legitimacy criteria as universal, based on values that can be universally shared “by any impartial, rational person, and therefore by all” (Vedder, 2007b:203).

This approach places a heavy burden on each NGO and is unhelpful when it comes to assessing the legitimacy of NGOs as a sector encompassing groups of agents rather than individual agents. The legitimating criteria is vested in legal norms rather than social actions and behaviours to bring about legitimacy (see also Maragia (2002) on this point). Hinting at teleological arguments Vedder claims that “acceptable values and norms [should be] integrated as fully as possible into the NGO’s organizational structures and activities” (Vedder, 2007b:207). Vedder claims that Beethamite restrictions of community renders values and norms relative and invite arbitrariness and potential legitimization of a “vicious moral framework” (Vedder, 2007b:200). This approach is also potentially problematic when applied to religious NGOs as many people would strongly object to the religious agendas of faith-based NGOs.

However, Vedder’s analysis has the possible drawback of overemphasising the law as a scrutinising body of NGO legitimacy. This risks focusing excessively on legal criteria at the cost of political and democratic criteria which also need to be scrutinised when assessing NGOs’ legitimacy claims. Although the moral dimension is important and

normative measures can (and should) be a priority in many cases, his argument makes it difficult to decouple NGOs as democratic agents from the power structures they operate in. This can turn NGOs' political legitimacy into an inherently legal criterion that ignores the political organisation of NGO power. Because NGOs' political legitimacy is organised both internally and externally it raises different questions, especially when it comes to democratic aspects of legitimacy which requires an account of the social factors of political legitimacy.

The social change model raises many diverse questions about NGOs' agency that can be pragmatic, democratic, or normative in nature. What the social change literature tends to fall back on is the internal life of NGOs and how their constitutive ability can represent NGOs as agents of change. The limit of this approach when it comes to examining NGO legitimacy is its inability to address the structural reproduction of power relations and accordingly how NGOs claim external legitimacy. For example if NGO "voice accountability" determines "the precise nature of their legitimacy" (Slim, 2002:6) one would risk conflating legitimating the right of NGOs to have their voice heard in a political system with the substance of their message. This would mean treating them as a single socio-political construct of legitimacy, when they are in fact two (ontologically) different ones. In criticising the associational democratic theorists, Warren (2001) joins Rosenblum (2000) in pointing out the dangers of subcontracting state functions to NGOs. Although associations can provide alternative structures of governance to match the inflexibility of state administration the dangers are immanent: "Devolving responsibilities also empowers associations – and this may not be a good thing when associational ties are linked to inequalities in control over economic resources, knowledge, professional skills, and the like" (Warren, 2001:88). Furthermore, it is worth pointing out here the importance of the internal organisation of power for NGOs' legitimacy claims. Reliance on informal procedures to maintain legitimacy poses a risk to NGOs' legitimacy because "informal structures easily conceal covert divisions of power and control within organizations, and this danger probably increases with their size" (Atack, 1999:859).

New institutional model

The central focus of the new institutional model is the legitimization of NGOs; including their internal organisation and management and how NGOs correspond with external structures (Powell and DiMaggio, 1991). Organisational alignment with institutional norms is seen to have legitimating functions. This shifts the focus to questions about access to power rather than constitutive abilities of NGOs (Martens, 2005; Reimann, 2006). The model aligns with the neoliberal agenda of promoting democracy and widening participation of different agents in politics. At the international level the focus is on membership and status of NGOs in institutions where they are seen to have legitimating functions, however this is from the analytical point of view of institutions rather than NGOs (Macdonald, 2008; Skocpol, 2003).

In the sociological literature the ontological position of new institutionalism and organisational analysis of legitimacy is “a theory of organizational legitimacy rather than the legitimacy of the organization’s authority structure” (Johnson, 2004:6) where socially constructed types of legitimacy are linked to different sets of behavioural dynamics (Lister, 2003).¹⁰ According to Powell and DiMaggio (1991) organisational structures change to adapt to the social and cultural environment of their larger organisational field. Thus, the legitimacy of an organisation is defined by its concurrence with the normative values in its field, which again turns organisational structures homogenous. This solidifies legitimacy and thereby the survival of the organisation. The analytical emphasis is on organisational legitimacy and how organisations create isomorphic structures within their fields by symbolically adapting to accepted behaviours and values therein that are then treated as sources of their legitimacy (Powell and DiMaggio, 1991).

New institutional theories of NGOs shifted the focus away from the creation of NGOs onto how NGOs respond to their institutional environment by adapting to norms and

¹⁰ Sociological approaches often base their typology of legitimacy on legitimacy sources associated with pragmatic legitimacy (interests), moral legitimacy (evaluations), and cognitive legitimacy (culture) (Johnson, 2004:10).

regulations (Powell and Steinberg, 2006). Powell's recent work, for example, focuses on transnational management of NGOs (Powell, Gammal, et al., 2005). The new institutional model has also created analytical parallels between NGOs and businesses (Drucker, 1992; Phills, 2005). The importance of government in the creation and maintenance of NGOs has also been emphasised (Skocpol, 2003; Smith and Gronbjerg, 2006) at the same time they have pointed out and emphasised the risk this has for communal aspects of NGOs thus linking it to the social change literature (Halpin, 2009; Skocpol, 2003).

Skocpol's (2003) work on the nature of NGOs revealed their dependence on the state for survival and support: "Nonprofit institutions often brag of their independence from both that market and the government, but actually they are profoundly intertwined with both, especially with government" (Skocpol, 2003:151). Skocpol demonstrates the changing nature of how associations are organised and how they have increasingly come to resemble businesses with promises of financial benefits and political representation rather than community and social participation. She refers to them as 'bodyless heads' because NGOs have become "much more focused on specialised, instrumental activities than on broad expressions of community or fellow citizenship" (Skocpol, 2003:162-163). The motivational factors, according to Skocpol, have shifted NGOs' missions from doing community service to mainly focusing on advocacy which has made them more involved in the political process of policy (Skocpol, 2003:152, 160-161).

Many theories associated with the new institutional model also focus on the legitimating criteria concerning NGOs' external structures and organisational legitimacy of NGOs therein (Martens, 2005). Martens work on the institutionalisation of NGOs in the UN raised a flag concerning the uneven access NGOs have to external power structures; both in relation to their mission where advocacy NGOs have to be more careful to "keep to the procedural rules" (Martens, 2005:163) , and in terms of resources shared between NGOs themselves:

Those NGOs employing permanent professional staff with experience and training in their UN-related tasks are deeply and continuously involved in the political process at the UN level. This implies that NGOs with less means and possibilities of having staff representing them at the UN have fewer abilities to work with the IGO. The majority of NGOs has very limited means at its disposal, so only the resourceful ones have a say in global affairs. As a consequence, poorer NGOs are left without much influence. (Martens, 2005:162)¹¹

Focusing on institutional and organisational legitimacy can therefore overlook the political agency of NGOs and how they exercise it.

This topic is frequently raised in relation to NGOs' access to international organisations. The importance of global structures and politics has been crucial for the growth of NGOs according to Reimann (2006) who claims that the "pro-NGO norm" has created a "highly conducive" structural environment to NGO growth with symbiotic relations between NGOs, global institutions and states. Her approach is in stark contrast to the social change model of 'bottom-up' where she argues that the top-down legitimization process "targeted developing and transitional countries and involved socialization processes of persuading, pressuring and teaching these states to not only accept NGOs but also to nurture and foster their growth" (Reimann, 2006:60-61).

Reimann argues that the new pro-NGO norm has "depicted NGOs as a crucial "partner" in development" (Reimann, 2006:59), an idea associated with the neoliberal agenda of good governance. The acceptance of NGOs in global institutions has thus in some ways legitimised their presence. This ties in with the arguments on the resource gap amongst NGOs and its effect on their ability to access the UN (Cardoso, 2004; Martens, 2005) as well as the political divide inside NGOs' hierarchies between their national and international offices. Relying on the analysis of NGOs having complementary functions Reimann suggests a problem-solving solution based on 'mutual goals' and 'functional compatibilities' as: "[l]acking a strong infrastructure for international governance, both states and IGOs [intergovernmental organisations] have

¹¹ This is also supported by data on European NGOs where a small minority of the largest NGOs tend to absorb the majority of the funding available (Woods, 2000).

increasingly had to rely on NGOs to fill in institutional gaps and help them achieve their stated goals” (Reimann, 2006:64).

Macdonald (2008) also views NGOs as organisational legitimacy gap fillers that can provide global institutions with much needed political legitimacy. Referring to the social change and market model theories Macdonald argues that the power of NGOs in global politics is a function of their size and scope, a power they wield to influence decision making and protection of rights that “liberals commonly believe ought to be made democratically” (Macdonald, 2008:552). In order to gain effective “democratic control of NGOs” a mechanism is needed that can “generate norms that have a distinctively legal character” (Macdonald, 2008:558). This, he suggests, can be achieved through institutionalising NGO regulation and synchronising existing codes of self-regulation with institutional law. He argues that a non-state regulatory institution like this is more likely to be successful than strengthening existing state based regulatory powers (Macdonald, 2008).

However, it remains the case that powerful global institutions (such as the World Trade Organisation) resist the presence of NGOs (Wilkinson, 2005), or think this symbiotic relationship has gone too far (Kelly, 2005). This touches upon the element of relative interests and values, as Reimann poignantly points out:

[...] the most enthusiastic promoters of NGOs have been Western donor states and IGO [intergovernmental organisation] officials committed to universal values promoted by the West. Non-Western states, in contrast, have tended to be far more sceptical of NGOs and have often viewed the rise of NGOs in their own nations as a phenomenon promoted from “above” them by wealthy, democratic countries and IGOs. (Reimann, 2006:65)

Thus values promoted by NGOs, such as Amnesty International, in the international arena are sometimes resisted as universal goals and rather seen to represent particular values of specific countries. The status of NGOs in Russia is a case in point here. In 2007 the Russian government passed a law that excluded all foreign funded NGOs from operating in Russia on the grounds they were potential spies (Jarvik, 2007; Kamhi, 2006).

The NGO legitimacy questions raised under the new institutional model relate to the organisational legitimacy of NGOs and the value oriented norm creation at the intergovernmental level promoting their presence in intergovernmental organisations, such as the UN system. The research on NGO legitimacy in this model is thus focused on the process of norm creation in global institutions or the feasibility of including NGOs in policymaking processes at the international level. However, this is often with the aim to boost the legitimacy of such institutions in order to create an international value consensus where NGOs can provide a legitimating effect for these organisations.

Critical (development) model

The issues associated with the critical model pertain to the normative dimension of legitimacy and the conceptual tools for analysing the interface between NGOs' agency and structures. The critical project focuses on the social and normative conception of power opposing the realist and neo-liberal theories (Keck and Sikkink, 1999; Linklater, 1998).¹² It embraces the social change model's emphasis on 'bottom-up' agency but emphasises more strongly its normative dimension and the deliberation of culturally diverse societies and groups and the politics of resource access and redistribution. Much of the research focuses on NGOs in international development (Bebbington, Hickey, et al., 2008b). Bebbington has advanced the concept of a socially constructed legitimacy of NGOs in his work on issues of representation and relations between rural communities and donors from an anthropological perspective (Bebbington, 1997, 2005, 2008). The overall focus is on the development regime and the role and place of NGOs in the aid chain.¹³

Edwards and Hulme (1996) famously criticised the overreliance that the neo-liberal agenda was placing on NGOs which it justified with arguments of good governance and

¹² Although hermeneutics and subjectivity play an important role, there is an ontological divide between the 'modernist' tradition (following Habermas) that has kept the normative and foundational basis and the 'postmodernist' tradition (following Foucault) that has shed it (Reus-Smit, 2005).

¹³ It should be noted here that the research at the University of Manchester that inspired the critical development model is part of a wider research agenda related to poverty research and global institutions (Wilkinson and Hughes, 2002).

comparative advantage (Edwards, 1999; Edwards, 2008b; Edwards and Hulme, 1996a, 1996b; Edwards, Hulme, et al., 1992, 1995; Hulme and Edwards, 1997; Sogge, 1996). They argue that this is not supported empirically and serves as an ideological agenda of the neo-liberal aid regime rather than NGOs. They broke the link between membership and voluntarism by claiming that: “even if voluntary organisations are not member-controlled, they can still gain in legitimacy by being transparent, accountable and acting in a spirit of genuine partnership with others” (Edwards and Hulme, 1996a:967). This however ties NGOs in with the donor agenda and raises the issue of democracy in a more upfront manner through their funding: “Is it possible to have an independent mission while relying on donor funds?” (Edwards and Hulme, 1996a:967) – which leads to issues of legitimate contracts rather than values and voluntarism. In an attempt to keep the voluntary aspect in the definition of legitimacy they point to the “deeper set of concerns” – that is the relationship between the public, private, and third sector – and ask whether this is changing the nature of the development process especially with regards to service provisions and the market model question of alternative or complementary services (Edwards and Hulme, 1996a:967-969).

Edwards and Hulme argued that the legitimacy of NGOs was becoming tied in with government funding where too much state funding jeopardized their claim to legitimacy because it affected their “ability to act independently in pursuing their goals” (Edwards and Hulme, 1996a:962) therefore making them dependent on the state. Although Edwards has argued against the market approach of philanthrocapitalism (Edwards, 2008b) he has remained a defender of NGOs’ independence via accountability mechanisms in the market space:

NGOs do not have to be representative to be legitimate, but they do have to be accountable for their actions, whatever they are, if their claims to legitimacy are to be sustained. This conclusion places the focus of the debate back where it belongs – on the costs and benefits of different, concrete approaches to accountability – and not on abstract criticisms about NGOs that supposedly compete with governments as representatives of the electorate [...] Accountability is the price to be paid (if price it is) for the freedom to exercise power and authority in a democratic society. NGO power may be ‘soft’ and NGOs’ authority informal, but the principles remain the same. [...] It is difficult, and probably dangerous, to legislate for innovation at either national

or international level, but it should be possible to encourage and reward good practice through additional funding, extra publicity and media coverage (good and bad), as well as through peer pressure – ‘the market driven improvements’ [...] (Edwards, 2006:ix)

He concludes that accountability is a platform for NGOs “to fulfil their mission to serve others more effectively” (Edwards, 2006:ix). Performance, efficiency and accountability are very much the mantra of this approach and place it in line with the social change model. Although the book Edwards’ foreword is introducing is intended to contextualise the concept of accountability denying the idea of ‘best practice’ (Jordan and Tuijl, 2006:5) it is at the same time constrained by its use of the concept accountability. Applying accountability to the democratic question is a daunting task that leaves “... NGO accountability focused on balancing multiple responsibilities to different constituencies and stakeholders, using a variety of mechanisms, servicing accreditation rather than regulation” (Jordan and Tuijl, 2006:12). Thereby placing democratic scrutiny in the private realm where accountability for their power is directed at stakeholders (or peers) in the shape of the neoliberal rights agenda (see the discussion of Peruzzotti’s and Brown’s arguments in the social change model section above).

The social construction of NGOs’ legitimacy advanced by Bebbington (2005) demonstrates how NGOs’ representativeness of their constituencies is constructed based on available knowledge and distorted when the knowledge is imperfect. Bebbington has demonstrated in a study of Dutch and Peruvian NGOs that issues related to competitiveness and accountability to donors (the Dutch government) has led to problems. NGOs shy away from confronting problems they encounter in the field, in their reports to and communication with donors, for fear of losing funding. Bebbington argues that development policy geared towards outcome and performance criteria of NGOs has depoliticised poverty “in which poverty discussions are increasingly separated from questions of distribution and social transformation, and in which poverty reduction becomes something sought through projects rather than political change” (Bebbington, 2005:940).

In Bebbington's view this emphasis on outcome and market oriented solutions has led to NGOs focusing on the "middle poor more than [...] the chronically poor". Moreover, NGOs' representation of poor people – because it has come to focus on household level poverty to foster market orientated solutions – has been depoliticised and "reduced attention to questions of inequality, redistribution, and social organization" (Bebbington, 2005:946). This raises concerns at the policy level. Bebbington's argument indicates that NGOs are aligning their policies with government policies. The risk involved is that priority is given to accountability towards donors and securing a long-term (stable) income through government contracts. The focus is taken off developing policy on the problems encountered in the field and put onto satisfying the policy criteria of donors. This potentially leaves behind those who fall outside the scope of a particular policy. Without problematising and politicising the issue at hand and by solely focusing on market solutions, there is a risk of prolonging politically abusive environments and reinforcing injustices that never get resolved at the political level, leaving those who are worst off behind (Bebbington, 2005).

Turning to the international level, Clark (2007) argues that the concept of legitimacy revolves around the concepts of rightful membership and rightful conduct thereby invoking a revisionist agenda based on a legal-norms approach to legitimacy at the international level (Clark, 2007:26-29). Using the same criteria Collingwood (2006) argues that NGOs' access to international politics is down to competing norms within a myriad of rules and principles. When it comes to democratisation of global structures she points out that the problem is that there is "no obvious normative yardstick by which to determine or measure the legitimacy of the rules" (Collingwood, 2006:447) – thereby transposing the legitimacy of NGOs onto the global structure of power and "how to put effective limits on power per se in international society" (Collingwood, 2006). Rather than imposing a 'fixed definition of legitimacy' based on the liberal democratic doctrine Collingwood suggests a mediation between sociological and normative aspects "that allows for competing perceptions and visions of what 'legitimate' rules and membership of international society actually mean"

(Collingwood, 2006:454). The problem with Collingwood's suggestion is that the principles she invokes (autonomy, consent, deliberation) are very much a defining feature of the liberal democratic doctrine along with meritocracy and popular sovereignty, which again invites the question of relative measures of values.

Criticising the new institutional model Lister argues that technical definitions of NGOs tend to hide their agency within power structures and power relations. These definitions she argues can imply that "correct organizational structures and procedures will ensure legitimacy" (Lister, 2003:189). Analysing legitimacy as a discursive process that can disclose hidden power conflicts, Lister argues that 'rational myths' and 'ceremonial activity' can function as validating criteria to socially construct legitimacy because "legitimacy is implicit in the concept of discourse and is a mechanism through which discourses shape organizational practices" (Lister, 2003:188).

The critical (development) model embraces the political role of NGOs, that is seen to be represented in their values and purpose. It criticises the overreliance on the neoliberal agenda and raises questions about power relationships, access to power or resources, and NGOs' over-compliance with donor agendas at the cost of the poorest. The critical (development) model highlights the capacity that is embedded in NGOs' missions and their potential for introducing a legitimate political voice in particular when it comes to addressing injustice, resource redistribution and power. It is however reluctant to let go of the neoliberal agenda and the emphasis on norms as a yardstick is still problematic from the point of view of liberal democratic principles that most NGOs have internalised in the organisation of power in their own institutional hierarchies. This can easily be overlooked when the NGOs themselves are not the unit of analysis in questions of legitimacy.

The models above have a lot to offer in terms of analytical insights into the roles and functions of NGOs and their democratic abilities in a globalised political system. The

literature has introduced various legitimacy criteria for NGOs pertaining to accountability, performance, internal structures, institutional norms and access to power – especially in the context of international law and global institutions. However, it should be clear from my analysis above that there are gaps and problems with all of these models when it comes to addressing NGOs' legitimacy claims. There are many questions unanswered, especially regarding the legitimacy of the NGOs themselves, for instance, how does the same NGO claim legitimacy nationally and internationally? How do NGOs organise power internally and how is it justified? What are the legitimacy sources for their legitimacy claims? I now explain how I intend to interrogate NGOs' legitimacy claims with a Beethamite analysis.

A Beethamite framework: towards a critical political analysis of NGO legitimacy

In order to engage the literature with a Beethamite analysis I outline the key legitimacy themes I have identified in the literature of the models on NGOs and legitimacy. It is important to recognise these distinct themes because they touch upon different aspects of NGOs' legitimacy and can easily confuse analytical discussion and assessment of their legitimacy claims. The key legitimacy themes in the literature are as follows:

1. External legitimacy of NGOs pertains to national and international structures of power. At the *national* level the focus tends to be concentrated on the roles and functions of NGOs as complementary agents delivering welfare services within the third sector. At the *international* level NGOs are envisaged as representatives of global civil society with potentially legitimating functions for global institutions.
2. Internal legitimacy of NGOs pertains to how NGOs organise their power; this literature focuses on organisational legitimation within the remit of legal validity and democratic mandate.
3. Legitimacy claims of NGOs pertains to what NGOs claim and how it is justified or criticised based on their external or internal legitimacy or the substance of their legitimacy claims. The justificatory systems used for NGOs' legitimacy claims,

based on the criterion of expressed consent (see discussion on Beetham below), can be grouped into the following modes:

- the *electoral mode* which raises questions of representation and internal legitimisation processes
- the *principal-agent mode* which raises questions about performance and legal status
- the *substantive mode* which is about the quality and credibility of the claims, for example through peer review

The questions that derive from this classification relate to the functions and roles of NGOs and questions of justified participation of NGOs in governmental institutions at the national and international levels. Issues that are repeatedly addressed in the literature have formed a series of NGO legitimacy criteria that are based on performance, representation, accountability, and norms. How the issues addressed in the literature map onto structure and agency of NGOs can be somewhat confusing. This is because ontological positions sometimes overlap which can make it hard to identify the place of NGOs normative structure with regards to legitimacy, and sometimes because there is an organisational overlap between the national and international dimensions within NGOs, which can blur the definitions of their roles and functions as agents within different structures. An example of this overlap in the literature can be how some sociological or constructivist theories assign the conceptualisation of legitimacy to the realm of belief, meaning or technical definitions (Bebbington, 2005; Salamon and Anheier, 1997) when in some international relations literature the conceptualisation of legitimacy is a question of norms and moral obligations linked to philosophical debates (Clark, 2001). This division can be hard to overcome when creating a analytical framework where NGOs are the unit of analysis.

Applying Beetham's multidimensional approach enables the demystification of the line that is often drawn between national NGOs and international NGOs. All NGOs are

national entities under law.¹⁴ Many theories on NGO legitimacy are in effect addressing international power structures and are thus about NGOs' legitimacy in international politics, or international legitimacy of NGOs. It is thereby conceptually more helpful to talk about the international legitimacy of NGOs than about the legitimacy of International NGOs. It is important to emphasise here that this terminology perhaps erroneously draws a line between the national and international component of an NGO hierarchy. Most 'international' NGOs that are discussed in the literature are part of an NGO hierarchy and they are always registered according to national law, thus making this line and the terminology problematic. When theories confront the legitimacy of International NGOs they should clarify the internal organisation of power and mandate of NGOs but they do not. The tendency is to refer to international power structures and ignore the internal power structure of NGO hierarchies (Anheier, 2008; Brown, 2008; Cardoso, 2004; Collingwood, 2006; Lister, 2003; Willetts, 2006, 2011).

This context needs to be clear because legitimacy is ultimately about power and domination where an acceptance (binding or not) of authority is key. Not making this distinction fails to make clear the difference between empirical social constructs and normative obligations of rights and responsibilities and makes it difficult to identify in what capacity legitimacy claims are made. Making this distinction between structure and agency clear when NGOs are claiming legitimacy nationally and when they are claiming legitimacy internationally furthermore helps to clarify the mandate of those claims (for example performance and representation legitimacy criteria). However the distinction is not clear in the literature and there are overlaps which sometimes conflate and blur the line between empirical moral acceptance as measured in behaviour and the morally binding obligations of norms when it comes to authority

¹⁴ The only meaningful exception to this is the Red Cross hierarchy which has a legal persona in international law under the Geneva Conventions and a special status in national law (Lindblom, 2005). For example in the UK the British Red Cross is constituted by a Royal Charter subject to the Privy Council and its emblem is the legal property of the Ministry of Defence (Interview 20, 2009; Interview 21, 2009). However, there is an emerging notion of a partial legal NGO personality in international law that NGOs derive from international organisations (Kissling, 2008).

(Barman, 2007; Clark, 2001; Clark, 2006; Collingwood and Logister, 2005, 2007; Lister, 2003). It is indeed on this point that Beetham's theory is particularly helpful because it is about analysing legitimacy-in-context and thus helps to overcome this dilemma in the literature (Beetham, 1991:14).

Beetham's legitimacy criteria

Beetham identifies three universal criteria that can be applied to explain different institutional logic and systems of power:

1. Conformity to rules (legal validity)
2. Justifiability of rules in terms of shared beliefs
3. Legitimation through expressed consent (Beetham, 1991:20)

Together they comprise the normative structure of legitimacy. Meeting these criteria compels support and failing to meet them causes various legitimation problems for those in power (Beetham, 1991:20, 33-35). It is also important to note that Beetham sees these three dimensions of legitimacy as being complementary, not mutually exclusive. To engage Beetham's criteria with the literature I focus on the legitimacy themes that I outlined above: external legitimacy, internal legitimacy and legitimacy claims. This enables me to interrogate NGOs' legitimacy claims and examine their normative structure using the themes as a guideline, thus generating a Beethamite analysis.

In his theory Beetham is concerned with how power relations are socially constructed through the maintenance and reproduction of rules, beliefs, and consent (Beetham, 1991:104). The social construction of legitimacy is however not enough according to Beetham, because what is needed is "an explanation not only for the behaviour that is affected by legitimacy, but also for legitimacy itself" (Beetham, 1991:101). Thus, explaining legitimacy is also a normative undertaking. It should also be stressed that according to Beetham law is not an ultimate source of legitimacy but a '*necessary* first step': "that it is *no more* than a first step follows from the fact that rules cannot justify

themselves simply by being rules, but require justification by reference to considerations which lie beyond them” (Beetham, 1991:69). Thereby introducing arguments that extend to how rules are justified and exercised with the consent of those expressly subject to them.

Although Beetham's theory is about constructing an empirical framework for legitimacy he departs from the sociological tradition in a significant way. In sociology the concept of legitimacy is typically treated as a social process where authority is considered to be legitimated by behaviour conditioned by the beliefs of those subject to it. As such legitimacy is based on acceptance and justified with reference to pragmatic interests, cultural constructs, as well as moral evaluations (Johnson, 2004:8-14). Beetham, however, states that belief per se is not sufficient to constitute legitimacy empirically and that normative dimensions of legitimacy need to be included as constructs of justificatory reasoning. It is the normative assessments that give legitimacy its strength. The importance of legitimacy is derived from its “focal position [...] between normative political philosophy and explanatory political science” (Beetham, 1993:490) and thereby enables both explanatory inquiry and justificatory reasoning of political powers and systems. Beetham argues that studying the implications of legitimating principles in institutions is a philosophical activity because it entails examining the “logic of the principles embedded in institutional practices” (Beetham, 1993:490). This should also include looking at the evolution of the legitimating principles and how they have been established, or undermined, over time (Beetham, 1993:490-491). A Beethamite approach, in contrast to the typically ahistorical approaches in the models above, thus involves exploring the historical context of NGOs’ legitimacy such as in relation to the normative underpinnings of their legitimacy claims, or how they establish legal legitimacy.

Beetham's approach has not been without criticism. O’Kane (1993) for example criticises Beetham's theory for overreliance on the explanatory powers of legitimacy as a concept. O’Kane argues that legitimacy is fundamentally a sociological concept

and as such one should focus on 'behaviour conditioned by belief' (O'Kane, 1993). Her approach however risks devaluing the explanatory powers of legitimacy as a concept, making it marginally relevant for a socio-political analysis of power. Beetham points out in his defence that it matters whether one is examining the legitimacy of an individual holding power or the legitimacy of the underlying power system that maintains and reproduces the former. He furthermore argues that beliefs relevant for the legitimacy of those in power are based on expectations about the rightfulness of the sources of authority and objectives of that power. This in turn conditions the beliefs that the performance of those in power is judged against demonstrating the normative structure underlying social construction of power (Beetham, 1993:489).

Barker (1990) argues that the starting point in a Weberian analysis is to justify the ability of those who hold power rather than the obedience of their subordinates:

The understanding of legitimacy thus becomes in the first place an understanding of the means by which governments and those who serve them justify their power, not for the appeasement of their subjects, but to render coherent and justifiable to themselves their own occupation of government. (Barker, 1990:199-200)

This makes the empirical application of the concept potentially tricky as it can easily focus on government performance thus shunning the normative aspects of the power system and its legitimacy. According to Barker it can steer the analytical focus of 'belief in legitimacy' to government performance and away from normative conceptions of the subordinate, which is a gap in the sociological approaches to legitimization of power. Beetham goes further than Barker and argues that a Weberian analysis is mistaken:

to divorce people's beliefs about legitimacy from their *grounds* or *reasons* for holding them [...] A given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs. [...] We are making an assessment of the degree of congruence, or lack of it, between a given system of power and the beliefs, values and expectations that provide its justification. We are not making a report on people's 'belief in legitimacy' (Beetham, 1991:10-11).

Beetham's criticism of the sociological position is that its definition of legitimacy turns belief in legitimacy into legitimacy types which is then "detached from any substantive beliefs or principles in relation to which the legal rules and procedures can be

justified”, hence turning legitimacy into a conceptual straightjacket (Beetham, 1991:24). In turn, Beetham emphasises preserving the normative dimension where a power relationship can be judged not only by the behaviours it produces through incentives and sanctions, but also by analysing the ‘character of power relations’ which is a normative undertaking because:

legitimate power sets limits to the powerful through the normative expectations and principles it embodies [...] an analysis of these norms and principles is essential to understanding the distinctive character and institutions of a given system of power. (Beetham, 1991:38)

Beetham also argues that an important part of analysing political legitimacy is to make a distinction between authoritative sources and justifiable content of legitimacy claims: “It is the impressiveness of the source from which they derive as well as the moral persuasiveness of their content that gives social rules their justifiability” (Beetham, 1991:70). Beetham argues that authoritative sources for social rules can be internal (representatives) or external (divine) to a society. However, the justifiable content of the rules is related to the principle of differentiation (dominant and subordinate relations) and ideas of common interest between the dominant and subordinate (Beetham, 1991:72). The former is ranking individuals by qualification for access to power whilst the latter is demonstrating that regardless of peoples differences the “distribution of power serves the interests of the subordinate, and not those of the powerful alone” (Beetham, 1991:82).

The underlying assumptions in a Beethamite analysis are that the organisation of power embodies its normative content and that the three dimensions enable the assessment of “legitimacy-in-context of a given power relationship” which is an immanent judgement of the social scientist that can become an “immanent *critique* when the social scientist is able to show the features internal to a system of power that, on the one hand, sustain and reproduce its legitimacy beliefs, or, on the other, systematically undermine them over time” (Beetham, 1991:22-23). The legitimacy criteria are however, constrained by historical evolution (development) where Beetham argues that “some legitimating principles have to be judged as, not just different from, but more emancipatory than, others” (Beetham, 1991:112).

The historical dimension of the criteria means that it is possible to analyse the normative structure of legitimacy of a political system in different contexts; it is possible to identify the (immanent) legitimating principles of a system but also possible to place it in a larger historical context and compare and contrast the normative structure of its internal legitimacy with other political systems. The key to such comparison according to Beetham is that the 'transparent' principles of democracy are superior and that political legitimacy cannot be sustained historically based on "non-democratic principles ... where they are exposed to meritocratic or democratic ones" (Beetham, 1991:114). A Beethamite analysis of a power system is thereby benchmarked against the emancipatory legitimating principles of meritocracy and popular sovereignty, whereby the latter in particular "postulates an ideal in which all power rules are open to revision by public debate and decision between equal citizens" (Beetham, 1991:113). This makes Beetham's theory ideally suited to explore NGOs' political legitimacy in an open way looking for (new) legitimating principles of a given power system (immanent critique) as well as comparing the status of those principles in a wider context.

As was demonstrated in the four models, the literature on NGOs and legitimacy tends to focus on a single dimension of NGOs' legitimacy. Accountability systems that use the criteria of representation and performance suffer from not being able to assess NGOs' political legitimacy properly. NGOs are not elected members in political forums thus the criterion of representation is a difficult one when it comes to evaluating their legitimacy claims and tends to highlight delegitimation of NGOs in political processes rather than reinforce their position (although this is sometimes popularly claimed, see for instance earlier discussion about the Cardoso report). Using the performance criterion to assess NGOs' political legitimacy also falls short here as this criterion tends to systematically bypass the issue of political legitimacy and focus on service delivery functions of NGOs or demonstrate their compliance with donors (see discussions in the market model and the critical model). Brown's (2008) argument of peer review is

only a partial solution to this problem because it is a form of self-regulation and may therefore be susceptible to elitism and over reliance on service-delivery (or other non-political functions of NGOs) to emphasise their complementary functions and avoid political confrontations (see market model above). Furthermore, Vedder (2007b) argues that legal legitimacy is a sufficient criterion for assessing NGOs' legitimacy and new institutional theories focus on shared norms and the legitimating functions of NGOs in the context of intergovernmental institutions. None of the models above embrace a multidimensional approach to interrogate NGOs' legitimacy claims. Thus none provide a basis for a more comprehensive assessment of NGOs' legitimacy claims.

The key problematic in the literature is that it mostly overlooks the normative structure of the social construction of NGOs' legitimacy claims. Norms are either discussed narrowly (legalistic) or as part of wider subject area (external to NGOs where NGOs become a contingent unit rather than the unit of analysis). The social change and new institutional theories often treat the normative dimension of NGOs as part of a belief system, which can undermine their importance as they are assigned to the realm of definition along with other moral values that are important to an organisation. Applying Beetham's theory to interrogate NGOs' legitimacy claims is therefore a step in (hopefully) the right direction to address these gaps and problems. Legitimacy is a judgment about a power relationship. A Beethamite analysis enables one to look comprehensively at the normative structure of NGOs' legitimacy claims and assess them in the context of the power relationships that ensue in NGOs' hierarchies (Beetham, 1991:23).

Conclusion

This chapter has introduced the theoretical gaps and complications regarding NGOs' legitimacy. It has elaborated a Beethamite framework as a way of addressing the problems involved when assessing NGOs' legitimacy claims. This has been done by presenting the relevant arguments in the literature as models - market, social change,

new institutional and critical. The analytical problems identified in this chapter show that each model is looking at a limited aspect of NGOs' legitimacy - in which NGOs themselves are not the unit of analysis, the national context of NGOs' hierarchies is not clear and their historical context is not deemed important. The chapter has argued that by applying Beetham's multidimensional legitimacy criteria one can generate a fuller account of NGOs' legitimacy and start to overcome some of the analytical problems. A Beethamite framework not only provides its own analytical insights into NGOs' legitimacy claims but also enables an engagement with the other models to clarify the agency and organisation of NGOs' power. I now turn to the methods.

Chapter 3 Methods

This chapter explains my research design, the data collection process and how I have operationalised Beetham's criteria to enable a Beethamite analysis of NGOs. After I have explained my methods I discuss the data sources and how they have informed the creation of an NGO case study template driven by a Beethamite analysis.

Research design

The research design uses case studies to operationalise Beetham's three legitimacy criteria. My aim was to collect data that could help elucidate the normative structures of NGOs' legitimacy claims and NGOs' internal structures of power. The case studies allow for a comparison of how NGOs claim legitimacy where the conclusions draw on an analytical generalisation from the case studies findings (Yin, 2003:31-33). In constructing my research design I relied on the works of Yin (2003), George and Bennett (2005), Huberman and Miles (2002) and Layder (1998) for analytical support. For the data collection I used the works of Denzin and Yvonne (2005), Burnham et al. (2004:ch. 7, 9), Dexter (1970) and Macdonald (2003) as a reference for methods. This section begins by explaining the role of theory in my data in relation to how I have operationalised Beetham's theory on my case studies. Then I discuss how and why I selected my case studies. It ends with outlining my data sources of documents, interviews and direct observations. The following section discusses the data sources and the template for the case studies.

Theory and data

There was a constant interaction between the theory and data during the research process. I started out with Beetham's three criteria and looked for themes related to these when collecting the data, partly to inform the criteria as they were applied to NGOs but also to give context to each case. Although my research design was theoretically informed I was also looking for new themes or gaps in the data. This was

especially the case in the interviews I conducted (see below) which were semi-structured and therefore allowed room for exploring new information.

The interaction of the theory and the data grounded my application of Beetham's criteria through the analytical process in the data. I used a synthetic approach where "theory both shapes, and is shaped by empirical data that emerges from research" (Layder, 1998:132-133). The synthesis can be described as follows: I started with the legitimacy criteria from Beetham's theory to inform the data collection. After collecting the data I revisited the criteria to allow the data to feed back to further elaborate the criteria and inform the structure of my research design and theoretical application.

This was a reflective process of constant negotiation between the theory and the data that helped me to structure and operationalise Beetham's legitimacy criteria for NGOs. It was ongoing throughout the research process and materialised as I was writing the case studies (in particular the Amnesty International UK case study). The reflective element enabled fine-tuning of the legitimacy criteria and adapting them to analyse the legitimacy claims of NGOs that had emerged in the data collection process.

This approach facilitated my operationalisation of the three legitimacy criteria in a more elaborate and structured way by giving context to the complexities of NGOs' organisational structures, especially pertaining to regulation and the national and international dimensions of their legitimacy. Operationalising Beetham's theory was therefore a process of synthesising the theory and the data that was centred on Beetham's three legitimacy criteria in order to identify the normative structure and social construction of NGOs' legitimacy claims. I now discuss this in more detail.

Operationalising Beetham

The driving research question of the thesis is 'what makes NGOs legitimate?' The aim is to answer this with empirical research that is both descriptive and explanatory. In

order to explore the legitimacy of NGOs I approached the question from the angle of legitimacy claims. This enabled me to include the normative structure of NGOs' legitimacy claims (in expressed and instituted mission statements) and account for it as a formative part of NGOs' overall legitimacy in line with Beetham's theory.

Using Beetham's three criteria (of legal validity, justification of rules and expressed consent) and the gaps I identified in the literature I focused on the subsequent questions:

1. How do NGOs claim legal validity? This pertains to their registration and legal status and contains not only legal and organisational information about the NGOs but also their normative and purposive statements.
2. What are the internal legitimisation processes of NGOs? This pertains to their internal organisational structures and contains information about how they justify their organisation of power contextually.
3. In what capacity do NGOs present their legitimacy claims? This pertains to accountability measurements and issues of regulation. It also addresses the constitutive abilities of NGOs and to what degree legitimating processes structure the mandate of the executive level to present legitimacy claims (normative and empirical).

The first two address how NGOs claim and justify their legitimacy whilst the third addresses how they present their legitimacy claims externally. Operationalising Beetham gives context to the complexities of NGOs' organisational structures and how NGOs claim legitimacy, in particular it elucidates the organisation of power that transgresses between the national and international dimensions of their hierarchies.

Beetham's legitimacy criteria provide grounds for obligation in a power relationship, not for belief in its legitimacy (Beetham, 1991:13). A Beethamite approach is thus about analysing the internal organisation of power and the power relationships it

generates by making a judgment about the normative structure of the legitimacy claimed. A Beethamite approach is not about reporting people's belief in legitimacy "from the private recesses of people's minds" (Beetham, 1991:13), therefore whether "people believe in the legitimacy of a given power" is a redundant question according to Beetham (Beetham, 1991:13). What is of interest to the researcher conducting a Beethamite analysis is the normative structure of legitimacy that enables him or her to judge the legitimacy claims it maintains and reproduces. The implication of this for the data collected for a Beethamite analysis is that the information is collected from the public domain and interviews are used to triangulate that information, not to establish what people think or believe about legitimacy.

Selecting the case studies

NGOs are my unit of analysis. In selecting the case studies I looked at three factors: their size, mission statements, and organisational structures. Size was used as an indicator of the amount of data that would be available, ease of access, their recognition as influential actors as well as their potential representation of a larger pool of NGOs within a specific field such as human rights, environment and religion. The other two factors that I looked at were internal to the NGOs. Mission statements were used as indicative of what the organisation is about and would like to achieve; and organisational structures as indicative of their capacity to leverage power in relation to political institutions either through contracting or advocating (or both).

I initially selected five NGOs for my case studies: Amnesty International, Greenpeace, Cafod, Red Cross and Oxfam. However, it became evident that these were too many case studies given the space and word limit of a doctoral thesis. Also I quickly realised that each case study required close, thick description and analysis and that this required a considerable space – more than could accommodate five case studies. I therefore made a decision, on both analytical and practical grounds, to narrow it down to three case studies, Amnesty International, Greenpeace, and Cafod. Amnesty International and Greenpeace were chosen because they emphasise advocating and

feature frequently as NGO examples in both the literature and the media as expert organisations on human rights and environmental issues respectively. Cafod was chosen because of its religious orientation as a Catholic NGO and its emphasis on service delivery.

Reducing the case studies from five to three was partly based on practical factors, such as where I had gathered more data and (although to a lesser degree) where I had developed better contacts for access. But it was equally based on a dilemma imposed during the data collection that indicated complex hierarchical structures of NGOs where it was difficult to draw a line between the UK based office and the international office of the same NGO. Applying legitimacy as a three-dimensional concept gradually exposed a problem embedded in the organisation of the NGOs that was directly linked to their legitimacy claims. In the process of clarifying my unit of analysis it became clear that each NGO was in fact two units, the UK office and its corresponding international office. It became clear that each NGO was better analysed as a UK NGO (particularly when analysing their legal legitimacy) but also as a unit with a corresponding organisational NGO hierarchy where the international office was integral to its organisational structures. Thus Amnesty International became Amnesty International UK and Greenpeace International became Greenpeace UK. Although Cafod has different organisational structures from Greenpeace and Amnesty International the importance of its external hierarchy was also highlighted when researching their legitimacy claims. Whilst my focus was on the UK office there was a need to embed the international office for analytical purposes. The division between the UK and international offices proved to be important in terms of explaining how legitimacy claims are structurally embedded in the NGOs.¹⁵

¹⁵ I had initially also thought of conducting a survey and attended some training courses for that purpose. However, I abandoned that method on the grounds it would lead me away from the structures to focus more on individuals as agents where I might not be able to fully exploit the application of the normative structures of legitimacy as presented in Beetham's theory.

The data collected

The data sources I targeted were (in order of importance): documents, interviews, and direct observation. It should be stressed that the documents are my primary data source and that the interviews and the direct observations were conducted to contextualise my research questions and are treated as secondary sources. The different types of documents were further split into primary and secondary sources where NGOs and governmental documents were treated as primary and other documents as secondary (although there are deviations from this, for example where I have treated archival documents as a primary source).

In assessing the value of the documents, I used the following questions as a guide for assessing their validity: What is the document communicating? Who is addressing whom? and under what circumstances? (George and Bennett, 2005:99-100). To address the overall issue of validity and reliability of my data I used triangulation both within the same sources and between them. Internal triangulation was done to increase the validity of my primary sources (for instance NGOs' and governmental documents) whilst triangulation between the data (for example documents, interviews and direct observation) was done to increase the reliability of my research findings.

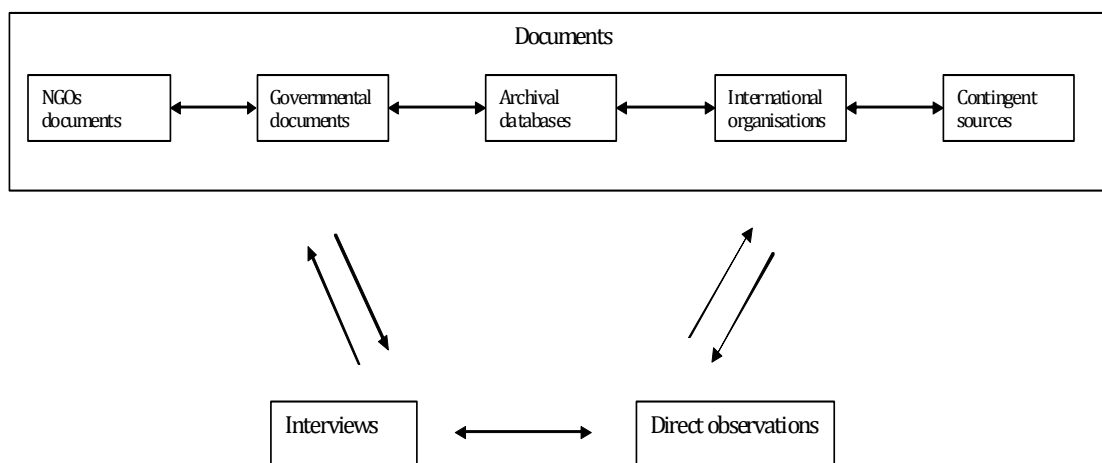


Figure 1 Triangulation of data sources. The figure is adopted from Davies (2001:78) but I have changed it for the purpose of my research.

Discussion of data sources

Documents

My primary data source was documents. The types of documents I collected are various. I identified NGOs' and governmental publications as primary and archives and contingent sources as secondary that I used mainly for triangulating my primary sources (see Macdonald (2003:197-203) and Burnham et al. (2004:165-176) for details on types of documents and the use of primary and secondary sources in documentary analysis). The following are the main documentary sources used:¹⁶

- NGO publications: founding documents and articles, organisational documents (some documents received in interviews others from the public domain), reports conducted and commissioned, annual reports, newsletters, documents posted on their website such as memos from board meetings and annual meetings, campaign material, and handbooks. These documents mainly informed my research on NGOs' legitimacy claims in each case study.

¹⁶ See bibliographical addendum to chapters five, six and seven for details on how the documents (and some other data sources) map onto the case studies.

- Archival databases: the databases I relied most on were the ones of the Companies House and the Charity Commission. However there are many databases that keep records on NGOs and I have consulted them for primary documents and for triangulation. These include the National Archives, legal archives (for example the British and Irish Legal Information Institute and Westlaw), The Times newspaper archive, the Database of Archive of Non-Governmental Organisations at the University of Birmingham, the Archbishop of Westminster Diocese archives, London School of Economics Fabian Society Online archive, and the International Institute of Social History and IDC Publishers in the Netherlands. These documents mainly served for triangulation purposes but important in-depth information was also obtained, especially on Amnesty International from the legal archives and the National Archives.
- UK governmental publications: Companies House; Charity Commission; Department for International Development; Foreign and Commonwealth Office; Select Committees on energy, environment, human rights, international development and public administration; evaluation reports of governmental contracts with NGOs. These documents were important for analysing the context of the legitimacy claims. The documents obtained from the Companies House were an important source for identifying the organisation of power and legal validity of the NGOs.
- International organisations: I have used mainly documents from the UN and the Vatican to triangulate my research on the legitimacy claims made by the NGOs. From the UN these are documents published by the Commission on Human Rights, the Economic and Social Council, the International Panel for Climate Change, and the Secretary General (the Cardoso Report). These helped with triangulation in identifying the justifiable sources of the legitimacy claims made by Amnesty International and Greenpeace. From the Vatican (including

the Holy See), I have used various documents to establish the sources of legitimacy for Cafod's legitimacy claims (a list of Vatican and Holy See internet sources can be found in the bibliographical addendum under Cafod).

- Contingent sources: newspapers, obituaries, biographies, issue or process specific websites that cater for the NGO industry such as British Overseas NGOs for Development (Bond), Global Reporting Initiative, Civicus, university projects on NGOs, monitoring and evaluation reports by third parties on NGO-government contracts. These documents have served to verify dates and names and also to identify external sources of regulation and organisational legitimacy, such as codes of conduct.

The majority of my data is sourced from public documents and this has limitations. Recognising the possibility of a systematic bias in this I used interviews as a supporting data to undertake a triangulation. Therefore the case studies should be read bearing in mind that although they are supported by triangulation my data sources have limitations when it comes to scope and coverage.

Interviews

The interviews I conducted were mostly elite interviews (Burnham, Gilland, et al., 2004:205-220; Dexter, 1970) including directors, deputy directors, departmental managers, field managers and legal experts but other people were also interviewed because of their special position or long history within a particular NGO. All the interviews were semi-structured. Although most interviews were prepared with particular objectives or aims in mind I also ensured that the flow of the interview was coming from the interviewee to detect any possible themes and gaps I might have missed in my data collection prior to the interview (see appendix to chapter three for a full list of the interviews).

Each of my interviews had six phases:

1. contact - finding and establishing a contact with the interviewee
2. preparation
3. actual interview
4. immediate processing of the interview
5. reflection of the interview
6. triangulation

In total I conducted 21 interviews. Seven interviews took place at the international advocacy NGO workshop.¹⁷ Seventeen interviews were conducted on site and four interviews were conducted by phone. Six of the interviews were recorded and transcribed and 15 were handwritten notes that I wrote up with reflections as soon as I could after the interview had been conducted. After conducting each interview I wrote down my thoughts about the interview and what was obtained from it. My reflections include what was said in the interview and how it relates to other information I obtained from: a) preparing for the interview; and b) other interviews conducted previously where the same or related issues cropped up.

The interviewees were contacted by three different types of strategy: targeted, accidental and snowballing. The first interviewees were targeted as part of my observation study plan. I approached the information desk of the NGOs I suspected were sending representatives to the workshop with an email to request contact information.¹⁸ I duly received their contact numbers, email and phone number. I then contacted each prospective interviewee saying how I gained their contact number and offering a letter of intent. This led to three successful interviews, one follow up interview and three other interviews with other members of their respective NGO. Once I was on the premises and had gained access to the workshop I approached other participants for interviews which resulted in a further four interviews. Another

¹⁷ The international NGO workshop is an annual meeting of NGOs that was in 2009 organised by an organisational called Civicus. The meeting was in Barcelona, Spain, and lasted three days. The topics of the meeting were to discuss the international NGO Charter (INGO Accountability Charter, 2005) as well as issues pertaining to NGOs as a sector at the international level. See more detail below under the section 'direct observations'.

¹⁸ See appendix to this chapter for an example of a letter of intent I sent to the NGOs.

strategy I used was to ask friends of friends which resulted in a contact person within a particular NGO. This led to two interviews and snowballed four more. It should be noted that although I dropped two of my initial five case studies I used all the interviews I conducted to inform my research. This is partly because some of the interviews were highly informative and also because they led to particular and useful information.

The processing of each interview was in most cases done within few hours of the interview. However, re-engaging with the questions and answers weeks later also introduced a more reflexive process through triangulation where I was able to connect the information in the interview with other data to gain broader context for evaluating that particular information. As such the interviews were used to establish the context of my research questions and to obtain in-depth information on particular, and sometimes new, issues.

Direct observations

I made three observations in 2009. First at a workshop for advocacy NGOs operating at the international level held at the campus of Universitat Politècnica de Catalunya in Barcelona; the second observation was a special Cafod mass at Christ the King Church in Liverpool; and the third was a Cafod supporters meeting regarding Caritas Colombia presented by its director in the Salford office of Cafod. The observations were incidental to my methods approach and conducted on the bases that they were intended as secondary data sources. They were first and foremost undertaken to provide context to my case studies. The first and second observations were corollary to interviews I had organised and the third was an invitation to attend after an interview I had conducted.

Participating in the NGO workshop gave me context for the NGOs working at the international level. It was useful to make this initial contact and observe how the workshop was run, what NGOs were attending, who their representative was, what

the main topics were and how issues were prioritised and debated. It was also revealing how difficult it was to gain access to the workshop as a research student.¹⁹ From the data I collected – my observational notes, the interviews conducted with the participants, and documents I received²⁰ – it was possible to identify two things: one that there is an operational gap between the national and international dimensions within NGOs; and two the self-regulatory ambitions of NGOs at the international level.

A template for a Beethamite case study

The outline for each case study is similar and follows a template based on my operationalisation of Beetham's criteria of legitimacy. This includes examining how NGOs claim legitimacy by analysing their claims in the context of their history and organisation to provide analytical context for assessing their legitimacy claims. The historical and organisational contexts help identifying the legal and organisational details of NGOs and the legitimacy sources used to justify their legitimacy claims. I use embedded case studies to highlight the analysis of the NGOs' legitimacy claims based on these criteria. The historical context in each case study identifies the shift from individuals to organisational hierarchies and how the NGOs established their legal legitimacy in the UK. This is an essential precursor for analysing their internal organisation of power and process of legitimation because it elucidates the legitimacy principles at work. The historical context grew in analytical importance as the thesis developed with the constant negotiation between the theory and the data. It became evident in this process that when trying to understand and explain the NGOs' legal legitimacy it was important to comprehend both the legal-procedural and the normative aspects of their claims and that these were directly connected to the historical context of each NGO. An ahistorical approach would have missed out on this interaction between the data and the theory. The organisational context provides

¹⁹ My attempts to attend the workshop officially were unsuccessful. The strategy I used was to organise interviews with NGO representatives I knew were attending the workshop to gain access. Once I was on the premises I stood in the doorway asking if I could enter, which resulted in a positive reply courtesy of one member of the group.

²⁰ This includes a number of official documents relating to the organisation of the workshop and the official notes by the workshop which I used to verify my own notes and triangulate the information I had gathered.

information about how power is organised in the NGOs, both individually and as a part of a hierarchy. This information is quite detailed and institutionally complex but it is needed to ground the explanations of how power is legitimated internally which is crucial for assessing the legitimacy claims and in what capacity they are made. The NGOs' legitimacy claims are then analysed based on the sources of legitimacy and the content of the legitimacy claims. Each chapter concludes with a summary of the key issues.

Conclusion

The information collected about the NGOs was scattered in many places and some of it was surprisingly difficult to access. However, the information gathered and processed has provided me with a sound basis for analysis of their legitimacy claims. I have divided the main data sources into documents, interviews and direct observation. Of these three the documents are my main data source. Therein NGO publications were essential for my understanding of NGOs' legitimacy claims, however, the archives, UK governmental documents, and international organisations publications were equally important for establishing the context for analysing the NGOs' legitimacy claims as well as providing support for triangulation along with the contingent data sources.

The interviews and the direct observations also played a significant role in contextualising my research design. The Barcelona workshop was a clear indicator of the organisational hierarchy that exists in NGOs between their national and international dimensions, and the Cafod meetings I attended gave me an insight into how integrated and embedded Cafod was in the Catholic Church at large. The interviews were also a good indicator for context where it was possible to identify and confirm issues that I had already extracted from the collected documents. Most of the interviews gave a deeper and more concentrated insight into either the NGO or a particular issue related to the NGO. However some interviews were also informative on the NGO industry and how NGOs, and those working in them at different levels, conduct themselves.

Chapter three has demonstrated how I operationalise Beetham's legitimacy criteria in my case studies. It has presented the research design and the data sources and how they are used. The next chapter introduces the UK regulatory context for the case studies. This is important for understanding the organisational context for the case studies and how I have approached their legitimacy claims. It also highlights the problem of the national-international divide that exists in each NGO hierarchy in relation to law.

Chapter 4 Regulation of NGOs in the UK: the political context of legal legitimacy

This chapter explains the national context and the relevant shortcomings of NGOs' regulation in the UK. Regulation of NGOs is either carried out through charity law or company law, both of which are highly problematic for NGOs. The chapter argues that the problems associated with or resulting from lack of regulation of NGOs are directly linked with an inadequate regulatory regime that is not designed for NGOs.²¹ The regulatory context is an important contextual feature that helps to explore the application of Beetham's first criterion of legal validity and understanding it helps to address the question of how NGOs establish legal legitimacy in the UK. The regulatory context also helps to define the national-international fault line inherent in NGOs' hierarchies. The chapter starts by explaining the political context of NGO regulation in the UK. It then explains the relationship that exists between charities and the UK government, followed with a description of UK's NGO regulators, the Charity Commission and Companies House. The chapter concludes by stating the problems associated with the legal definitions underpinning the regulation of NGOs and how this leaves a legitimacy gap in the regulation of NGOs. The following three chapters that are the case studies then deliver the arguments needed to start addressing this gap.

The political context of NGO regulation

This section highlights the underlying problems in identifying NGOs' legal legitimacy in the national context. It is important to point this out because if legal validity should be seen as a 'necessary first step' (Beetham, 1991) it should be stated that NGOs, based on their operational and organisational realities, are subject to a fragmented legal framework based on their role in society as seen by the government. This complicates efforts made to clarify and establish the legal validity of NGOs. The focus is on the regulation of NGOs in the UK where NGOs are regulated by either (or both) company

²¹ This chapter only looks at a specific aspect of the regulatory regime that faces NGOs. For a comprehensive account of regulation in the UK see Moran (2007).

law and charity law (Davies, 2008; Meakin, 2008). Issues pertaining to self-regulation and international law can however also be relevant when examining the national-international fault line created by the organisational structures in NGOs' hierarchies. In international law there are virtually no legal requirements on NGOs. Monitoring and regulating NGOs is mostly based on requirements imposed by those global institutions that NGOs negotiate with (Kissling, 2006; Lindblom, 2005; Martens, 2005). Regarding self-regulation, this is a voluntary compliance with industry or internal codes of conduct which are accepted in a wider context as good management practices (British Overseas NGOs for Development, 2011; Global Reporting Initiative, 2011). Although international regulation (as conducted by intergovernmental organisations) and self-regulation (conducted by the NGO industry) can be important for NGO accountability and legitimisation I have decided to focus on the UK regulatory regime because of the immediate context of national law for UK NGOs. This chapter contextualises the case studies to demonstrate that the most commonly used channels of regulation for UK NGOs pose a problem for their legal validity.

The regulation of NGOs in the UK is closely associated with their role as portrayed in the market and social change models as discussed in chapter two. In the UK NGOs are mostly discussed in the context of the third sector. Their role in society is hailed by the government and seen as a vital support for delivering policies, whether welfare, international development or other policy issues. In 1998 the government made a 'Compact' with the third sector based on a commissioned report and a Labour policy document: the Deakin Commission Report on the Future of the Voluntary Sector and Building the Future Together (Straw, 1998:art. 4) (for details on the mainstreaming of the third sector into public policy in the 1990s see Kendall (2000)). The Deakin Report largely influenced the shape of the Compact, in particular the structure of the relationship between the government and the third sector; much in line with the social change model (Deakin, 2005:36-39). The Compact has been crucial to the increased investment and promotion of the third sector. This symbiotic relationship between the government and NGOs was strengthened by the creation of the Office of the Third

Sector with its own minister, Minister for the Third Sector, in 2006. In the 2008 Compact on Relations between Government and the Voluntary and Community Sector in England, the government restated its plan to integrate NGOs more closely into government mechanisms (Office of the Third Sector, 2008). The vision of the 2008 Compact is based on: the complementary functions of NGOs, the democratic empowerment that NGOs can bring, and the social and economic contribution of NGOs as service deliverers and advocates (Office of the Third Sector, 2008:6-7, art. 4-6). The subsequent related government reports justify the role of NGOs based on the market and social change models. The role and agency of the sector is described: “[a]s a vital part of the economy, a key deliverer of public and community services, and the glue which holds our communities together” (Office of the Third Sector, 2009:6).

The emphasis on service delivery has continued since the Deakin Commission Report and in 2009 the Prime Minister stated that the government’s plan was to step up: “investment and support for the third sector at a time when demand for their services is rising at an unprecedented rate” making the third sector “a major partner to Government in the delivery of public services” (Office of the Third Sector, 2009:3). Again the Compact was reinforced in 2010 with very similar justifications of NGOs’ roles (complementary partnership and democratic empowerment), albeit more target orientated in its presentation and introducing accountability criteria (Cabinet Office, 2010a; 2010b:3-4) (although the accountability and transparency guide reads more like a first step of many on the way to robust accountability measurements).

Regulating the service delivery function of NGOs in partnership with the government is largely done by regulating their financial accountability. As mentioned in chapter two accountability is always ‘upwards’ to those that have delegated power (Peruzzotti, 2006). For NGOs delivering services this is usually the donor, which in the case of the Compact is the UK government. Regulation has been in-house or done by assessments of target oriented service delivery contracts evaluated by third party companies (see for example Cafod's contract with the Department for International Development

(DFID, 2008; Watkins and Watson, 2005)). Because the symbiotic relationship between the government and the third sector has been institutionalised with service delivery in mind much of the advocating functions of NGOs are unaccounted for.

In an acknowledgment of the need for a regulatory regime for lobbying groups in Whitehall, a parliamentary inquiry was launched into the issue under the Public Administration Select Committee (Public Administration Select Committee, 2009a, 2009b, 2009c). The general worries raised in the report reflect a need for a uniform regulatory regime of all external influences on parliament (although the Committee is more concerned with profit making lobbying groups it also expresses concern about the lack of access to decision makers for non-profit lobby groups, which it thinks suffer from the profit making lobbying groups (Public Administration Select Committee, 2009b:3, 42)). The Committee argues that “what lobbying organisations refer to as “self-regulation” appears to involve very little regulation of any substance” (Public Administration Select Committee, 2009b:22).

The Committee points out that although “behavioural constraints and transparency requirements” have been developed these cannot be relied on as coherent regulation (Public Administration Select Committee, 2009b:34). A regulatory reform should “involve explicit agreement about the terms on which this lobbying is conducted” and “ensure that the process of lobbying takes place in as public a way as possible” (Public Administration Select Committee, 2009b:42). The Committee is decisive on its view of self-regulation as a mechanism of accountability and states that it should only be auxiliary such as in establishing ethical behaviours and should not be used to substitute proper regulation (Public Administration Select Committee, 2009b:42). The main argument is that the relationship between lobby groups and parliament needs to be regulated with statutory powers and a mandatory central registry. Such a registry should furthermore be managed by an independent third party (that is independent of government and lobbyists) and information should be collected that is in the public

interest (and can be easily provided) (Public Administration Select Committee, 2009b:51-52).

In response to the report the government clearly states its preference for self-regulation and a voluntary registry in order to protect the ethos of lobbying. The Select Committee refutes the argument claiming that a mandatory registry will neither alter the behaviour of those who lobby nor create unnecessary bureaucracy for them. The thrust of its argument is that consultation has become an established part of the policy making process and that this relationship needs to be regulated with statutory powers (Public Administration Select Committee, 2009c:art. 3,4,24). The tension between the Select Committee and the government is interesting where the government takes the social change approach whilst the select committee takes a critical view pointing out that unregulated power should not be tolerated and refuses to accept that regulating those groups will alter their freedoms to associate.

Following the report a Public Affairs Council was established to keep a publicly accessible register and “offer a system of voluntary regulation” (Public Administration Select Committee, 2009c:appendix; UK Public Affairs Council, 2011), but it soon attracted criticism for underperforming in its task (Hall, 2011).²² However, one measurement suggestion from the Committee has led to, as of 1 October 2009, a mandatory publishing of meetings that take place between government offices and lobby groups. From this it is possible to have information on meetings that take place between for example the Foreign and Commonwealth Office and Amnesty International and see that the meetings are at least monthly (this includes with Amnesty International individually and as part of an alliance of NGOs). This information was not readily available previously (although it is unclear how frequently information on scheduled meetings will be updated).

²² The register was launched 1 March 2011. It is thus difficult to assess given the short timeframe between the launch of the register and the time of writing this thesis. However, Amnesty International and Amnesty International UK Charitable Trust are clients of the Public Affairs Council register, as is Greenpeace International, but Cafod is not (search conducted 18 Oct. 2011).

The political context demonstrates that there is a preferential bias in the relationship between NGOs and the government. The government has repeatedly stated and reinforced the importance of NGOs service delivery function for delivering government policies. However, the advocacy function of NGOs and NGOs as part of the lobby industry lacks clarity and NGOs' relationship with the government and decision makers in the policy process suffers from lack of regulation. For a Beethamite analysis the most important aspect of NGOs' legal legitimacy is the legal framework under which NGOs operate; the rules. In the UK, NGOs can register as companies or charities or both, regulated by the Companies House and Charity Commission respectively. I now turn to discuss the regulators.

The Charity Commission and Companies House: the Regulators

NGOs in the UK can register to comply with either or both charity law and company law. The registry for charities is regulated by the Charity Commission and the registry for companies is regulated by the Companies House. The Companies House is an Executive Agency of the Department for Business, Innovation and Skills and ultimately answerable to the Minister for Employment Relations, Consumer and Postal Affairs. The Charity Commission is an independent non-Ministerial Government Department that is independent of but appointed by and ultimately answerable to the Minister for the Third Sector (Charity Commission, 2008a:section 4.4; Companies House, 2011). Although my focus on NGOs is closer to the charitable context the reality is nonetheless that two of my case studies are registered as companies. I however focus on the regulation of NGOs as charities because charity law is initially created to service organisations whose purpose is not financial whereas company law is to regulate for-profit companies. At the same time I point out the problems NGOs are confronted with under charitable registration and how company registration is used to overcome some of these anomalies.

The history of charity regulation dates back to the Elizabethan Charitable Uses Act 1601 (Jones, 1969; Jordan, 1959). Although intended as a legal tool to regulate charity fraud it has also come to define what charity means (Charities Act 2006, section 1(3); Robbins, 2006:24). In 1891 charity was classified into four categories: relief of poverty, advancement of education, advancement of religion, and other purposes for community benefit (Morris, 1999:2). In the Charities Act 2006 the categories have been expanded to twelve (Charities Act 2006). The Charity Commission also has a long history (Charity Commission, 2011f) but its current institutional form is based on the 1960 Charities Act as proposed by the Nathan Committee (Nathan, 1952). The Charity Commissioners are civil servants appointed by the Minister for the Third Sector (previously the Home Secretary) and answerable to the minister in annual reports (the functions of the third sector under the charities act used to be under the Home Office but were transferred in 2006 to the Cabinet Office (*The Transfer of Functions (Third Sector, Communities and Equality) Order 2006*)). The Charity Commissioners are independent from the minister (Charity Commission, 2008a: section 4.1; Moffat, 2001). This independence has however rendered the Charity Commission ill suited to deal with charity removals from its registry where it has few legal tools at its disposal.

Meakin (2008) has pointed out that the line between what counts as a charity and what does not is a very thin one. The general rule is that what qualifies under the law as charitable is based on the charity's objects as expressed in governing documents (articles of association) rather than the charity's activities. However, Meakin argues, the number of exceptions to this rule increases the confusion over what counts as charitable and what does not. The consequence is that the powerlessness of the Charity Commission to remove non-charitable organisations from its registrar is exposed (Meakin, 2008:31-33). The power of the Charity Commission has always been limited and historically it has neither had "power to make decisions about charitable status" nor "power to make law" (Meakin, 2008:47-48):

Even after the Charities Act 2006, which sets out twelve specific charitable purposes, when the Commission is faced with novel questions of charitable status, there are so few decisions of the court which define what is charitable that the Commission is, in the context of registration and removal, forced into

becoming a de facto lawmaker where it wishes to decide that an institution was never charitable. (Meakin, 2008:49)

This places the Charity Commission in an awkward position where it is forced to be “second-guessing what it thinks the court would decide” and thereby risking to act unlawfully (Meakin, 2008:49). In order to regulate charities more effectively the legal power of the Charity Commission needs to be clarified. Meakin argues further that in order to give the Charity Commission a greater legal power to register and remove charities the criteria of what constitutes charitable status needs to be clarified (Meakin, 2008:44).

Both the Charity Commission and Companies House have responded to concerns about anomalies with respect to the charitable aims of organisations that highlighted problems on the registration forms most commonly available to companies and charities. On the one hand one solution offered is the Charitable Incorporated Organisation. This is a registration form available within the Charity Commission and mainly targets service delivery NGOs. These NGOs often enter into contracts that carry financial risk and this form allows them to reap the benefit of company law (that is limited liability) without having to register as companies and comply with company law. The Charitable Incorporated Company, on the other hand, is the business response to community oriented businesses. This form allows businesses that want to redistribute their profits for community purposes (and not to its shareholders) to register as businesses (the regulator is not Companies House but the Secretary of State for Trade and Industry). However, neither of these solutions offered addresses the dilemma of political legitimacy. Both company law and charity law place obligations on the registries regarding the registration and removal of the companies and charities they have enlisted (the legal power of the Charity Commission lag behind those of the Companies House). Monitoring their registries and making the information publicly available is also part of their tasks.

All registered companies are subject to a single act, the Companies Act. The act is wide-ranging and covers a multitude of functions which has led to pondering whether

it serves its purpose justly. It has been stressed with specific reference to NGOs that company law is designed for commercial agendas even though it is open to NGOs as a form of registration (Davies, 2008:13, 20). This highlights that there is an inconsistency between the legal form and the organisational mission and purpose of NGOs which is exposed by the fundamental difference in the incorporation of organisations that are not-for-profit and companies that are for profit. NGOs that register as companies to conduct a not-for-profit business are most often involved in a business exercise that can hardly be “characterised as business at all” (Davies, 2008:4).

Registration is of concern because it is decisive in separating non-profit making companies from the profit making companies and many NGOs, such as Greenpeace UK, register and operate mainly under company law. Central to all scrutiny of companies is financial accountability. Although financial accountability is relevant and important for NGOs, it cannot be central to the scrutiny of NGOs’ legitimacy claims. NGOs’ legitimacy claims are based on normative goals, not financial goals, and financial scrutiny is therefore only a limited scrutiny of their legitimacy claims. This gap between legal status and public accountability remains unaddressed.

There are two main reasons, according to Davies (2008), why NGOs register as companies based on the functions of the NGO (whether service delivery or advocacy). The first reason is to reap the benefit of company law of limited liability to avoid financial risk. These NGOs are incorporated because they “are playing a bigger role in the delivery of welfare services previously provided directly by the Government and thus are carrying more financial risk” (Davies, 2008:8, footnote 29). The second reason is NGOs that are forced to register as companies because their purposes “do not fall within the rather narrow legal definition of charitable purposes” (Davies, 2008:8). Thus Companies House is hosting those NGOs that do not fit within the legal forms available to them at the Charity Commission either because they are not financially

protected or because their purpose is too political. The new legal form of Charitable Incorporated Organisation only addresses the former.

There are a number of legal forms that NGOs can register under charity law with a variety of governing documents, albeit mainly constitutional documents or a trust deed (see appendix to chapter four). The Charity Act 2006 addresses some of the changes that have been caused by the infusion of companies and charities. Many NGOs are registered as charitable trusts or associations where liability can fall on trustees. Charitable Incorporated Companies is one way to overcome the liability issue but then organisations are required to follow company law in addition to charity law with legal responsibilities that reach further than the Charity Act. The new form, Charitable Incorporated Organisation, presented in the Charity Act 2006 is supposed to overcome these dilemmas as it offers “an incorporated body with limited liability [...] without all the additional requirements of company law.” (Morgan and Directory of Social Change (Organization), 2008:9-11). The Charitable Incorporated Organisation form therefore provides the company’s benefits to charities, such as limited liability, and NGOs that register as Charitable Incorporated Organisations have only to comply with the Charity Act. Although this may solve some discrepancies in registration and legal compliance for NGOs that undertake service contracts it does not solve the accountability gap for politically active NGOs.

Conclusion

This chapter has highlighted the inadequacies of NGO regulation under English law, questioning the appropriateness of charity and company law as legal tools for regulating NGOs. These questions have been raised in the context of regulation because charity regulation in the UK favours the service delivery function of NGOs (as part of government’s welfare provision) and systematically excludes politically active NGOs. Regulation according to company law is tailored for profit making companies and only considers the financial aspect of NGOs registered as companies. This has direct implications for how NGOs manage their organisational objectives under two

different sets of regulatory bodies, which brings me to the final point which is that the above points reveal the gap in the regulation of NGOs in particular in their roles as democratic agents or potential participants in public policy.

Although some of the problems NGOs face under charity regulation can be solved by company law these are focused on the financial risks NGOs are exposed to when delivering contracted services. Morgan (2008) has pointed out that the Charitable Incorporated Organisation is aimed at solving the problems for NGOs delivering services by offering the protection of limited liability. Davies (2008) has pointed out that company law is mainly benefitting the contracting NGOs because it offers protection from financial risk. He has also argued that NGOs left out by legal definitions of what constitutes charitable objectives and whose purpose is thereby defined as political, have no other choice but to register as companies. These complications have systematically left political activism out of the regulation loop. In short, the complex pattern of NGO regulation in the UK – a mix of charity law and company law – leaves numerous gaps in the regulation of NGOs. This shortcoming in the regulation of NGOs is directly linked to the questions of their legitimacy and how to properly scrutinise their legitimacy claims.

The previous chapters have introduced how a Beethamite analysis can address the problematic in the literature (chapter two) and how to apply and operationalise Beetham's legitimacy criteria for NGOs (chapter three). This chapter presented some of the key issues in the UK regulatory context for looking at NGOs' legitimacy claims and the problems involved. Having done this I now turn to the case studies.

Chapter 5 A Beethamite assessment of Amnesty International UK's legitimacy claims: a case study of a membership NGO

Amnesty International is a prominent NGO whose work is frequently cited by governmental institutions both at the national and international level. Yet, there is little documentation of how it claims legitimacy or how the internal organisation of power in the Amnesty International hierarchy affects assessments of their legitimacy claims in the national context. In order to examine this further I ask the following questions: How does Amnesty International UK justify its legitimacy claims? Are the legitimacy claims of Amnesty International UK independent of Amnesty International and vice versa? In what way does their internal legitimisation process impact on how one should assess their legitimacy claims? And, what are the sources of their legitimacy claims? To answer these questions I apply the Beethamite framework to examine how Amnesty International UK claims legitimacy in the UK as a unit (national section) that is part of the Amnesty International hierarchy. Focusing on Amnesty International UK helps to clarify both the UK national context and the organisational context that Amnesty International UK belongs to, the Amnesty International hierarchy.²³

One of the biggest hurdles in the literature on NGO legitimacy, as was discussed in chapter two, is the issue of representation. Representation is particularly problematic when it comes to Amnesty International because the literature tends to ignore the role of Amnesty International's national sections, such as Amnesty International UK. Amnesty International's organisational structure and internal process of legitimisation is often overlooked as a meaningful component of how the national sections claim legitimacy. When it comes to assessing their legitimacy claims the focus is on how

²³ A note on terminology. In the first half of this chapter Amnesty International refers mainly to the international unit as I am mainly discussing the legitimating principles that emerged in the early years of the organisation. However, Amnesty International can also refer to the whole organisation including the international and national sections, depending on the context. Amnesty International UK is used to specify the UK national section. The use of Amnesty International terms becomes more specific in the second half of the chapter and I indicate this with a footnote and further detail on terminology.

legitimacy claims are based on Amnesty International's expert knowledge of human rights where human rights are treated as universal norms. The problem this creates is an overly narrow discussion of Amnesty International's legitimacy claims that is dismissive of the internal process of legitimation in the hierarchy and a wider more complex context that is inclusive of internal sources that provide justifications for their legitimacy claims.

In order to overcome this hurdle I focus on Amnesty International UK as a member of the Amnesty International hierarchy. The analysis involves examining how Amnesty International UK maintains and reproduces legitimacy claims as a member of the Amnesty International hierarchy, and in what way this explains their constitutive remit and ability to make legitimacy claims with implications for the hierarchy itself. Applying the Beethamite criteria entails looking at how Amnesty International UK claims legal legitimacy, its role in the internal process of legitimation of the hierarchy and how mission statements and organisational objectives of both Amnesty International UK and Amnesty International are mandated through the legitimation process. This enables one to identify the underlying structure of the power system of the Amnesty International hierarchy and to start answering the questions above. Examining how Amnesty International UK claims legitimacy thus enables me to explain the remit of Amnesty International's mandate as an international office which is important given that representational legitimacy claims often provide leverage to justify their participation in policy processes such as in the UN system.

The outline of the chapter is as follows. The first part examines the historical context of early Amnesty's legitimating principles and legitimacy sources in order to clarify what they are and how they should be analysed. This includes scrutiny of Amnesty International's relationship with the Foreign Office, its mission statement and legal legitimacy and a criticism of the usefulness of normative sources in explaining Amnesty International's legitimacy claims when it comes to assessing legitimacy claims holistically. Having explained the limitations of epistemic legitimacy sources for

assessing their legitimacy claims I move on, in the second part of this chapter, to demonstrate how Amnesty International UK and Amnesty International claim legitimacy as membership NGOs belonging to the same hierarchy. This part of the chapter demonstrates the importance of members as an authoritative legitimacy source and shifts the focus onto Amnesty International UK's membership and how members are essential for assessing Amnesty International's legitimacy claims. It explains in detail the organisational complexities of the entities involved that form the Amnesty International hierarchy. This is done to firmly ground the analysis of the internal organisation of power and how the power relationship between Amnesty International UK and Amnesty International is established through a process of internal legitimisation. Focusing on how different organisational entities have different powers enables me to demonstrate how members (in this case Amnesty International UK's members) are an authoritative legitimacy source for the Amnesty International hierarchy. The conclusion summarises the chapter's arguments.

Historical context of Amnesty International's legitimating principles

To give a full account of legitimacy as a concept Beetham argues that history matters. It is important to include in the assessment of legitimacy the evolution and embeddedness of principles in institutions because it can show how legitimacy principles are reinforced or undermined over time (Beetham, 1993:490). This section provides insights into how the legitimating principles of early Amnesty International shaped the way Amnesty International claims legitimacy and the problems associated with how to assess their legitimacy claims. I start by analysing how the principle of freedom of opinion and religion justifies the mission of Amnesty International and how its universality is problematic in the national context. I then analyse how the principle of political impartiality enabled early Amnesty to forge an enduring relationship with the Foreign Office. This demonstrates how Amnesty International's legitimacy claims aligned with the interests of the Foreign Office and how this was justified based on the moral persuasiveness of the content of the claims (Beetham, 1991:76-83).

The problems associated with assessing their claims holistically however stem from Amnesty International's legitimacy sources. The authoritative legitimacy sources of Amnesty International are its members and its research library. The literature tends to favour normative justifications and bypass members as a source of legitimacy. This bias is highly problematic because the members belong to Amnesty International UK (and the national sections in general) not Amnesty International. The research library is an important authoritative source and more frequently referred to in the literature when justifying Amnesty International's role in promoting human rights as universal norms. Although the library is an important epistemic legitimacy source I argue here that it can only justify their legitimacy partially and demonstrate that there is a discord between how Amnesty International's legitimacy claims are justified in the literature and how they are justified internally thus distorting the analysis and assessment of their legitimacy claims. I analyse the role of members as a legitimacy source in detail in the second part of this chapter as a response to this problem.

The justifiable content (moral persuasiveness) of Amnesty International's legitimating principles; individual freedom of opinion and religion and political impartiality

The founder of Amnesty International, Peter Benenson, had been involved in several humanitarian and political projects that contributed to his Amnesty Appeal campaign in 1961 (Buchanan, 2009:117; Roberts, 1998; Williams, 1964). Although Benenson is credited as the founder, Eric Baker was also a major influence in the process leading up to the Amnesty Appeal 1961 campaign and is credited as co-founder and joint director in early Amnesty documents. The launch of the Amnesty Appeal 1961 in May 1961 was given a platform in the Observer newspaper in an article written by Benenson, The Forgotten Prisoners (Benenson, 1961). The article outlines the key themes and legitimacy claims that became institutionally embedded in the Amnesty International organisation: individual freedom of opinion and religion, political impartiality, mobilising public opinion to influence government and the research library. The claims that spurred the mission of early Amnesty International were

generated by principles that have come to serve as sources of authority and provided their legitimacy claims with moral persuasiveness.

The principle of individual freedom of opinion and religion demonstrated Amnesty International's commitment to human rights. Although the religious element has perhaps dwindled and legal aid and political rights always played the crucial part from early on, I want to stress what Buchanan (2002) points out: that spiritual influences – such as the Moral Rearmament movement and Danilo Dolci's project in Sicily – were a substantial and influential factor on Benenson's work that led to the Amnesty Appeal 1961 campaign:

Dolci's example was clearly an inspiration to Benenson, and his model of voluntary social activism appears, like that of MRA [Moral Rearmament], to have suggested itself to Benenson as a possible model for the development of Amnesty in its early stages. (Buchanan, 2002:583)

This spiritual influence is evident in many ways, such as: that Danilo Dolci was listed as one of Amnesty's supporter in its 1965 annual report (Amnesty International, 1965:2); that at its 1962 international council meeting the Amnesty Appeal 1961 group changed its name to Amnesty International: Movement for Freedom of Opinion and Religion; that the first Amnesty projects invariably involved religious matters, albeit directly connected with political freedoms (such as the political persecution suffered by the Russian Orthodox Church in the Soviet Union). The most evident spiritual influence is however the adoption of a methodological principle of not condoning violence, which was inspired by Baker's religious convictions as a Quaker (and having been part of the National Peace Council).

Non-violence became the fundamental principle in how Amnesty International defined the concept Prisoner of Conscience – Amnesty's *raison d'être* (Buchanan, 2002:585).

The definition Benenson gives in his 1961 Observer article to introduce Amnesty is:

"Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence [...] We also exclude those who have conspired with a foreign government to overthrow their own" (Benenson, 1961:21).

The definition later elaborated more clearly what constituted physically restrained persona and personal violence as well as excluding persons imprisoned in the UK (Prisoners of Conscience Appeal Fund, 1962-2003:1; Slade, 1981:4-5). The religious features of early Amnesty have also been discussed by Hopgood (2006) who points out the religious background of Amnesty International's early members (Hopgood, 2006:57-59). He argues that Amnesty International was founded on the hybrid principles of Christianity and universal rights that lent it its secular appeal as 'religionless Christianity': "Amnesty was culturally Christian, but the key to its foundational method was practical solidarity" (Hopgood, 2006:62-65). This came to define Amnesty International's early supporters.

The widespread support Amnesty International gained in the UK was, according to Buchanan, mainly due to a drift from ex-communist campaigners and a general drift from organised religions: "In both religion and politics Amnesty seemed to offer a new belief system allied to practical reason" (Buchanan, 2009:124) – a point that chimes with Hopgood's 'religionless Christianity'. However, the pragmatic legal approach to working methods and claims from journalists and diplomats that Amnesty International was a movement for lawyers forced Amnesty International to explain its supporter base further:

It is made up of two main strands, those who have a concern for the freedom of man's spirit and those who are outraged at any enforced humiliation of his body. It is therefore not surprising that the greatest volume of support should come from those areas which are broadly described as 'Protestant', or that several of our principle figures belong to the reforming movement within the Roman Catholic Church, or that so many of the members, not committed to any formal religion, call themselves proudly 'humanist'. (Amnesty International, 1965:4-5)

The initial aim of the Amnesty Appeal 1961 group was to secure the release of those imprisoned for their views; religious or political. To achieve its aim the group drew up an "International Code of Conduct for political prisoners" and set up a "world human rights fund" (Buchanan, 2002:596). In 1962 the group changed its name to Amnesty International: Movement for Freedom of Opinion and Religion and registered a

charity, the Prisoners of Conscience Appeal Fund. The trust deed of the fund states the following as its objectives:

(1) The relief of poverty of persons throughout the world who are imprisoned as a result of their political or religious beliefs and their families but excluding those guilty of crimes of violence, inciting violence or fomenting hatred between races [...].

(2) The provision of funds for the assistance of those of the prisoners who are poor and who are granted asylum including travelling expenses and arrangements for resettlement and employment. (Prisoners of Conscience Appeal Fund, 1962-2003:art. 1)²⁴

Amnesty International's commitment to political prisoners was based on the principle of individual freedom of opinion and religion where it considered state persecution to be "the gravest social problem in the 1960's" (Amnesty International, 1965:2).

This commitment was directly tied in with the notion of equating law with morality and that "there cannot be and never will be a workable system of international law unless states are willing to equate their national systems of law with morality" (Amnesty International, 1965:4). Amnesty International's commitment to universal norms transcending national boundaries furthermore underpinned Amnesty International's support of global political institutions:

Concern with the relationship of law and morality has brought the movement to a position of committed support for all those supra-national and international organisations which express man's recognition of a higher morality than national interest. (Amnesty International, 1965:4)

Thus Amnesty International's principle mission was to campaign for the integration of morals into law based on "world-wide recognition of Articles 18 and 19 of the Universal Declaration of Human Rights" and to release Prisoners of Conscience based on the content of these articles about rights to "freedom of thought, conscience and religion" and "freedom of opinion and expression" (Amnesty International, 1965:2). The normative claim of legal-cum-moral has been altered but not shed. Amnesty International still prioritises the international platform based on the assumption that

²⁴ It should be noted that changes made in Amnesty International objectives are also reflected in the deeds of the Prisoner of Conscience Appeal Fund in the period 1982-2003 (Prisoners of Conscience Appeal Fund, 1962-2003), albeit without expanding the their mission.

it enables the realisation of universal norms at a level where national interests limit such realisation (Interview 2, 2009). In order to highlight the problem of universal norms as criteria for assessing Amnesty International UK's legitimacy claims I will illustrate a legal case (McGovern v Attorney General) where Amnesty International was denied registration as a charitable NGO (Slade, 1981). The case also highlights how the UK regulatory regime is unfit for regulating NGOs.

Equating law with morality: the political mission of Amnesty International and the national context of regulating universal norms as charitable objectives

The McGovern v Attorney General case was decisive in that it defined Amnesty International's mission as essentially political and prevented it from obtaining charitable status as an organisation under English law, thus directly affecting how Amnesty International managed its organisational objectives. The case highlights how Amnesty International's objectives are normatively embedded, which, as I explain, complicates the link between expert knowledge and membership when it comes to assessing their ability to present legitimacy claims. The implications of the McGovern case are analysed in the context of how they apply to Amnesty International's advocacy for human rights and universal norms at the international level.

In 1977 Amnesty International set up a trust, the Amnesty International Trust, to register with the Charity Commission. The trustees of the Amnesty International Trust were all members of the Amnesty International British Section (Slade, 1981:324, 327, 330). However, the Charity Commission refused to register the Amnesty International Trust on the grounds that its objectives were political. Amnesty International appealed the decision in high court in 1978 (Slade, 1981:330). Amnesty International lost the appeal and the case became a textbook example of what constitutes charitable purposes under English law (Duddington, 2011:162; Oxford Centre for Higher Education Policy Studies, 13 October 2011 ; Westlaw UK, 2010).

The McGovern case analyses the purpose of the trust deed and the meaning of its objectives (Slade, 1981). The objectives of the Amnesty International Trust were to: a)

provide relief to Prisoners of Conscience or dependants; b) secure the release of Prisoners of Conscience; c) procure abolition of torture or inhuman treatment; d) human rights research; e) dissemination of that research by publication, maintaining a library, or documentary films (Slade, 1981:330).

In his argument, the judge takes issue with the universal definition of what constitutes a Prisoner of Conscience:

the trust deed is capable of including all persons who are imprisoned outside the United Kingdom, provided that they otherwise fall within the definition [...]subject to the other restrictions imposed by the trust deed, the trustees shall be subjected to no territorial limitations in furthering the trust purposes. (Slade, 1981:343)

Regarding the second objective, to secure the release of Prisoners of Conscience, the judge concludes that the objective:

[must be] regarded as being the procurement of the reversal of the relevant decisions of governments and governmental authorities in those countries where such authorities have decided to detain " prisoners of conscience," whether or not in accordance with the local law. The procurement of the reversal of such decisions cannot, I think, be regarded merely as one possible method [...]it is the principal purpose itself. (Slade, 1981:347)

The same applies to the third objective on abolition of torture and inhumane treatment, where he concludes that the objective of the Amnesty International Trust is:

to attempt to procure the passing of the appropriate reforming legislation for the purpose of abolishing inhuman or degrading punishments by process of law, including capital and corporal punishment in any countries in the world where such punishments are for the time being lawful. [...] [including] the procurement not only of changes in the law of the United Kingdom but also of changes in the laws of foreign countries and the reversal of particular decisions of governmental authorities in foreign countries. (Slade, 1981:352)

On the Amnesty International Trust's objectives regarding human rights research and its dissemination, the judge argues these have to be read in the context of the other objectives of the trust concluding they are "merely adjuncts to the political purposes" of the Amnesty International Trust (Slade, 1981: 353). The research and educational objectives can only be considered charitable if they stand as the sole objectives of the Amnesty International Trust, but as they do not the conclusion is that "[n]one of the trusts of this trust deed can be regarded as being charitable" (Slade, 1981: 353).

At the heart of the legitimacy problem in the McGovern case was the tension between the sovereignty of states and the universal definition of the term Prisoner of Conscience and the underlying normative claim of equating law with morality. The fact that Amnesty International campaigns for legal changes in foreign countries was considered to imply that English courts and law were encroaching on the sovereignty of foreign states if they were to regulate the Amnesty International Trust. The example given is a hypothetical dilemma of whether English courts could decide on what constituted public benefit of a trust operating abroad:

The court, when invited to enforce or reform such a trust, would either have to apply English standards as to public benefit, which would not necessarily be at all appropriate in the local conditions, or would have to attempt to apply local standards, of which it knew little or nothing. An English court would not, it seems to me, be competent either to control or reform a trust of this nature, and it would not be appropriate that it should attempt to do so. (Slade, 1981:339-340)

Thus, the dilemma presented is about where to draw the line between an overall purpose of an NGO and its means of achieving its stated purpose.

The ruling established that the purpose, including all objectives, of a charitable trust must be exclusively charitable and any “uncertainty in this respect invalidates the whole trust” (Slade, 1981:340). The judge concluded that the purpose of the objectives combined were political if “any of its main objects were of political nature” (Slade, 1981:321) – even if some of the objectives looked at individually, could be considered charitable. What constituted political in the context of this case was that the Amnesty International Trust aimed to “alter the laws of the United Kingdom or a foreign country or persuading a country’s government to alter its policies or administrative decisions” (Slade, 1981: 321). Thus, the objective of the Amnesty International Trust to “secure the release of prisoners of conscience by procuring reversal of governmental policy or decisions [...] was of a political nature” (Slade, 1981: 321). The objectives that could be regarded as charitable “also failed because read in their context they were merely adjuncts to the political purposes declared by the earlier trusts [objectives]” (Slade, 1981: 322). Thus the appeal of the Amnesty International

Trust was rejected on the grounds that Amnesty International was equating law with morality without territorial boundaries, thereby seeking to prioritise universal norms above the sovereignty of national law: "... the elimination of injustice has not as such ever been held to be a trust purpose which qualifies for the privileges afforded to charities by English law. I cannot hold it to be a charitable purpose now" (Slade, 1981:354).

The decision of the McGovern case has not gone without criticism. Chesterman (1999) points out that "The legal divide between political and charitable purposes has indeed become deeper as a result of Slade J's ruling in the McGovern case that Amnesty International was not a charity" (Chesterman, 1999:343). Chesterman criticises Slade's judgement on the grounds of what constitutes freedom of speech as a justified "public discussion of political matters within a democratic society" and points to judgements that have attempted to "soften the rigour of the *McGovern* decision" (Chesterman, 1999:345). He argues that the question about 'political or charitable' should be replaced with questions about what constitutes "matters of public interest to the community" in a democratic society and therefore should be looked upon favourably (Chesterman, 1999:347-349). Chesterman concludes that charities that are "genuinely" pro poor and pro disadvantaged should not lose their tax allowance just because "one of their purposes was to campaign for changes in law or government policy within their field of operation" (Chesterman, 1999:349).

What the McGovern case demonstrates is the limitations of Amnesty International's normative legitimacy claims. This is more pressing considering that Amnesty International is continuously expanding its mission based on universal norms; from defending and providing relief to Prisoners of Conscience to opposing the death penalty to a wider socio-economic mandate:

The new mandate affirms the universality and indivisibility of all human rights by making no distinction between civil and political rights and economic, social, and cultural rights, and allows AI to intensify its work on economic, social, and cultural rights. (Amnesty International, 2002:39)

Albeit, each time the Amnesty International Council has voted to expand the mandate of the International Executive Committee it has caused a friction with its supporter base (Amnesty International, 2011a; Gruchy, 1997:15; Power, 2010; Thompson, 2008:328). Thompson points out that the decision to expand the mission of Amnesty International in 1973 was made with reluctance and fear of damaging the reputation and original mission of Amnesty International. Thompson, however, argues that although this was a critical move, with many supporters against it, the new mandate of opposing the death penalty gave Amnesty International “new legitimacy and momentum” (Thompson, 2008:328). Power, on the other hand, criticises the direction Amnesty International has taken to expand its mission to include socio-economic issues and states: “Of course these are important human rights. But Amnesty has a special mandate to concentrate on political prisoners, fair trials, torture and other related concerns. There are plenty of other organizations campaigning for women and against poverty” (Power, 2010). However, the International Executive Committee’s appointment of the Secretary General in 2010 signals that Amnesty International wants to become more aligned with development NGOs and embed poverty in its human rights campaigns (Amnesty International, 2011c).

Focusing on their mission and justifying Amnesty International's legitimacy claims with universal norms is however a narrow approach because it only describes why people might join the organisation not how power is justified internally or mandate given to Amnesty International to speak on behalf of Amnesty International UK. In order to gain a fuller understanding of how their legitimacy claims are justified it is necessary to analyse the role of members. This includes their role in justifying legitimacy, how they are defined, what their powers are in the Amnesty International hierarchy, and what the relationship is between the organisational units that hold power and represent the members. Furthermore, Amnesty International UK does not claim legitimacy as an expert in human rights although this is often used to justify its legitimacy claims; it claims legitimacy as a membership NGO. Although the former goes a long way in justifying their access to power, especially as it is depicted in the

literature, nowhere does Amnesty International UK explicitly express this. The same goes for Amnesty International. Both however, claim legitimacy as membership organisations. Before I turn to argue this more fully I explain how the principle of political impartiality enabled Amnesty International to forge a relationship with the Foreign Office thus highlighting the political context of Amnesty International's legitimating principles.

'Ideas of a common interest': The principle of political impartiality and Amnesty Appeal 1961's relationship with the Foreign Office²⁵

One of the central features of Beetham's theory has to do with how power relations presuppose a principle of differentiation when it comes to justifying access to power. Part of this argument suggests that ascriptive justifications can be dressed up as 'natural' where those who are assigned access to power appear to be justified on the grounds "they are naturally endowed with the qualities and capacities" needed (Beetham, 1991:79). In order to overcome such inequalities in access to power, Beetham argues it is necessary for those in power to claim a "community of interest; and that the distribution of power serves the interests of the subordinate, and not those of the powerful alone" (Beetham, 1991:82). It is useful to analyse the relationship between early Amnesty International and the Foreign Office bearing this in mind because justifications based on moral persuasiveness of the content of their legitimacy claims has come to dominate the way Amnesty International's access to power is justified more generally in the literature thus hiding the inequalities involved when it comes to accessing power.

The principle of political impartiality that was applied by early Amnesty is best explained by looking at why Benenson's campaign succeeded where other similar amnesty appeal groups failed. By emphasising the pan-religious and pan-political support in his Amnesty Appeal 1961, Benenson set his campaign apart from other

²⁵ This section is largely based on Foreign Office documents from the National Archive (FO 1110/1992/ C430695 -697 and FO1110-1474-023). The documents (mainly letters and notes) are from the Research Information Department that was an anti-communist unit set up at the onset of the Cold War. See also Buchanan (2002:588).

contemporary Amnesty Appeals; “which so often have become more concerned with publishing the political views of the imprisoned than the humanitarian purposes” (Benenson, 1961:21). There were two groups in London that launched an Amnesty Appeal in 1961. One was the Amnesty Appeal for Spain, headed by Eileen Turner and launched a few months earlier than the second appeal, which was Benenson’s Amnesty Appeal 1961.²⁶ The two groups operated in parallel for a few years when in the mid 1960s the Amnesty Appeal for Spain seems to vanish (Buchanan, 2002). Both Amnesty Appeals were embroiled in party politics at the time; albeit with different propositions. Although Labour MPs actively supported Turner’s Amnesty Appeal for Spain it was not endorsed by the Labour Party. The Amnesty Appeal for Spain was considered to be under the control of communists, which led the Labour Party to conclude that they could not work with Turner’s group (Buchanan, 2002:580; *The Times*, 1963) – a line also taken by the Foreign Office (see below). The Amnesty Appeal 1961, on the contrary, managed to secure official support from both the Liberal Party and the Labour Party (Amnesty Appeal '61, 1961-3; Buchanan, 2009:124). The reason for why Benenson succeeded where Turner failed was, according to Buchanan, the focus on individuals’ imprisonment rather than the reasons for their imprisonment (Buchanan, 2002). Although, the support Benenson gathered from the Labour Party was surely also influenced by his political career in the party where he stood as Labour’s candidate in all four general elections during the 1950s (Buchanan, 2002; Roberts, 1998). The reasons for early Amnesty’s success in forging a relationship with the Foreign Office were, however, more nuanced and hinged on the utility of Amnesty International to the Foreign Office as a vehicle to propagate their own values in the historical context and political alignments of the Cold War.

Within a week of launching the Amnesty Appeal 1961 Benenson invited employees from the Foreign Office to participate in meetings. His aim was to gather professional supporters to capitalise on their experience for Amnesty’s weekly, *the World*

²⁶ Although the formal appeal was titled Amnesty Appeal 1961, there was some variety in how this was used including: Amnesty Appeal '61; Amnesty '61; and AMNESTY.

Conscience: An International Review to Bridge the Distance between Supporters of Amnesty (Amnesty Appeal '61, 1961-3; Morgan and Barclay, 1961). The relationship with the Foreign Office seems to have been quite intense at times where the Foreign Office notes how it is "... struck by the very considerable amount of work we do on Amnesty's behalf..." (Barclay, 1965). This included conducting research for Amnesty International, albeit unofficially:

...Eric Baker asked Tom Barker whether we could dig out some material about the attitudes to religion in the Soviet Union and the Satellites. [...] I enclose a good deal of documentation. [...] As usual, I must ask that none of this material should be attributed to official sources. (Barker, 1961; Morgan and Barclay, 1961)

However the notes also indicate that Amnesty International was seen as a vehicle that the Foreign Office could exploit for its own purposes (Barker, 1961). Thus, when Amnesty approached the Foreign Office for information on religious persecution in the Soviet Union to present to the World Council of Churches, the response was:

I think this is worth making a special effort. The Appeal for Amnesty could make most effective use of our material. I suggest that Soviet Desk, in consultation with Research Dept and Northern Department, be asked to prepare as much as can be collected in the time available. (Barker, 1961)

The Foreign Office reiterates that the research work they are conducting for Amnesty is not official:

To avoid any misunderstanding, it should be made clear in our covering letter to Mr. Baker that any material supplied to them by us must not be attributed to us and, if it is without imprint, must be written up by the Appeal for Amnesty themselves before being passed on to the World Council of Churches. (Barker, 1961)

This emphasis on using Amnesty International for its own purposes is also evident in notes to a Foreign Office circular relating to Amnesty's annual report where one employee expresses his disapproval of political comments in the report, claiming that Amnesty had made politically 'dubious' comments on Rumania which Benenson was asked to remove and is claimed to have done so (Barclay, 1965).

Furthermore, Benenson was adamant to demonstrate that Amnesty International was not motivated by party politics (although he had political aspirations for Amnesty International at the international level (Buchanan, 2002:594)). Whether a tactical

move or expression of genuine agreement Benenson explained his disapproval of the communist/political run Commission for Nuclear Disarmament (C.N.D.) to the Foreign Office. According to notes from the Foreign Office:

Mr. Benenson was to some extent embarrassed by finding the main voluntary zeal being provided by a number of what he described as the old C.N.D. crowd. This, while it had its merits, was a considerable impediment to him in his efforts to raise more money from respectable foundations. He was therefore considering trying to divide Amnesty into two parts. One to consist of crusaders, the Groups of Three and others, who would continue to attack abuses of the rights of the individual wherever they might occur. The other to consist of a serious documentation centre in London which would assemble all the data about individual political prisoners that it could lay its hands on. The resources of this centre would of course be available to the crusading part of Amnesty and indeed to any other body which might wish to make responsible use of it. (Barclay, 1965)

That the Commission for Nuclear Disarmament was an embarrassment and impediment to proper funding is a political declaration. In fact, Baker, Amnesty's joint director and co-founder, had helped establish the Commission for Nuclear Disarmament (Buchanan, 2002:579) and it was not uncommon that campaign groups (like Greenpeace for example) had links to the Commission for Nuclear Disarmament, utilising their campaigning skills to advance their own and relying on them for support(ers).

The relationship Amnesty International forged with the Foreign Office demonstrates how 'ideas of common interest' was used, not only to justify Amnesty International's relationship with the Foreign Office, but also, to justify how the Foreign Office used Amnesty International to promote and further its own objectives and political argument. The usefulness of Amnesty International's apolitical approach was as much about Amnesty International refusing to align with communist groups:

It [Amnesty International] is, in our experience, impartial and completely independent. This is particularly important in a field which is naturally attractive to those with particular political aims, notably the Communists, whose propagandist and partisan methods are in striking contrast. (Barclay and Young, 1965)

The Foreign Office also observed that because Amnesty International was divided into campaigners and researchers there was less worry about communist influence on the

data analysis process (Barclay, 1965).²⁷ It took Amnesty International a couple of years to settle its anti-communist alignment and define its supporters based on the principle of political impartiality as those “who have come to understand the philosophy and the techniques of the movement”:

Those who thought they were joining a mass demonstration in favour of freedom in its widest anarchical sense have dropped away. So have those who saw this movement as a weapon to be added to the armoury of their own political causes. (Amnesty International, 1965:3)

The relationship early Amnesty International established with the Foreign Office has endured through Amnesty International UK. The “close working relationship” between the two “over human rights violations abroad” was examined in research comparing the relationships Amnesty International UK had with both the Foreign Office and the Home Office, where the former embraced Amnesty International UK and the latter kept it at arm’s length (Christiansen and Dowding, 1994:24). The study demonstrated that Amnesty International UK has a role in British foreign policy through the human rights agenda and that the Foreign Office recognises Amnesty International UK as “a legitimate, insider group” with access to policy making (Christiansen and Dowding, 1994:15,20). In 2011 the Foreign Office announced a special advisory group (thirteen people) on human rights to the Foreign Secretary which included the director of Amnesty International UK (Foreign and Commonwealth Office, 2010a). The role of the human rights advisory group is to help the government “to champion the effective promotion of human rights” (Foreign and Commonwealth Office, 2010b; see also Hague, 2010). Although Amnesty International UK is the unit actively engaged with the Foreign Office it is the work of the research library maintained by Amnesty International that is central to their access as is evident by the frequent references made to Amnesty International's work in the Human Rights Annual Report of the

²⁷ The division between researchers and campaigners has continued to be a part of Amnesty International's internal organisation of power. Hopgood's documentation of Amnesty International's organisational change at the millennium (2000-2003) points out the organisational power struggle between campaigners (referred to as reformers) and researchers (referred to as keepers), arguing that the former sometimes consider the latter too influential in the Amnesty hierarchy (Hopgood, 2006:179-180).

Foreign and Commonwealth Office (Beckett, 2006; Hague, 2011; Miliband, 2008, 2010; Straw, 2003, 2004, 2005).

The historical context highlights the importance of Amnesty International's legitimating principles when it comes to assessing their legitimacy claims. There are two things that stand out, one is how Amnesty International's principles informed Amnesty International's mission statement about equating law with morality as a universal claim, and second that they were integral to how early Amnesty forged an enduring relationship with the Foreign Office. However, there are limits to the justificatory powers of universal norms and political impartiality when it comes to explaining and assessing Amnesty International's legitimacy claims, which brings the argument to the analysis of Amnesty International's authoritative legitimacy sources; the members and the research library. The research library is the source that underpins much of the normatively justified legitimacy claims of Amnesty International and by extension Amnesty International UK. However, I argue that the research library has limitations as a source of authority and that the tendency in the literature to bypass members overlooks their importance as an authoritative legitimacy source for Amnesty International's legitimacy claims. It is Amnesty International UK that holds the actual members but is also in a subordinate position to Amnesty International based on the internal organisation of power in the Amnesty International hierarchy, which aids the tendency in the literature to focus on the research library and dismiss the relevance of Amnesty International UK and the role of its members when assessing Amnesty International's legitimacy claims. I will introduce this argument in the remainder of this section before moving on to analyse the internal process of legitimisation based on members as an authoritative source of legitimacy.

The authoritative sources of Amnesty International's legitimacy claims: the research library and the members

The authoritative sources of legitimacy claims as mentioned above are Amnesty International's members and research library (Beetham, 1991:70-75). Both are

intrinsic to how Amnesty International UK claims legitimacy. Although the research library is an important epistemic legitimacy source I argue it can only justify Amnesty's legitimacy partially and the role of members as a source of legitimacy needs explaining. It is important to separate the members and the research library as two distinct legitimacy sources because it prevents one from conflating Amnesty International's legitimacy claims based on members and legitimacy claims based on expert knowledge about human rights. I now demonstrate how the research library has come to serve as an authoritative source for Amnesty International and what its limits are in justifying Amnesty International UK's legitimacy claims.

Essential to Amnesty International's campaign work was the Prisoners of Conscience Library where researchers catalogued and prepared case studies of Prisoners of Conscience that were then distributed to Amnesty International sections and groups to campaign on (Benenson, 1961:21). The cost of the library was carried by the Prisoner of Conscience Appeal Fund and the salaries of the researchers by the British Section, with contributions from other national sections and the trade unions (Amnesty International, 1965:12). Amnesty International initially set up the Prisoners of Conscience Library to support its campaign in three ways: by information gathering, for information verifying (through investigation and research), and for information disseminating. In the beginning, the library researchers relied on gathering information about Prisoners of Conscience in newspapers. This changed and soon much of the information on Prisoners of Conscience was received by correspondence with "...international organisations, opposition or exiled groups, prisoner's families or friends, and on occasion from prisoners themselves" (Amnesty International, 1965:7). In order to verify the correspondence Amnesty International set up an Investigation Bureau and a Research Bureau. The Investigation Bureau had one fulltime staff and volunteers that had specialist knowledge of countries that kept Prisoners of Conscience and was tasked with preparing details for case-sheets. The task of the Research Bureau, on the other hand, was:

to prepare and revise Background Papers for the guidance of the Groups; these papers are designed to give survey of political and prison conditions

together with advice on persons to whom the Groups might appropriately write to bring pressure for release of their adopted prisoner. (Amnesty International, 1965:8)

This information was passed on to the local groups to campaign on. The organisation of supporters into groups was done by placing "...sympathisers in touch with others who lived nearby and encouraging churches and local schools to set up groups. Each group was to 'adopt' individual prisoners and then start pestering the life out of the governments responsible." (Power, 2002:122). This function is carried out by letter writing and petitions, speaking tours, public events and protests, contacts with embassies and celebrity support (Amnesty International, 2001:7; see also Wiseberg, 1992:27-36). The third function of the library was to "provide information to journalists and others writing articles or programmes dealing with prisoners or persecution" (Amnesty International, 1965:8).

The working method that set Amnesty International apart and contributed to their success, was the Rule of Threes: the first world, the second world and the third world. The rule still underpins Amnesty's methods today, where volunteers are assigned cases from politically diverse regimes to prevent political biases. This was to maintain the researchers' focus on the imprisonment and not on the ideological orientation of the person imprisoned which was Benenson's criticism of other groups campaigning on the issue.²⁸

The information gathered by the research department of Amnesty International is a form of power over its national sections. It is based on claims of expertise and knowledge of human rights violations in given territories that informs the campaigns of the national sections. In the period 2001-2003 Amnesty International attempted to address the disproportionate power the researchers had by introducing organisational change. The change addressed the global ambitions of Amnesty International. The aim

²⁸ This rule is not without its own political problems. In 1965 the Foreign Office listed Amnesty's Swedish director as a communist (Head, Allen, et al., 1965), and in a more recent example, the Cageprisoners case tested the political impartiality of Amnesty's supporters (Human Rights for All (Administrator), 2010; Townsend, 2010).

was to strengthen Amnesty International as a global actor by shifting the priorities from individual casework to global themes and strategic coverage, and by turning the researchers into research managers where research could be undertaken by the national sections – rather than assigning individual researchers to specific territories (Hopgood, 2006:186-8, 202). Whether this broke the linear relationship between the researchers (mainly located in Amnesty International) and the campaigners (mainly located in national sections) is not clear. Hopgood states:

[T]he reality has been research, then action [...]. This is a crucial division of labor. Despite numerous efforts at integration, this essentially linear relationship has never been overcome. It is not just about the temporal priority of research (i.e., that it must come first); it is about the key role research plays as Amnesty's foundational practice, that of bearing witness. It has special, moral authority. Research practice embodies the ethos. It admittedly puts huge pressure on the researchers – everyone is waiting expectantly for the material, the cases and reports, to flow from them. (Hopgood, 2006:26)

This is an example of the overemphasis on the justificatory powers of Amnesty International's normative legitimacy sources. The emphasis on research is typical of how normative sources take precedence when it comes to assessing Amnesty International's legitimacy claims. Hopgood argues that the linear relationship between researchers and campaigners is essential to the legitimacy claims of Amnesty International giving it “moral authority in an era when all authorities [...] are under scrutiny” (Hopgood, 2006:26). The entwining of moral claims and research objectivity is thereby introduced as an epistemic legitimacy source with moral authority for Amnesty International's legitimacy claims; “giving it a legitimate expertise” (Slim, 2002:9).

This is a powerful endorsement of Amnesty International's normative legitimacy sources, especially if coupled with claims of “impartial and objective research into the observation of human rights throughout the world” (Amnesty International Limited, 1995:9). The research library of Amnesty International is described by Clark (2001) as the first stage in Amnesty International's ability to create norms at the international level by claiming credibility as experts in human rights and violations of human rights. This goes back to the ‘legitimate insider group’ argument above (Christiansen and

Dowding, 1994) and should raise questions about how Amnesty International's research is used to justify Amnesty International's and Amnesty International UK's access to governmental institutions or policy processes. Especially since it is clear that Amnesty International is fully aware of the credibility its research enjoys and the role it plays in the wider society:

AI's research is recognized as reliable and is widely consulted by governments, intergovernmental organizations, journalists, scholars and other human rights organizations and campaigning groups. (Amnesty International, 2002:49)

I now move on to argue how a fixation on their normatively embedded objectives bypasses the role of membership in generating internal legitimacy and leads to a narrow instead of holistic assessments of Amnesty International's legitimacy claims. And furthermore, exempts the power relationship between Amnesty International UK and Amnesty International from scrutiny.

The importance of differentiating between authoritative sources and justifiable content when assessing Amnesty International's legitimacy claims

A particular problem in the literature is the conflation of the content of NGOs' legitimacy claims with the sources of their legitimacy claims. This is most evident at the international level where arguments about universal norms and norm creation in institutions are sometimes stretched beyond their remit when used to justify the role of NGOs. It has been argued that Amnesty International has been and continues to be instrumental in the creation of human rights norms and treaties at global institutions, especially in the UN system (Clark, 2001; Clark, Friedman, et al., 1998; Korey, 1999; Lindblom, 2005; Willetts, 2000, 2006). Korey (1999) points out that the establishment of the International Criminal Court in 1998 owed much to a campaign that was launched two years earlier by Amnesty International (Korey, 1999:167) – something Amnesty International lists as one of its successful campaigns. According to Martens (2004), the role of Amnesty International within the UN system has increased in importance over the last two decades: “While its roles were of secondary importance prior to 1990, it has since assumed such primary responsibilities as policy

implementation and working as a regular member of relevant UN committees and other bodies” (Martens, 2004).

This increased stature and influence of NGOs in global institutions has also been argued by Lindblom (2005). She points out that human rights treaty bodies had exclaimed in 1996 that NGOs were a vital part of the process and that their documented input served as a critical monitor on the treaties’ work (Lindblom, 2005:395-397). According to Lindblom the UN Human Rights Committee has an ‘established practice’ of consulting NGOs’ representatives prior to its sessions:

... the purpose of these discussions is to obtain advance information on the state party reports to be considered during the session. The information submitted by NGOs to the different treaty bodies is often presented in the form of parallel (or ‘shadow’) reports to state party reports. (Lindblom, 2005:396)

The Committee Against Torture has furthermore institutionalised consultation with NGOs to a degree that they “are an important source of information for the procedure under Article 20” (Lindblom, 2005:399). An example case is a torture allegation initially submitted by Amnesty International to the Committee and where the Committee “preferred to trust the non-governmental information rather than that of the government” (Lindblom, 2005:400).

Amnesty International’s ability to create norms and behavioural incentives within the global institutional regime has been documented by Clark (Clark, 2001; Clark, Friedman, et al., 1998). She defines norm creating as a cumulative process that has come to permeate:

...core treaties, intergovernmental monitoring and inquiry mechanisms, official guidelines for implementation of human rights, and, perhaps most importantly, an altered consensus on how much the principle of sovereign non-interference entitles states to ignore international criticism. (Clark, 2001:5)

The norms which “we recognize today as part of human rights law have for the most part been created through a process in which Amnesty International and a few other nongovernmental organizations have been key participants.” (Clark, 2001:5). Amnesty

International's role in international politics is unique according to Clark's analysis, when it comes to human rights:

Human rights norms limit state actions that threaten respect for persons. Thus, Amnesty's ability to read government interests and strategize about the real implications of various ways to apply law to human rights problems has been informed by maintaining a focus on the humane purposes of direct human rights advocacy. [...] Amnesty International pioneered the links between governments, experts, and an international human rights constituency by coordinating members' pressure on governments with expert support for legal norms in international organizations. (Clark, 2001:127)

These arguments not only highlight Amnesty International's political influence but also defend their ultimate mission to equate law with morality. Clark defines four phases of norm building. These are: fact-finding, consensus building, norm construction and norm application. The phases escalate from a fact finding reporting role to its highest form, which is norm application that evokes shared standards (Clark, 2001:32-35,131). Clark depicts the role of Amnesty International as the 'expert advocate' that analyses information that leads to proposals and creation of new norms with a universal preposition for shared standards: "Amnesty International has had important independent effects on state behavior at the systemic level" which Clark credits to Amnesty International's "independent advocacy of principles" (Clark, 2001:130).

However – and despite Clark's arguments that Amnesty International has been able to challenge "... governments to change their behaviour, against their sovereign prerogatives [and prod] the United Nations to back up idealistic statements of principle with legal norms specifying acceptable and unacceptable member behaviour" (Clark, 2001:21) – the principle of national sovereignty remains a legitimacy challenge for NGOs as was demonstrated in the McGovern case (Slade, 1981:339-340) that exposed the limits of Amnesty International's normative justifications. What the above theories advance are justifications that are the effects "generated by the power system itself, but which are not understood as its effects, because they appear autonomous or independent of it" (Beetham, 1991:107-108);

however, these justifications serve to maintain and reproduce the legitimacy of the institutions that provided them in the first place, not the NGOs. Also, declaring alliance or alignment with the content of Amnesty International's legitimacy claims does not mean that it can be automatically considered as a legitimate civil society actor representing global public opinion. It merely expresses the opinion (or a normative preference) of a particular (governmental) institution and that it happens to like a particular NGO or what it is claiming.

A differentiated approach is needed to assess the justifications of Amnesty International UK's and Amnesty International's legitimacy claims. One that takes into account their internal system of power and legitimation mechanisms that can explain members as an authoritative source of legitimacy. It also has to take into consideration when assessing their legitimacy claims in what capacity their members are represented based on the internal legitimation process. To justify Amnesty International UK's or Amnesty International's access to governmental institutions or policy processes it is necessary to assess their legitimacy claims in a more holistic way. At the international level, where Amnesty International represents its national sections, its legitimacy claims are only regulated by the rules in the agreement that Amnesty International has with a particular institution (such as the UN). The problem with justifying their access to power with normative claims and then declaring them as justified representatives of civil society in global institutions is that it conflates Amnesty International's normative and representational claims and excludes the national sections. What is needed is to disentangle normative legitimacy claims from representational legitimacy claims and demonstrate why they are different and why they should not be confused. In order to do this it is necessary to analyse the internal process of legitimation in the Amnesty International hierarchy and highlight the importance of members as an authoritative source of legitimacy that should not be overlooked when assessing Amnesty International UK's and Amnesty International's legitimacy claims. Amnesty International is a membership NGO and this should be reflected in assessments of their legitimacy claims.

The historical context of Amnesty International's institutionalisation matters for the subsequent evaluation and assessment of their legitimacy claims. Amnesty International's legitimating principles were not only integral to how they forged an enduring relationship with the Foreign Office, but also informed Amnesty International's mission statement about equating law with morality, above and beyond national interests. The legitimating principles of individual freedom and political impartiality affected both how Amnesty International's mission is defined and how its access to power is justified. These principles are mainly maintained and reproduced through the research library that serves as an epistemic legitimacy source for Amnesty International's legitimacy claims. Yet, the most important legitimacy source for Amnesty International was the growth of its supporters. Although members have always been an important source of legitimacy and had a role in the legitimating process they have not received much attention in the literature. I now turn to demonstrate that members are crucial for assessing Amnesty International's legitimacy claims.

Identifying the early organisational entities of the Amnesty International hierarchy

I have inserted here a short outline of the early legal and organisational structures of Amnesty International to provide historical context for the second part. This is to highlight the difficulty in identifying what entities are involved and the relationship between the international and national dimensions in the Amnesty International hierarchy. In 1965 Amnesty International describes itself as a membership organisation that relies on subscriptions from its members and donations from its supporters. The Amnesty Appeal 1961 grew rapidly in the first years and its finances seem to have been managed out of a trust fund (Amnesty International, 1965:1; Hopgood, 2006:70; Prisoners of Conscience Appeal Fund, 1962-2003):²⁹

²⁹ The data I have collected is not decisive on this. It is not clear how the money was managed in the first decade. The only entity that Amnesty registered was the Trust Deed of the Prisoner of Conscience Fund. In 1965 Amnesty International report claims the Fund was dedicated to relief work and administered separately indicating that the subscriptions went into a different fund,

...AMNESTY's appeal for funds to carry out its work [...] Funds are held in Britain under the terms of 'The Prisoner of Conscience Trust' [...] Donations made to 'The Prisoners of Conscience Fund' by way of covenant rank for recovery of income tax at the standard U.K. rate by the Fund as it is a registered charity. (Amnesty International, 1965:1)

The Prisoners of Conscience Appeal Fund was registered with the Charity Commission in November 1962 (Charity Commission, 2011b). Benenson was one of the joint secretaries of the Fund appointed by the Trustees and was given an almost free hand in controlling the funds:

... to exercise all the powers conferred on the Trustees by implication of law or under the terms of this Deed ... and carry out all the objects thereof in their own uncontrolled discretion and the Trustees shall not under any circumstances be responsible or liable for the acts or omissions of the Joint Secretaries. (Prisoners of Conscience Appeal Fund, 1962-2003:1)

Its governing document, a Trust Deed, was signed by many of the same men that were listed as trustees in Amnesty International's annual report 1965 as "representatives of the principal religious denominations and political parties" (Amnesty International, 1965:1; Prisoners of Conscience Appeal Fund, 1962-2003:1). The first article in the declaration of the Trust Deed states that both membership subscriptions and donations were managed by the Fund: "An appeal for subscriptions, donations and bequests to establish a fund called the Prisoners of Conscience Appeal Fund [...] has been launched" (Prisoners of Conscience Appeal Fund, 1962-2003:1).³⁰ It thus indicates that Amnesty International: Movement for Freedom of Opinion and Religion was originally thought of and managed as a charity.

however its trustees and secretaries were the same people in charge of Amnesty International. The wording of the Trust Deed does not state clearly whether the subscriptions were included or not. Furthermore, that Benenson had direct and almost unquestioned power over the Trust Fund indicates that somehow the money of Amnesty International and the British Section were mixed up in the Fund. This is however not at all clear. I have been unable to find records of Amnesty International (apart from the Prisoner of Conscience Appeal Fund) in the business registry or the charity registry prior to 1981.

³⁰ Much of the 1962 Trust Deed finances discusses how to manage property (inter vivos or by Will) where trustees accept property for general or particular charitable purposes (articles 4-8). However, it also has a clause on "Any moneys (whether constituting or representing income or capital) ..." (article 12). There is however no actual mentioning of how to manage subscriptions from members as income. (It is not clear whether the term 'property' actually covers the subscription money as well). By 1965, Amnesty International claims the Fund is administered as a separate entity. The membership subscription fees were in 1965 £1 and £2 a year.

Amnesty International never registered the name Amnesty International as a charity and when it tried to do so in 1977, as was explained above in the McGovern case, it was denied charitable status. One consequence was that the Prisoner of Conscience Appeal Fund was made a separate organisation, albeit with distant attachments to Amnesty International UK and Amnesty International. It receives, for example, funds from Amnesty International UK's Charitable Trust and is used for case referrals by both Amnesty International UK and Amnesty International (Amnesty International United Kingdom Section Charitable Trust, 2010; Prisoners of Conscience Appeal Fund, 2007, 2009a). Despite being a separate organisation altogether, the Prisoners of Conscience Appeal Fund has kept the same objectives as Amnesty International and included some of the changes made to Amnesty International's objectives (Prisoners of Conscience Appeal Fund, 1962-2003).

After the Amnesty Appeal 1961 was launched the Amnesty weekly (World Conscience: An International Review to Bridge the Distance between Supporters of Amnesty '61) reported that: "To deal with increasing offers of help, departments have been set up in London, each with a Secretary, to reply, encouraging the formation of National Sections" (Amnesty Appeal '61, 1961-3). The institution of an International Secretariat and separate independent national sections was however, not equally well supported financially. The Amnesty International: Movement for Freedom of Opinion and Religion was developing into an organisational hierarchy with the International Secretariat as its centre of power, but funding remained "the principal impediment to operation and growth" (Amnesty International, 1965:12). Although it is difficult to define the precise organisational roles of various units of Amnesty International in the early years, it can be said that the British section operated in very close proximity with the international arm of the soon to become global hierarchy. The overhead cost of the International Secretariat was paid mainly by the Amnesty International British section whilst contributions from the Prisoner of Conscience Fund, and the Danish, German and Irish National sections paid for various projects (Amnesty International, 1965:12). The International Secretariat was "heavily" dependent on the financial support of the

British section: "For this reason many of its services are shared with the British Section. This makes the dividing line in the office between what is 'International' and what is 'British' sometimes rather fine" (Amnesty International, 1965:5).

Amnesty International's annual report in 1965 reckons that this arrangement is not feasible, neither from a financial point of view nor from an organisational point of view. The problems caused by this cohabitation, such as a lack of consultation with other parts of the organisation, are excused as "errors of judgement" and the national sections asked for "indulgence" on Amnesty International's behalf (Amnesty International, 1965:6). The financial dependency of the International Secretariat on the national sections continued and despite increasing centralisation of power and organisational alignment (through integrated strategic plans and unincorporated statutes) the power relationship between Amnesty International and the sections was not constituted and the sections remained independent entities. Hence, as legally, constitutionally and financially independent organisations the sections (especially the wealthier ones) retained key influence in the decision making process in what Amnesty International could and should do (Hopgood, 2006:194-200).

Amnesty International is an unincorporated organisation and the loyalty of the sections as members of Amnesty International is voluntary. In 1989, the British section passed a special resolution to demonstrate its loyalty to the Amnesty International hierarchy. The added object clause in its memorandum of association stresses the loyalty of the British section "financially or otherwise" to the "Amnesty International Body"; meaning: "any company, institution, association or body (whether charitable or not and wherever situated) within the Amnesty International organisation" (Amnesty International (British Section) Limited, 1989:1-2, article 3.1). However, and as I will soon explain in detail, the control over Amnesty International finances and regulation is in the hands of the International Executive Committee that are the exclusive members of the incorporated entities of Amnesty International. What remains under control of the unincorporated entity is the statutes of Amnesty

International that the sections vote on at the Amnesty International Council Meeting. The Amnesty International statutes have replaced the object clause in the articles of association of both Amnesty International and Amnesty International UK; thus officially synchronising the mission of the Amnesty International entities. Having outlined the historical context of the Amnesty International hierarchy and its embedded legitimating principles I now turn to explain the organisational structures that define the power relationship between Amnesty International UK and Amnesty International.

Internal organisation of power in the Amnesty International hierarchy

Amnesty International UK is a constitutive organisation that operates based on democratic principles where members are an important source of legitimacy. To understand how members are defined and the power relationship between them it is necessary to explain the internal organisation of power and process of legitimation in the Amnesty International hierarchy. This requires a detailed examination of the organisational and legal entities of both Amnesty International UK and Amnesty International. I start by describing the entities of Amnesty International as this is the organisational context for Amnesty International UK. The description of Amnesty International UK's entities follows. At the end of the section I explain the internal process of legitimation of the Amnesty International hierarchy in terms of how power is delegated from the members of Amnesty International UK to the executive level of International Secretariat and how different memberships hold different decision making powers.³¹

³¹ A further note on terminology. For the remainder of the chapter I use the exact name of each Amnesty International entity to avoid confusion in the text. Thus Amnesty International Limited and Amnesty International Charity Limited refer to those specific entities but Amnesty International refers to both these companies as a single whole. This is also the case for Amnesty International UK that is composed of Amnesty International UK Section and Amnesty International UK Section Charitable Trust. Furthermore, I also keep to the names as they are presented in the documents and time period I am citing from where this is relevant. For example, Amnesty International British Section Limited is the prior name of the same entity that is now called Amnesty International UK Section Limited. These are two names for the same incorporated entity and only represents a name change. In addition, Amnesty International UK Section has permission

The power relationship between Amnesty International UK and Amnesty International is complex. The complexity is mainly due to the parallel platforms that bind their organisational entities. In order to clarify their relations it is important to start with disentangling the legal entities of Amnesty International UK and Amnesty International and examine the constitutional relationship between them. A clear conception of the legal entities comprising each organisation also explicates the legal status of the members in the Amnesty International hierarchy. The analysis explains the constitutive mandate of both Amnesty International and Amnesty International UK and how power is legitimated between them in the Amnesty International hierarchy. My aim is to show how the members of Amnesty International UK are vital to the assessment of Amnesty International's legitimacy claims and thus demonstrate that normative arguments do not suffice on their own as justifications of Amnesty International UK's or Amnesty International's legitimacy claims or for their access to power.

The incorporated entities that comprise Amnesty International

The organisational structure and governance of Amnesty International is institutionally complex (see appendix for visual aid). It includes an unincorporated entity – the name Amnesty International – and two incorporated companies – Amnesty International Limited incorporated in 1981 and Amnesty International Charity Limited incorporated in 1986 – of which the latter is also registered as a charity. Amnesty International Charity Limited was embedded in Amnesty International Limited to manage the charitable objectives of Amnesty International Limited which contains the political objectives of Amnesty International. The main distinction between the unincorporated level and the incorporated level is the definition of membership and the separate governing documents. Thus, there are two levels of governance in the Amnesty International hierarchy, one for the

from the registrar to drop 'Limited' in its name, therefore Amnesty International UK Section Limited and Amnesty International UK Section are two versions of the same name.

unincorporated entity, Amnesty International, and another for the incorporated entities. It is important to stress this difference between the unincorporated and incorporated levels to avoid confusion in the following text.

Amnesty International is composed of four organisational units: the Amnesty International Council, the International Executive Committee, the International Secretariat, and the Secretary General. The relationship between, and power of, these four units is defined in the governing documents of Amnesty International. For the unincorporated entity the governing document is the statute of Amnesty International (amended by members attending the Amnesty International Council Meeting). For the incorporated entities, it is the memorandum and articles of association (amended by the board of directors). The governing documents define the membership of Amnesty International. This means that the members of Amnesty International unincorporated are not the same as the members of Amnesty International incorporated.

The name Amnesty International is not incorporated. As such, the Amnesty International national sections are members of an unincorporated organisation and a registry is kept by the International Secretariat. Amnesty International is governed by a statute that is voted on at the Amnesty International Council Meeting. The Amnesty International Council consists of members of Amnesty International as defined by the statute (see below). The Amnesty International Council elects the International Executive Committee, which holds the central power of Amnesty International and represents the exclusive members of the incorporated entities of Amnesty International. Once the Amnesty International Council has elected the International Executive Committee the national sections lose control over the governance process. However, the sections are key organisational units of the Amnesty International hierarchy as they have the actual members and membership growth is an organisational objective that is high on Amnesty International's agenda. I now describe the main role and function of the governing units to explain where the executive powers lie. This includes defining the members and their decision making

powers according to the governing documents of Amnesty International as an unincorporated entity and of its incorporated entities Amnesty International Limited and Amnesty International Charity Limited.

Amnesty International claims legitimacy as a membership NGO. Democratic principles are an essential component of Amnesty International's governance: "Amnesty International is a democratic, self-governing movement. It answers only to its own worldwide membership. All policy decisions are taken by elected bodies" (Amnesty International, 2002:4). Hence members are an important source of legitimacy. As stated above this is imperative when it comes to examining justifications for Amnesty International's participation in UN policy processes and in what capacity it is a representative NGO.

Amnesty International is the representational unit of all Amnesty International members worldwide: "... a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories" (Amnesty International, 2011d). Membership in Amnesty International is defined in the statute in five categories (Amnesty International, 2009:art. 11-15):

1. National Sections (Amnesty International in a country, state, territory or region with consent of International Executive Committee)
2. Structures (an Amnesty International national or regional entity established by the International Executive Committee)
3. International Networks (members of sections or structures and programme regions of the International Secretariat)
4. Affiliated Groups
5. Individual Membership

The last three groups are referred to as International Membership. All members of Amnesty International need to be approved of by the International Executive

Committee. National Sections are the operational units, they need to present their statute and pay annual fees to the International Executive Committee. Structures are coordinating units operating on International Executive Committee criteria. International Networks are promotional units that have to include members from five Sections or Structures as well as members from the International Secretariat Programme regions, they also have to register with the International Executive Committee. Membership of Affiliated Groups is decided by the International Executive Committee and depends on annual fees, this includes affiliate groups of Sections that have to present a register of their affiliated groups to the International Executive Committee (Amnesty International, 2009:art.11-15). Individual members are all of the above categories (with exceptions) and those who fall outside of these categories:

An individual member of Amnesty International is any person who contributes to the advancement of the mission of Amnesty International, who acts in accordance with the core values and policies of Amnesty International, and who has been recognized and registered as a member by an Amnesty International section, structure or affiliated group by virtue of payment of annual dues or having been granted a dues waiver. Individuals residing in countries, states, territories, or regions where there is no section or structure and who are not members of an affiliated group, may, on payment to the International Secretariat of an annual subscription fee determined by the International Executive Committee, become international members of Amnesty International. In countries where a section or structure exists, individuals may become international members of Amnesty International with the consent of the section or structure and of the International Executive Committee. The International Secretariat shall maintain a register of such international members. (Amnesty International, 2009:art.15)

The International Executive Committee can close down and permanently exclude any member of Amnesty International unincorporated, including national sections, according to the statute (exclusion means that the name Amnesty International can no longer be used by that member, expelled members can however appeal to an appeals committee elected by the Amnesty International Council) (Amnesty International, 2009:art.46). The International Executive Committee thereby has central control over the membership of Amnesty International. However, an important feature of the membership at the unincorporated level is that it is superstructural and representational. That is, an individual can only join Amnesty International through a national section (with the caveat above) and actual members are managed as

members of the national sections. Members of the national sections are the core membership unit in the Amnesty International hierarchy.

The Amnesty International Council consists of International Executive Committee members and representatives of other members as defined above. The powers of the Council are to vote on the statute of the unincorporated entity, such as policy priorities and systems of governance. The Council also elects the governors of the incorporated entities, the members of the International Executive Committee (Amnesty International, 2009:art. 6). The Amnesty International statute can only be amended by the Council with a majority of two thirds of the votes. The International Executive Committee, the national sections and the structures can submit proposed amendments to the International Secretariat given that the proposal are “supported in writing by at least five sections or structures” (Amnesty International, 2009:art. 49).

The agenda of the Amnesty International Council Meeting is prepared by the International Secretariat under the direction of the International Executive Committee (Amnesty International, 2009:art. 27). Those who have the right to vote at the Amnesty International Council Meeting are representatives of sections and structures and the international membership (international networks, affiliated groups, and individual members). Sections, structures and the international membership can appoint one representative to the Council. The sections and international membership are allowed additional representatives based on numbers, which gives a right of up to five extra representatives. The voting right of sections is restricted to the sections having paid full annual fees and presented a standard finance report for the two previous years (with exceptions). Votes are decided by a majority and the Chair of the Amnesty International Council Meeting has a casting vote (Amnesty International, 2009:art. 23).

The International Executive Committee receives its mandate from the Amnesty International Council every two years for a four-year term (staggered so that half the

posts are renewed biannually). There is a symbiotic relation between the members of the Amnesty International Council and the International Executive Committee in that although the latter have exclusive control over the former they are elected by the members of the Amnesty International Council. The Council elects a Treasurer that is automatically a member of the International Executive Committee. The additional eight members elected into the International Executive Committee are from the pool of the represented members but limited to one member per each section, structure, affiliated group, or international member and excluding networks (Amnesty International, 2009:art. 28). The power of the Amnesty International Council is to vote on policy priorities, values and executives, whilst the power of the International Executive Committee is decision making, including finance and regulation, and authority to execute the policies of the Council (Amnesty International, 2009:art. 7).

The articles of association of the incorporated entities stipulate that the membership of Amnesty International Limited and Amnesty International Charity Limited is restricted to the members of the International Executive Committee only:

The elected members of the International Executive Committee from time to time shall be the only members of the Company and their names shall be entered into the register of members. Any person ceasing to be an elected member of the International Executive Committee shall immediately also cease to be a member of the Company. (Amnesty International Limited, 2010:5, art 7.1)

This is also evident in the early versions of the articles (Amnesty International Limited, 1987:7, art. 2-3), and the articles of Amnesty International Charity Limited (Amnesty International Charity Limited, 1986a:1-2, art. 2-3). The ultimate decision making power of Amnesty International is accordingly vested in the incorporated entities and the members of the International Executive Committee as exclusive members of the two companies that comprise Amnesty International.

The primary role of the International Executive Committee members is to govern the companies according to the articles of association by a majority of votes where each member has one vote (Amnesty International Charity Limited, 1986a:art.20,46; Amnesty International Limited, 1987:art. 20,46; 2010:17.1,18,25.1). At meetings a poll

can be demanded by the chair, directors, two members or a person “representing not less than one tenth of the total voting rights of all the members having the right to vote on the resolution” (Amnesty International Limited, 2010:art. 20.2.5). A resolution is agreed with majority or by “members representing not less than 75% of the total voting rights” (Amnesty International Limited, 2010:art. 25.1).

The directors of the Amnesty International Limited company have power to create regulation (rules and bylaws) as they see fit for the management of the company (Amnesty International Limited, 1987:art. 69; 2010:art.51). The directors are appointed by resolution (Amnesty International Limited, 2010:art. 27) and are the senior leadership team of Amnesty International that can “exercise all the powers of the Company” (Amnesty International Limited, 2010:art. 30). This senior leadership team is effectively the board of directors of the company and is commonly referred to as the International Secretariat. Decision making of the directors is threefold: majority at a meeting; unanimity without a meeting; or majority without a meeting (Amnesty International Limited, 2010:art. 32.1, 38, 39). The directors may delegate power to committees (Amnesty International Limited, 2010:art. 40) or senior managers (Amnesty International Limited, 2010:art. 43).³² Amnesty International is thereby directed and managed by the International Executive Committee and the directors that represent the senior leadership team, the International Secretariat – the ‘professional heart’ of Amnesty International (Amnesty International, 2002:38).

The role of the International Executive Committee is to:

- ensure the movement’s compliance with Amnesty International's statute
- ensure implementation of Amnesty International's Integrated Strategic Plan
- ensure the sound financial management of Amnesty International at the international level

³² The articles of association of both Amnesty International and Amnesty International UK from their incorporation in 1983 to 2009 elaborate in ever more detail the definition of membership, election of directors, and the conduct of meetings. It should be noted that these changes may be reflecting changes in company law.

provide consent for the establishment of sections, structures and other bodies of Amnesty International

hold sections, structures and other bodies of Amnesty International accountable for their functioning by presenting reports to the International Council Meeting

take international decisions on behalf of Amnesty International

ensure human resources development. (Amnesty International, 2011b)

The International Executive Committee decides which causes to support and passes the information onto the sections “with regular reports on its priorities, deliberations and decisions and includes financial reports and budget statements” (Amnesty International, 2011b). The International Executive Committee also makes “recommendations” to the Amnesty International Council “on matters affecting our future direction” (Amnesty International, 2011b). This means that the responsibility of all research work lies with the ‘international governing bodies’, that is the International Executive Committee and the International Secretariat:

Responsibility for [Amnesty International’s] work on abuses of human rights in any country or territory, including the collection and evaluation of information, and the sending of delegations, lies with the international governing bodies of the organization, and not with the section, structure, groups or members in the country or territory concerned. (Amnesty International, 2009:art.10)

This power arrangement is also evident in Amnesty International’s handbook, manual for campaigning, and research dossiers (Amnesty International, 2001:58-63; 2002:16,21,36,38,50,57).

The preceding passages make clear the limits of membership both the unincorporated and the incorporated entities of Amnesty International. The definition of what constitutes a member thus imposes a specific challenge of members’ power and authority. The ultimate decision making authority in the Amnesty International hierarchy (the unincorporated and incorporated entities) lies with the International Executive Committee that has nine exclusive members. This includes, for example, who can and cannot be a member of Amnesty International and the research agenda that informs the work of the sections and underpins their legitimacy claims. I now turn

to discuss the membership and governance of Amnesty International UK within this context.

The incorporated entities that comprise Amnesty International UK and how they relate to Amnesty International

The two companies that comprise Amnesty International UK are Amnesty International UK Section, incorporated as Amnesty International British Section Limited in 1982, and Amnesty International British Section Charitable Trust, registered as charity in 1986 and incorporated in 1995 as Amnesty International UK Charitable Trust (Charity Commission, 2011d; Eliot, 1983; Lewis, 1995). Amnesty International British Section Limited changed its name to Amnesty International UK Section Limited in 1997 (Amnesty International United Kingdom Section Limited, 1997), and in 2004 it made a name change to drop Limited from its name (Amnesty International United Kingdom Section, 2004).³³

Like Amnesty International, Amnesty International UK is a membership organisation with a constitution, chain of command and processes of internal legitimisation of powers based on democratic principles. The constitutive documents of Amnesty International UK Section are its memorandum and articles of association. The objectives of the UK Section were initially expressed in their memorandum of association's object clause but have been changed to replicate the Amnesty International organisational changes and are now expressed in the Amnesty International Statute (Amnesty International (British Section) Limited, 1983b; Amnesty International United Kingdom Section, 2009a:art. 3).

³³ In the remainder of this chapter I use Amnesty International UK Section, Amnesty International UK, and UK Section interchangeably to refer to the two companies as a single unit. I use the company names proper to refer separately to each legal entity of the UK Section, that is Amnesty International UK Section Limited and Amnesty International UK Section Charitable Trust Limited. I use the UK Section unless the term British Section is specifically required for the context. Therefore there may be inconsistencies between the text and the citation, where the text talks of UK Section and then refers to a citation where the term British Section is the author of a document that dates prior to the name change.

An example of this change is the Amnesty International logo. In 1993 Amnesty International Limited filed to trademark the logo with the UK National Business Register (the logo is a candle wrapped in barbed wire designed by Diana Redhouse in 1961 with reference to a Chinese proverb 'better light a candle than curse the darkness' (Larsen, 1979:16)). The trademark was formally registered to Amnesty International Limited in 1995 giving the company exclusive rights over how the logo is used in a number of identified categories. In order to use the logo the UK Section has to sign a licence agreement with Amnesty International Limited (Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:1). Prior to this arrangement the logo was in the custody of the directors of the UK Section who had control over how it was used and required their signature (Amnesty International (British Section) Limited, 1988:13, clause 44). The use of the logo is considered susceptible to risk and features high on the political risks agenda of both Amnesty International and Amnesty International UK (Amnesty International Limited and Amnesty International Charity Limited, 2007:4; Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:2).

Amnesty International UK is governed by a board of directors that has twelve elected members and three (externally) appointed (opted) members. The Amnesty International UK board appoints the trustees for the Amnesty International UK Charitable Trust (as well as directors of any other subsidiary companies of Amnesty International UK). The board of directors obtains its democratic mandate through a ballot at Amnesty International UK's Annual General Meeting (also called national conference). The Annual General Meeting is open to Amnesty International UK's members (see definition of members in the appendix). The 2010 Annual General Meeting was attended by about five hundred staff and members (Amnesty International UK, 2010b). The main function of the Annual General Meeting is for the members to elect the board of directors and ratify or reject policy proposals to take to the Amnesty International Council. The Annual General Meeting:

... is the primary decision making forum for Amnesty International UK [...] it is a crucial part of our democracy and accountability, where members can have

their say and contribute to debates and decision-making. (Amnesty International UK, 2008c)

The policy ratified at Amnesty International UK's Annual General Meeting can be highly political, for example in 2009 the Annual General Meeting passed (albeit narrowly) a resolution to boycott Israeli products in support of Gaza. The resolution reads:

This AGM calls on the UK section to:-

1. ask the International Secretariat to explore the idea of adopting as policy the promotion of a boycott of West Bank settlement products.
2. press for a full EU-wide investigation of West Bank settlement products' evasion of import duties and for clearer labelling of West Bank products for retail so that a distinction can more easily be made between settlement and Palestinian products. (Amnesty International UK, 2009:4)

Given that Amnesty International UK has access to a political platform both in its own right and through its international representative, Amnesty International, it is important to understand the role of their members in decision making and how they are a legitimacy source that justifies both Amnesty International UK's and Amnesty International's legitimacy claims.

Importance of members for Amnesty International UK

Members are an important source of legitimacy for Amnesty International and membership growth is an important organisational target for both Amnesty International UK and Amnesty International. The membership growth of Amnesty International in the early years was phenomenal as Amnesty International managed to appeal to a broad group of supporters (Buchanan, 2002). In 1962 there were 70 local groups, in 1963 there were 350 and by the end of the 1960s there were almost one thousand groups. Initially Amnesty International operated only in Britain but it quickly expanded throughout Europe and North America (Amnesty International, 1965:5-6; Head, Allen, et al., 1965). Many of the early organisational tasks of the International Secretariat involved organising national sections and keeping Amnesty groups informed and collaborative (Amnesty International, 1965:21-2). In 1962 the second International Conference of the Amnesty Appeal 1961 was attended by more

than 60 delegates (Buchanan, 2002:596). The Amnesty groups and membership continued to grow throughout the 1970s. In the mid 1980s the combined membership of Amnesty International had reached half a million. At the start of the 1990s Amnesty International claimed one million members and by 2010 three million members (Amnesty International, 2011a). The importance of members is equally evident in the annual reports of Amnesty International in 1965 and Amnesty International UK in 2010.

Members are integral to the way Amnesty International UK claims legitimacy:

Being a membership organisation is one of the real strengths of Amnesty International. It defines the way we work, generates the action that fuels our campaigns and provides us with most of our income. The more members and supporters we have, the more impact we can make on human rights around the world. (Amnesty International UK, 2010a:10)

Amnesty International draws its political and financial strength from the fact that it is a membership organisation. This defines the way it works and gives it legitimacy, creativity and a truly human perspective. [...] We need more supporters for two reasons: to develop human rights activists and to provide secure income streams into the future. (Amnesty International United Kingdom, 2010:10)

The emphasis on members as a source of legitimacy is also outlined in Amnesty International's Integrated Strategic Plan for 2004-2010 and in Amnesty International UK's Strategic Directions 2010 where one of the key organisational targets is membership growth.³⁴ In the case of Amnesty International UK, increased membership growth was translated into targets of twenty-three percent growth in income and one million supporters (not specified as members but as engaged supporters, in 2006 the UK Section claims this number is at 267 thousand). To achieve this the UK Section targeted for example schools, increased its investment in recruitment and aimed to benefit from changes in the charity legislation (Amnesty International United Kingdom Section, 2007:art. 6.1 and 6.10.1). This emphasis on

³⁴ The Integrated Strategic Plan is a strategy document that was adopted in 2001 to introduce measurable targets and expected outcomes (Amnesty International, 2002:34).

increased growth is reported in Amnesty International UK's 2008-2010 annual reports. The member register (actual members not engaged supporters) of the UK Section counted 174,600 members in 2008 (a drop of two thousand members from the previous year). The registered members of Amnesty International UK dropped again to 161,053 in 2009 and to 156,555 in 2010 (Amnesty International UK Section, 2010:9). In accordance with its strategic plan, Amnesty International UK increased its expenditure for recruitment in 2008 at the cost of charitable activities. This decision was repeated in 2010 due to the continuing fall in membership.

Although Amnesty International UK's aspiration for increased membership growth is to "develop human rights activists [...] adding to the pool of those able to take on human rights abuses" (Amnesty International UK Section, 2010:9; Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:14), there are however also practical reasons for this emphasis. The number of members is directly linked to the voting rights of the UK Section at the Amnesty International Council Meeting and membership fees are a major source of income. Increasing and retaining members of the national sections is accordingly an important source for the credibility of Amnesty International's democratic mandate (Amnesty International UK Section, 2010: 9). Amnesty International UK's emphasis on growth is thus also an important part of Amnesty International's strategic targets to "leverage its brand" and "think big" (Amnesty International, 2010b:21).

As membership continues to drop for the UK Section, Amnesty International reports its "numbers have swelled" (Amnesty International, 2010b:2). The new recruits of Amnesty International are mainly new national sections that are being established as Amnesty International expands globally. There were 74 sections in 2010, up from 52 in 2008 (Amnesty International Limited, 2008:2; Amnesty International UK, 2010a:3). This has financial implications for Amnesty International UK as one of Amnesty International's major contributor. Amnesty International UK claims in its 2010 Strategic Directions document that two-thirds of its income is from "committed

supporters” and in its 2010 annual report that ninety four percent of its income is from members and members fundraising (Amnesty International UK, 2010a:9; Amnesty International United Kingdom Section, 2007:art. 6.10.2). Thus increased number of members and “committed supporters” is important for the UK Section to be able to continue to contribute financially to the International Secretariat.

It is also significant for the organisational alignment process within the Amnesty International hierarchy. Amnesty International’s 2016 Integrated Strategic Plan states that resources should be distributed according to priorities:

If AI is to enhance its delivery of its human rights promises, then it must ensure that its resources flow to its priorities and are not locked down by the happenstance of where they were raised. [...] Money raised in AI’s name is understood to belong to AI as a whole and not only to the AI entity that raised it. (Amnesty International, 2010b:21)

Since most fundraising opportunities are in the West this statement has implications for Amnesty International UK as the UK Section works closely with the International Secretariat to raise funds for their international work in the UK (Amnesty International United Kingdom Section, 2007:art. 6.10.4). As mentioned earlier in the chapter, Hopgood has pointed out that the income of Amnesty International is largely from European and North American Sections (US, UK and Netherlands being the largest three) which has implications for the relationship between influential sections and the international hierarchy (Hopgood, 2006:194-198). Keeping the number of members up and growing is therefore key, not only for Amnesty International UK and its position in the Amnesty hierarchy, but also for Amnesty International’s global growth.

I now turn to describe the types of members and membership criteria of Amnesty International UK to clarify further what members as a legitimacy source means for the power relationship between Amnesty International UK and Amnesty International.

Amnesty International UK's membership typology and the status of members

There are six types of members in Amnesty International UK: individual members, family members, affiliate members, local groups, student groups, and in 2009 youth groups were added (in 2006 a special resolution was passed to lower the member's voting age from 16 to 14 years old) (Amnesty International United Kingdom Section, 2006; 2009b:13-14, art. 3) (see appendix to chapter five for details of each membership type). There is also an option for the above members to form a group and acquire a status of Network according to criteria set by the board of directors (it is not clear what this means as there are no voting rights associated with Network status, unlike the international network status). In 2010 Amnesty International UK claimed 270 local groups, 120 student groups, and 650 youth groups (Amnesty International UK Section, 2010:8). The voting rights of each member is such that an individual member and a family member get one vote each, local, student and youth groups get ten votes each. An affiliate member gets one vote for the first five thousand members and additional one vote for up to the maximum of ten for each extra ten thousand members (Amnesty International United Kingdom Section, 2009b:20, art.23).

Each individual membership of Amnesty International UK is appointed by approval of the board of directors and the board of directors has absolute control over the membership of the organisation: "The Board may in its absolute discretion decline to accept any person as a Member and need not give reasons for so doing." Furthermore, "The Board may from time to time prescribe criteria for membership but shall not by so doing become obliged to accept persons fulfilling those criteria as Members" (Amnesty International United Kingdom Section, 2009b:article 4, p.14). A member can appoint a representative and send delegates to annual meetings and arrange for proxy votes. Amnesty International UK keeps a detailed register of such activity (Amnesty International United Kingdom Section, 2009b:14, article 6). Members can be expelled for unpaid fees and by resolution of the directors after they have been informed "specifying the circumstances alleged to justify expulsion" with due process for those involved (Amnesty International United Kingdom Section, 2009b:15, article 8). The

board of directors can accord a special status of Networks “to any group of members brought together for a particular purpose” – and withdraw such status, if the group does not fulfil “the criteria specified by the Board for two successive years or is in substantial breach of any mandate or rules of the Company” (Amnesty International United Kingdom Section, 2009b:16, article 10).

Amnesty International UK Section Charitable Trust has no general members, the only members are the board of trustees. The board of trustees are appointed by a governing body of the Amnesty International UK Section (Amnesty International UK Section Charitable Trust, 2008:10-14, art.2,22,28-31). (The Amnesty International UK Charitable Trust is mainly relevant in the context of Amnesty International UK's mission as discussed below.)

The central control of the directors over the Amnesty International UK membership has been somewhat curtailed since the incorporation of the UK Section, for instance with administrative articles on polling, proxy voting, representation and delegates, and membership appeals committee (Amnesty International (British Section) Limited, 1983a: art. 3,15; 1988: art. 20,2,3). The key restriction of the discretionary power of the directors over the membership was the establishment of the special Members’ and Directors’ Appeal Committee for those subject to (forced) cessation of membership and whose decision is final (Amnesty International United Kingdom Section, 2009b:16, article 11).

Managing political and charitable objectives of the Amnesty International hierarchy: the symbiotic relationship between Amnesty International UK and Amnesty International

Amnesty International UK is committed to the advancement of Amnesty International’s objectives – to a degree where its existence is made conditional: “Amnesty International United Kingdom Section exists to further the aims of the international Amnesty movement” (Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:22). However, crucial to this commitment is Amnesty International UK's ability to present its own resolutions to the International Executive

Committee as a member of the unincorporated Amnesty International. This symbiotic relationship between the Amnesty International Council and the International Executive Committee and the members involved highlights the complex organisational structure of the Amnesty International hierarchy. This is best illustrated in how they manage their political versus charitable objectives.

One of the outcomes of the McGovern case discussed earlier in this chapter was the organisational structure instituted by Amnesty International UK and Amnesty International to manage their charitable versus political objectives under the new regime:

Amnesty International UK was refused registration as a Charity as some of its purposes were considered 'political' under English law. Amnesty International British Section Charitable Trust was therefore formed to conduct those activities which were deemed charitable. (Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:1)

Amnesty International incorporated the names Amnesty International Limited and Amnesty International British Section Limited and both established charitable trusts to conduct the charitable objectives of Amnesty International's mission. Amnesty International UK Charitable Trust is used to raise funds for Amnesty International Charity which in turn pays for Amnesty International Limited's research (although most of the charity's income is donated by the company to the charity) (Amnesty International Charity Limited, 2009:24; Amnesty International UK Section Charitable Trust, 2007:3-4; Amnesty International United Kingdom Section Charitable Trust, 2010:9). The significant majority of the UK Section Trust's income is allocated to Amnesty International Charity Limited (Amnesty International (UK Section) Charitable Trust, 2008:5, 22).

Perhaps the most evident arrangement of the centralisation of power is how Amnesty International manages its charitable objectives through the incorporated entities. Amnesty International Charity Limited is almost entirely funded with financial contributions from Amnesty International Limited and Amnesty International UK Charitable Trust. The guarantors of Amnesty International Charity Limited are the

members of the International Executive Committee who appoint its trustees that also serve as its directors (Amnesty International Charity Limited, 2009:2-3). In 2008 Amnesty International Charity Limited had no employees and the directors' salaries and related costs were paid for or donated by Amnesty International Limited (Amnesty International Charity Limited, 2009:24). Amnesty International Charity Limited represents the charitable objectives of Amnesty International Limited. Due to the UK regulatory regime Amnesty International Limited has to keep its charitable objectives in a separate company to qualify for charitable registration. The charity, the Amnesty International Charity Limited, then commissions Amnesty International Limited to carry out the objectives of the charity (that are in fact Amnesty International's objectives) and reimburses it for its services (research) (Amnesty International Charity Limited, 2009:3; Amnesty International Limited, 2008:38). Thus, the Amnesty International Charity Limited is financed and governed by Amnesty International Limited, which also carries out most of its work.

The organisational relationship with the Amnesty International UK Section is also complex. Amnesty International UK Charitable Trust Limited mainly exists to fund Amnesty International Charity Limited that then commissions Amnesty International Limited to conduct its research objectives. The results are then fed back to the UK Section to inform its campaigns. The UK Section thus funds the research of Amnesty International Limited through the incorporated charities of each company and in return relies on an information feed from the International Secretariat to conduct campaigns: "We rely on the International Secretariat to find out the facts about human rights abuses. Based on the facts they uncover and confirm, we take action. We mobilise activists, we campaign, we lobby and we pressurise" (Amnesty International UK Section, 2010:7).

The relationship is described in the 1994 annual report of Amnesty International Limited as follows:

AICL [Amnesty International Charity Limited] commissioned AIL [Amnesty International Limited] to carry out charitable activities on its behalf under the

terms of the memorandum of agreement signed in June 1992. AICL will reimburse AIL for carrying on the commissioned work to such extent as the directors of AICL may determine. (Amnesty International Limited, 1995:1)

The priority of the objectives is clear. Amnesty International Limited lists its first objective to be “The undertaking of charitable activities requested by Amnesty International Charity Limited” and its second objective to be:

... pursuance of securing the observance of the Universal Declaration of Human Rights throughout the world which would not be considered charitable under United Kingdom law. Such activities principally comprise campaigns undertaken with a view to influencing actions taken by sovereign governments. (Amnesty International Limited, 1995:10)

Although the objectives of both the company and the charity were essentially carried out by Amnesty International Limited, the charitable objectives were now incorporated in Amnesty International Charity Limited that commissioned Amnesty International Limited to conduct them. Thus, the incorporated entities of Amnesty International were an instrumental way to retain Amnesty International's political and charitable objectives under the aegis of Amnesty International.

The incorporation of Amnesty International Charity Limited was to separate the charitable objectives from the political objectives in order to manage them according to the guidelines of the Charity Commission. The charitable objectives of Amnesty International Charity Limited were defined to “promote research into the maintenance and observance of human rights and to publish the results of such research” (Amnesty International Charity Limited, 1986b). The objectives of the Amnesty International UK Section Charitable Trust largely reflect those of Amnesty International Charity Limited (Amnesty International UK Section Charitable Trust, 1995:art. 3,4; Charity Commission, 2011d). In 2008, the mission of the Amnesty International UK Section Charitable Trust was to promote human rights as set out by the Universal Declaration of Human Rights and other UN conventions, declarations or codes that elaborate it. The Trust's objectives are empirical commitments to research, education, and technical advice to governments on human rights matters, which further the mission

of Amnesty International UK (Amnesty International UK Section Charitable Trust, 2008:article 3a-m).³⁵

As discussed above the members of the incorporated charities are not democratically elected but appointed by the governing bodies of each company, that is the International Executive Committee and UK Section board of directors. Since the main objective of the UK Section Charitable Trust is to fund Amnesty International Charity Limited and promote human rights research it can be argued that the Trustees (members of International Executive Committee) of Amnesty International Charity Limited have central control over decisions about funds for research and the epistemic agenda of Amnesty International in general, including the Amnesty International UK Section Charitable Trusts (Amnesty International Charity Limited, 1986a, 1986b).

The separation of the political and charitable objectives of Amnesty International into company and charity is mostly an artificial separation to comply with the regulation of the Charity Commission. The research commissioned by Amnesty International Charity Limited is carried out by Amnesty International Limited for which it is reimbursed by the charity. Amnesty International UK Charitable Trust was formed to channel its funds to the Amnesty International Charity, which in turn is an outlet to recycle Amnesty International's research that complies with the regulation of the Charity Commission. In 2008, the Charity Commission clarified what type of political activity and campaigning methods charities could engage in without compromising their charitable status (Charity Commission, 2008b). The distinction revolved around where to draw the line between the purpose and activities of a charity, stating that as long as the purpose of the charity is exclusively charitable its campaigning activities can be partly or mainly political (McCarthy, 2008). As a result Amnesty International UK wanted to merge the company (Amnesty International UK Section Limited) and the

³⁵ The Amnesty International UK Section Charitable Trust also undertakes other projects. In 2008 the Trust was for example involved in producing educational material for secondary schools in England and recruiting and training Amnesty supporters (Amnesty International (UK Section) Charitable Trust, 2008:6-8). Their teaching material and scope is extensive (Amnesty International UK, 2008a).

charity (Amnesty International UK Charitable Trust Limited) where the organisational objectives of the company would then 'mirror' those of the charity and thus allow it to gain approval from the Charity Commission (Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008:16). However Amnesty International UK was not able to negotiate or accept the conditions set by the Charity Commission and the merger was not followed through with due to "constraints around our campaigning abilities" (Amnesty International United Kingdom Section Charitable Trust, 2010:10).

The internal process of legitimization in the Amnesty International hierarchy: the limits of representational legitimacy of a membership NGO

Although Amnesty International UK is not legally embedded in the Amnesty International hierarchy, its constitutional documents declare compliance and cooperation and describe a dependent power relationship where Amnesty International UK is in a subordinate position to Amnesty International. The internal process of legitimization of the Amnesty International hierarchy gives Amnesty International a mandate to represent the national sections based on democratic principles with voting members and a right to speak for the organisation globally.

I now describe the process of internal legitimization and try to highlight the gap that exists between the grassroots level and the global executive level. This is especially important because although there is a symbiotic relationship between the national and global membership at the superstructural level this is not the case at the organisational level. The gap is most evident in the different types of powers vested in different types of memberships, such as the Amnesty International Council that consists mainly of representatives of members of national sections, and the International Executive Committee which consists of exclusive members with ultimate authority when it comes to decision making. This is mainly explained with the two tiers of governance, the unincorporated Amnesty International and the incorporated Amnesty International entities.

The internal process of legitimation for Amnesty International's representational mandate can be divided into three levels, the national (membership) level, the international (policy) level, and the global (executive) level. The national level manages the actual members and the grassroots campaigners of Amnesty International through the national sections. The international level is the policy platform of Amnesty International where the Amnesty International Council comprising representatives of national sections votes on the statute of the unincorporated Amnesty International and elects the International Executive Committee for the incorporated entities. The global executive level is the International Executive Committee and its directors that comprise the International Secretariat (with the Secretary General as their figurehead). The process demonstrates how the mandate of Amnesty International is conferred from the sections to the nine members of the International Executive Committee based on a democratic principle of majority voting. The process enables Amnesty International to claim representational legitimacy in the name of its members (as defined above). Amnesty International's statute states that all work on human rights abuses done in the name of Amnesty International is the responsibility of the International Executive Committee and the International Secretariat (the international governing bodies of the organisation):

Responsibility for [Amnesty International] work on abuses of human rights in any country or territory, including the collection and evaluation of information, and the sending of delegations, lies with the international governing bodies of the organization, and not with the section, structure, groups or members in the country or territory concerned. (Amnesty International, 2009:art. 10)

This places significant power in the hands of the nine members of the International Executive Committee who are in control of Amnesty International's funds and regulation – especially since the statute has become the object clause for (tentatively all) other Amnesty International entities.

Thus, the internal process of legitimation is important to legitimate not only the operational powers, but also the representational abilities of the International Executive Committee. The internal process of legitimation is, notably, internal to the Amnesty hierarchy and cannot be used to confer representational legitimacy on

Amnesty International externally as representing global public opinion (as discussed in chapter two). The internal process of legitimisation also defines the representational abilities of Amnesty International at global institutions such as the UN. This is in contrast to external legitimisation processes where Amnesty International enters into contracts with governmental bodies such as the UK Foreign Office and the UN subsequently depending on the regulatory framework of these institutions granting them legitimacy (Christiansen and Dowding, 1994).

This section has clarified the organisational structure of the Amnesty International hierarchy and the legal entities of Amnesty International UK and Amnesty International. Returning to the questions introduced at the beginning of the chapter I have demonstrated that although the authoritative sources of legitimacy are members and the research library, it is through the members that Amnesty International UK claims legitimacy. Both Amnesty International UK and Amnesty International prioritise members as their main source of legitimacy whereas the literature tends to focus on their normative legitimacy sources and the research library to justify their claims, even if the claims are representational. In order to assess the legitimacy claims of Amnesty International UK and Amnesty International it is necessary to evaluate them as interdependent. It has been established that Amnesty International is a membership organisation that receives its mandate from its national sections. The actual members belong to Amnesty International UK (and the national sections in general), whereas the members of Amnesty International are the representatives of the national sections (usually the board of directors). There is however a gap in the membership structures between the members of the Amnesty International Council and the members of the companies that hold financial and regulatory decision making authority over Amnesty International. This gap, that exists between the actual members and the executives of the incorporated entities of Amnesty International that control decision making, is problematic for the hierarchy. It can be argued that this is a serious legitimacy deficit for a membership NGO in the sense that Amnesty International's funds and authority are in the hands of nine people that represent

almost three million members (although this disproportionate authority can partly be explained by the organisational complications imposed by the UK regulatory regime). The centralisation of power at the international office where control over funds, policy and the research also directly affects Amnesty International UK that has pledged loyalty to the mission of Amnesty International in many ways. The justifications for Amnesty International UK's legitimacy claims are therefore embedded in the Amnesty International hierarchy. That said, it is clear that Amnesty International UK (and national sections in general) holds the main source of legitimacy, the members, that should be included when scrutinising Amnesty International's legitimacy claims.

Conclusion

The argument developed in the sections above emphasises the importance of looking at Amnesty International's legitimacy claims more holistically. It is clear in its organisational documents and by its internal organisation of power that the Amnesty International hierarchy is reliant on the premise of membership. The internal process of legitimisation can be categorised into three levels: national, international and global. The underlying principal of the process is a democratic representation of voting members. I have pointed out that there is a gap between the national level (activists mainly) and the international level (executives mainly) that presents a legitimacy challenge for Amnesty International in terms of how members are defined and how the chain of command is directed from the International Secretariat to the national sections. It has also been established that the legitimisation process of Amnesty International as a membership organisation enables Amnesty International to claim representation of its own members only, not public opinion. It is important to think of this in terms of whether legitimacy is generated internally or externally. When discussing the external legitimacy of NGOs, whether at the national or international levels, it can for example be argued that the UK Foreign Office, as Dowding and Christiansen demonstrated, legitimates the participation of Amnesty International UK in the policy process. The same goes for Amnesty International's participation in policy making at the UN. However externally granted legitimacy to Amnesty

International UK or Amnesty International does not explain how legitimacy is generated internally in the Amnesty International hierarchy; namely by voting members. To give a full account of how Amnesty International UK claims legitimacy and how to assess their legitimacy claims it is important to understand how legitimacy is generated internally.

Amnesty International UK is part of an organisational hierarchy that has to be considered when assessing its legitimacy claims. Both Amnesty International UK and Amnesty International claim legitimacy as membership NGOs. However there is a sharp distinction between what constitutes members at the national and international levels. The International Secretariat is dependent on its national sections for claiming legitimacy in the upper echelons of international politics. When Amnesty International claims expert authority on human rights it does so as a membership organisation and the members belong to the national sections, of which Amnesty International UK is one. This gives Amnesty International UK influence that it likes to retain and in order to do so it has to keep up the membership because this is not only the main source of income, but also a system of justification. This chapter has demonstrated that Amnesty International UK's members are persons whereas Amnesty International's incorporated entities are exclusively controlled by the International Executive Committee and its unincorporated entity mainly contains organisational membership (comprised of representatives from the national sections). The chapter has thus argued that Amnesty International UK claims legitimacy through its members rather than the fact-finding research library of the International Secretariat and that legitimacy claims made by Amnesty International are representational judged against their internal process of legitimation.

Membership and the internal organisation of power are crucial for assessing both Amnesty International UK's and Amnesty International's legitimacy claims. Legitimacy-in-context is vital for providing justifications for legitimacy claims and explaining and understanding sources of legitimacy. This is particularly true when it

comes to assessing legitimacy claims at the international level where representational claims are often substituted by normative claims as expressed in Amnesty International's mission to justify its access to power. As Hopgood has pointed out the line between the moral and political authority exposes its contrasting roles of being a witness and being an advocate. As a witness (based on research and fact-finding missions) Amnesty International claims moral authority but as an advocate it claims political authority (based on members). The importance of members should not be overlooked when institutional legitimacy is being granted to Amnesty International UK or Amnesty International as members are crucial to their legitimacy claims.

This leads to questions about who is in control. The documents that dictate the internal organisation of power can be explained with the internal process of legitimation that transfers power from the members of the UK section to the global executives of Amnesty International. The process has three levels: the national members level, the international policy level, and the global executive level. The process is about justifying, based on democratic principles, the authority of the executives to the members. It enables national representatives to vote on Amnesty International's policies and value commitments (as expressed in the mission and objectives of the statutes of unincorporated Amnesty International) and elects the global executives that are in control of funds and bylaws. Participation in this process is restricted to members as they are defined by the UK section and the Amnesty International statute. The internal legitimation process turns Amnesty International's mission into a mandate and is critical for an assessment of their legitimacy claims at the international level.

External legitimacy on the other hand is about the justifications of Amnesty International's participation in the policy process of (inter)governmental or democratic institutions whether in the UK or internationally. As both Amnesty International and Amnesty International UK are registered in the UK, their legal entities are regulated by the Charity Commission and the Companies House as

appropriate (see also chapter four) but with a serious shortcoming. The regulation only covers parts of their organisational functions (financial accounts) or units (the charity trusts). The UK regulatory regime largely excludes Amnesty International UK and Amnesty International because their mission is political and cannot be regulated outside the UK context. At the international level Amnesty International can only claim representational legitimacy based on its membership as it is derived from the national sections and dictated by the internal process of legitimisation. The notion of legal legitimacy at the international level is scant but Amnesty International can to some extent draw on its status with global institutions and on normative legitimacy claims based on its mission and organisational objectives. Regulation at the international level is furthermore problematic because the only signs of regulatory initiatives are self-regulatory incentives (such as the international NGO Charter and the Global Reporting Initiative) that function primarily as auxiliary mechanisms and lack external justification in the context of democracy.

The incorporated powers of the International Executive Committee are vast and expose Amnesty International to a legitimacy deficit. Although their mission changes from moral to more political authority have been justified internally this has yet to translate into accountability in the wider democratic context where their influencing public policy is in need of justification. Democratic control mechanisms are weak and yet to be developed. To change this and increase the democratic mandate of Amnesty International there need to be independent mechanisms to verify claims and make information central and available for the public. This is pertinent because the move of NGOs from claiming ethical authority into claiming political authority is part of the social change agenda and the reforming of global institutions (Brown, 2008; Korten, 1990; Slaughter, 2004).

The members and the research library are important characteristics of how Amnesty International claims legitimacy and operates but equally important is its early mission to 'equate law with morality' in the shape of universal norms. That representational

legitimacy claims only focus on one aspect, that of normative claims, and ignore the role of members is a legitimacy deficit in the external legitimacy of both Amnesty International UK and Amnesty International. Members are an important aspect of how Amnesty International UK and Amnesty International claim legitimacy and essential to the process of internal legitimization that justifies the mandate given to the International Executive Committee. By applying a Beethamite assessment of their legitimacy claims the chapter has argued that ignoring the role of members in legitimating Amnesty International UK's legitimacy claims and solely focusing on expert knowledge as justificatory reasoning is problematic. The case study has demonstrated that the internal organisation of power that dictates the power relationship between Amnesty International UK and the International Secretariat is an important aspect of their legitimacy claims where members are crucial, hence the importance of a multidimensional approach when assessing their claims.

Chapter 6 A Beethamite assessment of Greenpeace UK's legitimacy claims: a case study of an environmental NGO

Greenpeace shares many of Amnesty International's organisational features as an international hierarchy. This case study demonstrates however that there are significant differences. This pertains both to the internal organisation of power and to the way Greenpeace UK claims legitimacy. A Beethamite analysis of Greenpeace UK's legitimacy claims demonstrates that Greenpeace UK claims legitimacy using different sources and that it has a differently structured power relationship with its international unit, Greenpeace International. In order to examine how Greenpeace UK claims legitimacy I ask the following questions: How is the content of its legitimacy claims justified? How is power legitimated internally? What is the constitutive remit of Greenpeace UK in the Greenpeace hierarchy? And with what authority do they speak?

The analysis entails examining how Greenpeace UK claims legal legitimacy, the internal organisation of power in the Greenpeace hierarchy, and in particular the mission statements and organisational objectives that underpin their claims. The internal organisation of power is based on a bilateral contract between Greenpeace UK and Greenpeace International where Greenpeace UK has little control. Thus the analytical focus of the chapter is on Greenpeace UK as a representative member of Greenpeace International in the UK, contextualising the assessment of Greenpeace UK's legitimacy claims in the Greenpeace International hierarchy.³⁶

Greenpeace UK claims legitimacy as an environmental NGO and measures the success of its campaigns in the policy impacts they have on governments and corporations. Unlike Amnesty International and Cafod, Greenpeace did not originate in the UK but in

³⁶ A note on terminology. The term Greenpeace is used to refer to Greenpeace as an institution including all its offices (international office, national offices and other relevant units). When discussing specific offices I use their exact name, for example Greenpeace International or Greenpeace UK. However, Greenpeace Research Laboratories is used synonymously with Greenpeace International Science Unit as these are two names for the same office. The nuances to the terms are noted as they occur if necessary.

Canada. It was initially associated with the peace movement and campaigned on issues such as disarmament and anti-nuclear tests, as well as ecology. However, as Greenpeace grew internationally it started to focus more intensely on ecology and came to shed its alignment with the peace movement and radical (environmental) groups (although disarmament remains a part of its agenda (Greenpeace UK, 2009b:7-8)). Religiously inspired statements were replaced with scientific manifestos and Greenpeace's legitimacy claims became increasingly associated with, and based on, scientific research. Thus, Greenpeace UK's legitimacy claims are not grounded in members but in knowledge production.

The outline of the chapter is as follows. The first section is on Greenpeace's history and how it was established in the UK. This section discusses the early mission of Greenpeace from the Don't Make a Wave Committee to the organisational battle for establishing Greenpeace's legitimacy internationally, in particular in the UK. The second section is about the internal organisation of power and how Greenpeace UK is consolidated in Greenpeace International. It is necessary to understand the power relationship between Greenpeace UK in the Greenpeace International hierarchy, as outlined in the bilateral agreement, because it underpins the way Greenpeace UK claims legitimacy. To underline the importance of scientific research for Greenpeace's legitimacy claims I also discuss the role of Greenpeace International's science unit in the UK, the Greenpeace Research Laboratories. The third section is about Greenpeace's scientific sources of legitimacy and how Greenpeace International has evolved into a scientifically orientated NGO. The embedded case study of the Kingsnorth case (a criminal trial against Greenpeace UK activists) demonstrates both how Greenpeace UK makes legitimacy claims as a representative of Greenpeace International, and how these claims are justified with reference to science. The level of academic competence has provided Greenpeace with scientific credibility towards their target audience, politicians and global corporations, and become the main legitimacy source for Greenpeace's legitimacy claims. Witness testimonies at the trial are furthermore used to enhance how important science and scientific knowledge production is for

justifying Greenpeace UK's legitimacy claims. The conclusion of the chapter summarises the key findings and arguments of the case study.

Historical context of Greenpeace's legitimacy claims and institutionalisation

To give full account of Greenpeace UK's legitimacy claims using a Beethamite analysis it is necessary to include their history. This is important when it comes to understanding their internal organisation of power and institution of embedded principles as it shows how their organisational mission and legitimacy principles have developed over time. The ideological roots and activist tactics of the early Greenpeace were for instance based in socio-religious strategies and although there are remains of its original objectives, the mission and mandate of Greenpeace today have a different focus. Greenpeace's organisational change was also an institutionalisation power that (eventually) established a power relationship between Greenpeace International and Greenpeace UK impinging on how Greenpeace claimed legitimacy in the UK.

Greenpeace was founded in the 1970s in Vancouver, Canada. Its roots lay in various movements and groups that defined part of the zeitgeist in North America at that time – including the Sierra Club, the Quakers and the Campaign for Nuclear Disarmament. In addition to pacifism, disarmament and ecology, Greenpeace was also related to counter-culture journalism and the underground press in Vancouver. Issues that were of concern to Greenpeace were written about by journalists at the Vancouver Sun, the Georgia Straight, and the national Canadian Broadcasting Company. These journalists played an important role in launching Greenpeace as an organisation.³⁷ Greenpeace started as the Don't Make a Wave Committee in 1969 (Zelko, 2004b:234). This group was organised by US emigrants and local Vancouver activists. The group took their ideology from diverse sources: from Native American mythology (Rainbow Warrior), Quaker pacificism (witnessing) and Gandhian style non-violent intervention (Zelko, 2004b). The ideological roots also defined Greenpeace's chief campaign strategy;

³⁷ These were mainly Bob Hunter, Irwing Stowe, Paul Watson, and Ben Metcalfe. For details on the historical context of Greenpeace's origin see Zelko (2004b). For further details on the use of sources in this chapter see bibliographical addendum to chapter six.

sailing boats to bear witness and to intervene non-violently. The group also took some of its ideas from Isaac Asimov's Foundation Trilogy, a social science fiction about conflicts between mass behaviour and free will, where a group of people organise a foundation to save the earth (Hassler, 1991:45-55; Weyler, 2011b). At one point Greenpeace formally founded a church, the Greenpeace Whole Earth Church. "The Whole Earth Church has no hierarchy. Only ministers. Every member is a minister. Every minister is a Custodian of the Earth. With absolute responsibility for its preservation" (Hunter quoted in Weyler, 2009a). Although the ceremony had an element of a prank about it, Weyler claims there were serious undertones. Its members believed in an "ecological harmony" that was based on natural laws of "inter-relatedness" and "inter-dependency" (Hunter quoted in Weyler, 2009a). These religious and anti-hierarchical elements present in the founding visions and formation of Greenpeace almost vanished as the group developed into an organisation that eventually established a hierarchal structure with power relationships.

Greenpeace was formally registered as an organisation in 1972, but its founding members had been connected since the mid 1960s through campaigns against nuclear bomb tests and ecological issues. Zelko (2004b) and Weyler (2004) date the inception of Greenpeace to the Don't Make a Wave Committee where American veterans and Sierra Club members teamed up with local counter culture journalists in Vancouver to organise a protest against nuclear bomb testing orchestrated by the US Department of Defence in Amchitka, Alaska. The historical backdrop of the origin of Greenpeace is: the Second World War and the emerging context of the United Nations; the onset of the Cold War in particular the nuclear weapons tests; and the Vietnam war which had also led to an influx of US emigrants to Canada. The nuclear tests in Alaska, which started in 1965, instigated a procedure that eventually led to the formal establishment of a group of US and Canadian protesters as Greenpeace. The pre-Greenpeace groups that came to form Greenpeace were not only focused on ecological activism, Quaker pacifism, but also involved a group of counterculture journalists and the Vancouver

underground press.³⁸ In 1969 the US Defence Department executed a nuclear bomb test and announced further tests scheduled for 1971 in Alaskan Amchitka. This led to a more organised approach by the protestors the upshot of which was the Don't Make a Wave Committee organised by the pre-groups.³⁹ In 1970 one member of the group suggested that they would send a boat to protest against the nuclear tests and imitate what the pacifist Albert Bigelow did in 1958 when he sailed a ketch called the Golden Rule into a US atomic test area in the Marshall Islands (Bennett, 1997; Zelko, 2004b:201,235).

The idea was initially published as a Sierra Club campaign but after the American Sierra Club rejected the plan the Don't Make a Wave Committee decided to embrace it. In order to raise funds for their first campaign the group staged a celebrity concert in 1970 that raised \$17,000 (Weyler, 2009b, 2010). The success of the fundraising led to further contributions from the US's Sierra Club and the Quakers. The fund secured a payment of the first Greenpeace boat, Phyllis Cormack, which was sailed into Alaska to 'bear witness' to the nuclear bomb test. Although the 'witnessing' of the nuclear bomb tests failed because the Greenpeace boat was arrested, the event sparked controversy and publicity in Vancouver and galvanised support for the idea Greenpeace was promoting (Zelko, 2004b:237).

The first campaign of the Don't Make a Wave Committee also became its last. Although this was always the intent of its organisers, some members wanted to keep the group alive. This led to disputes about ideas and alignments. Some of the members did not

³⁸ The pre-groups include the Society for Scientific Pollution and Environmental Control (Mallard's, Hunter), the Green Panthers (Hunter), The Sierra Club (Stowe's, Bohlen's), as well as private initiative of a journalist (Metcalf) at the CBC who had paid for the instalment of billboards around Vancouver to promote ecology as an idea, it also included daily columns of counterculture journalists at the Vancouver Sun and the Georgia Straight. For detailed account see Weyler (2004:ch. 1,2; 2011a) and Zelko (2004b) who describes the historical context about these events and the persons involved, especially of the Stowe's and the Bohlen's (ibid:202-208).

³⁹ This was mainly organised by the Stowe's (Sierra Club members and American draft resisters) but they also liaised with the Quakers (Weyler, 2004: 60, 135). The Stowe's were experienced protesters and had been involved in the pacifist environmental movement in the US. The phrase Don't Make a Wave was coined by Hunter and it referred to the probability of nuclear tests causing earthquakes and tidal waves (Weyler, 2011b:2; Zelko, 2004b).

want to merge with the counterculture ideologists and more radical members of the Don't Make a Wave Committee but wanted a separate organisation that only focused on ecology. For legal reasons and due to surplus of funds, it was decided not to wind up the Don't Make a Wave Committee but to change its name to the Greenpeace Foundation (as in Asimov's Foundation Trilogy (Hassler, 1991)) (Weyler, 2004:135-137). Hence, the tension and struggle between the radical democratic component of Greenpeace and the more professional approach to ecology was an element in the very creation of Greenpeace.

Early Greenpeace campaigns: identifying Greenpeace's legitimating principles

The next two years were decisive for the Greenpeace Foundation as it started to develop into an international organisation. There are three events that is worth mentioning in this context. First, the Greenpeace Foundation took its anti-nuclear bomb test campaign to the global level and McTaggart joined the group but he later became integral in establishing Greenpeace as a global organisation. Second, the United Nations held its first major environmental conference; and third, the anti-whaling campaign merged with the Greenpeace Foundation.

In 1972 Greenpeace decided to challenge the French government who planned to conduct nuclear tests in French Polynesia. This led to a carefully planned and orchestrated Greenpeace protest (witnessing) pioneered by the CBC/Radio-Canada journalist Metcalfe, "It was elitist, but effective" (Weyler, 2004:140-1). It is at this point that McTaggart joined the Greenpeace Foundation. McTaggart was responding to Metcalfe's concerted effort to publish the campaign in the global press in an attempt to recruit activists. The protest launched Greenpeace into years of confrontation with the French government and on later encounters a brutal treatment of McTaggart by the French Navy, as well as sinking of one of its boats which led to the death of one of the crew member (McTaggart, 2002:84, 183). The campaign against the French nuclear bomb tests also involved unusual tactics. In order to woo the French public to support Greenpeace's stance against the French Navy a group of Greenpeace activists travelled

to Rome in June 1972 to receive a blessing from the Pope for the Greenpeace flag (Weyler, 2004:166; 217-222).

The second event in 1972 that was defining for Greenpeace was the United Nations Human Environment conference. It was the first major conference on environmental issues and about three hundred NGOs attended, including Greenpeace (Clark, Friedman, et al., 1998:9). The Greenpeace strategy was to target the Ministers representing Canada at the conference. Despite their efforts little response was received from the Canadian Ministers - although the conference did declare an overwhelming condemnation of nuclear tests and called for “elimination and complete destruction of such weapons” (United Nations Environment Programme, 1972). This strategy, to target politicians at high-level policy meetings, has remained part of Greenpeace's campaign strategies ever since. In an attempt to gain stronghold in the newly founded Greenpeace Foundation and in tribute to the internal struggle for power, the group that had lobbied the Canadian Minister declared themselves the World Greenpeace Foundation. This schism was however not realised (Weyler, 2004:136-7).

The third event that influenced Greenpeace's early organisational development was in the following year. In 1973, Greenpeace started to engage more with the anti-whaling campaign when a local researcher and activist who had been promoting the protection of whales joined his campaign with the Greenpeace Foundation (Spong, 2010).⁴⁰ Whales had been chosen as a symbol to represent the importance of environmental conservation at the United Nations Environmental conference the previous year (United Nations Environment Programme, 1972). In 1975 Greenpeace launched its first anti-whaling campaign and started to actively target the International Whaling Commission. The Greenpeace Foundation petitioned the Canadian Prime Minister to

⁴⁰ The activist was Dr Spong who was conducting research on whales at the University of British Columbia (Weyler, 2004:205). He is currently a senior advisor to the Hawaiian Greenpeace Foundation, a US-Hawaiian based NGO affiliated with the original Greenpeace movement (Greenpeace Foundation and White, 2010; Spong, 2010).

dismiss Canada's representative at the International Whaling Commission (The Ottawa Citizen, 1975). The International Whaling Commission declared a moratorium on commercial whaling in 1982. Although Greenpeace scaled down its anti-whaling campaign, a spin-off group from the Greenpeace Foundation kept campaigning against countries still involved in commercial whaling, such as Iceland and Japan.

The changes in organisation and mission were now causing struggles between different factions within the Greenpeace Foundation. As Greenpeace moved away from being a grass-roots movement with quasi-religious ideological aspirations, it also alienated some of its supporters and Greenpeace Foundation allies. For example, Paul Watson who started the Sea Shepherd (Watson, 2010a), the London Greenpeace group (The Radical History Network of North East London, 2009) and the Hawaiian based Greenpeace Foundation (Greenpeace Foundation and White, 2010). The organisational mission shift led to a spin-off that is sometimes associated with Greenpeace, the Sea Shepherd Conservation Society. The founder, Watson, was an early member of Greenpeace who disagreed with the direction the Greenpeace Foundation was taking as it moved away from radical action and began to develop a more corporate stance for its campaigns. Some of the early founders of Greenpeace (Hunter and Spong) maintained relations with the radical groups that had been associated with the early Greenpeace but overall the organisational relations were hostile. This rift and Watson's campaign strategies and tactics led to spats between Watson and Greenpeace where Greenpeace refused to recognise Watson as a founding member of Greenpeace and denied any affiliation with his NGO whilst Watson criticised Greenpeace for rewriting its history (Greenpeace USA, 2010; Watson, 2010a, 2010b; Weyler, 2004:521, 543-544). Watson criticised Greenpeace for taking a corporate route and shift away from its original mission and radical campaigning tactics. The organisational management was however in dispute from the very onset of Greenpeace as is evident in the struggle for leadership that persisted between the radical counterculture ideologists and those who supported a more professional and organised approach (Weyler, 2004:136). As Greenpeace grew and more Greenpeace

groups were established, the struggle for its future escalated and by 1977 the battle over Greenpeace's legal legitimacy had started.

In the mid 1970s, the organisational ambitions of the Greenpeace Foundation became clear. The intent of some of its members, influenced by McLuhan's mass media theories and the zeitgeist of the peace movement, was to make the Greenpeace Foundation into an organisation operating at the international level (Dale, 2001; Hunter, 2004; Zelko, 2007: 302). Five years into their activities and Greenpeace had become known internationally. Local groups were formed in various countries (mainly North America and Europe to begin with) using the Greenpeace name and ideas and generally pursuing the same agenda.

The above discussion demonstrates that by looking at Greenpeace's history one is able to detect the legitimating principles behind its mission, its organisational mission shift and what subsequently led to the organisational change that drove much of Greenpeace's globalisation. Greenpeace was from the onset an environmental campaigning NGO that targeted governments and politicians, high-level political meetings or international institutions to get its objectives across. The early mission of Greenpeace was inspired by spiritual ideas but it soon started to focus exclusively on environmental issues with implications, not only for how it was governed but also for how Greenpeace UK claimed legitimacy using Greenpeace International as its authoritative source. I now turn to explain how legitimacy was claimed for Greenpeace in the UK and how that process was directly related to the internal power struggles over the future of the Greenpeace Foundation.

Organisational consolidation of the Greenpeace hierarchy

The historical context of the organisational change that the Greenpeace Foundation underwent in becoming Greenpeace International casts light on how Greenpeace claimed legitimacy in the UK. It is in the middle of this process that the Greenpeace Foundation establishes the 'true' Greenpeace group in the UK that was integrated into

the new emerging organisational hierarchy of Greenpeace International. The new faction of the Greenpeace Foundation Greenpeace effectively exported its own version of Greenpeace to the UK to secure organisational compliance for the emerging hierarchy. The tactics of the new management, however, came at the cost of the old group's radical vision for the Greenpeace Foundation, a path that other Greenpeace groups already operating in the UK had continued to follow.

The internal power struggle in the Greenpeace Foundation over who should reign over Greenpeace's name, logo and eventually decision making, was mainly between the old Vancouver group and a new faction headed by McTaggart. Greenpeace was moving away from its original consensus driven movement model to become a hierarchical organisation where decisions are made at the top level and executed via a hierarchical command line to the front line offices. There was also a shift in Greenpeace's campaign strategy and concerted efforts were now being made to direct Greenpeace's campaigns towards intergovernmental organisations. The Greenpeace Foundation was becoming international and this triggered a race for the claim to the name Greenpeace internationally.

The Vancouver group in the Greenpeace Foundation wanted to retain legal legitimacy over the Greenpeace name and logo internationally and keep central control in Vancouver, Canada. This was reflected in bylaws issued by the Greenpeace Foundation that defined other Greenpeace offices in a supportive role to the Foundation and whose policies required approval from the Vancouver group (Zelko, 2007: 305-6). The main argument of the old Vancouver group was that the Greenpeace logo was their prerogative as they represented the founding members of the organisation. The new faction, led by McTaggart, also representing the Greenpeace Foundation, pushed for organisational consolidation with an international Greenpeace Council comprised of new national Greenpeace offices each with a voting right as a member of the Council (thus keeping decision making powers out of reach of the old Vancouver group).

The internal power struggle in the Greenpeace Foundation between the old group and the new faction met with resistance from local Greenpeace groups already operating under the name Greenpeace in San Francisco, Hawaii and London that were unwilling to relinquish their decision making powers to the Greenpeace Foundation (neither to the old crowd or the new group). Resistance to the legitimacy claims of the old Vancouver group came mainly from the Greenpeace group in San Francisco. There was however, also resistance to the legitimacy claims of the new faction, for example from a Greenpeace group in London (discussed below).

The effort of McTaggart, representing the new faction of the Greenpeace Foundation, to unite the various European and international groups that had sprung up into a single international office, met considerable resistance from existing Greenpeace groups in Europe. Claiming legitimacy for Greenpeace internationally also meant that the legitimacy of existing Greenpeace groups was contested. In the UK a Greenpeace group operating in London rejected the organisational form proposed by the Greenpeace Foundation delegation. Thus, the Greenpeace London group became a contestant for the claim to the Greenpeace name in the UK and whether the group could rightfully represent themselves as Greenpeace. A similar resistance was made by a Greenpeace group in Hawaii which claimed that ideological and financial differences of the evolving Greenpeace imposed confrontational communication on the many diverse Greenpeace groups that existed (Greenpeace Foundation and White, 2010).⁴¹ Whether this was viewed as an “inevitable phase in the evolution of a growing organization” or as a “blot on the environmental movement” it was clear that “[u]ntil the legal question regarding copyright is resolved, there can be no consolidation of Greenpeace” (Moore, 1979).

The organisational consolidation for the various Greenpeace groups that existed was largely done by securing legal legitimacy of the North American and European offices.

⁴¹ In order to avoid confusion it should be noted that the Greenpeace organisation in Hawaii uses the word Foundation in their title and is registered as the Greenpeace Foundation in the US. This is however not the same Greenpeace Foundation that was registered in Canada 1972.

The resistance of the Greenpeace San Francisco office was pivotal in the fight for legitimacy of Greenpeace internationally. The San Francisco office had come up with a successful fundraising scheme that gave the office enough power to hold sway over other Greenpeace offices in the US as well as the Greenpeace Foundation office that had become indebted. Thus, the San Francisco office did not feel threatened by the impositions of the Vancouver group that had started legal procedures against them to claim the name Greenpeace (McTaggart, 2002:148-149).

At the same time as the Vancouver group was starting a legal legitimacy battle with the San Francisco office, McTaggart was busy claiming legal legitimacy for Greenpeace in Europe. McTaggart and Thornton had by now incorporated Greenpeace in the UK, France and the Netherlands and formed a voting council, the Council of Europe. Assisted by Thornton, McTaggart brokered a deal with the San Francisco office and convinced them to relinquish their power to the newly established Greenpeace Europe Council thereby outmanoeuvring the Vancouver group. The existing Greenpeace offices in the US were united in a single entity, Greenpeace USA (Tussman, 2007; Weyler, 2004:547-8, 562; Zelko, 2007).

The deal that McTaggart and Thornton brokered to persuade a vote at the San Francisco office to join the newly established Council of Europe as a unified Greenpeace US office (Greenpeace USA), secured their victory over the Vancouver office (McTaggart, 2002:149; Moore, 1979; Tussman, 2007). The defeated Vancouver group could not claim international copyright over the Greenpeace logo. The Greenpeace Foundation was reconstituted as Greenpeace Canada at a meeting in Vancouver on the 14 October 1979. This was followed by another meeting a month later in Amsterdam, Netherlands on 16 November 1979. In that meeting, attended by the European Council offices (UK, France, and Netherlands) and the new North American offices (Greenpeace USA and Canada), the Greenpeace Council was formed and McTaggart voted as its first Executive Director. In his autobiography, McTaggart retrospectively claims that his real aim was to build:

... an organization so big – and popular – that no democratic government can afford to ignore us. [...] We need to be so big that we can rightfully say we speak for the people. Politicians need to respect us, maybe even fear us. When they're deciding public policy, they need to know that our popularity can sway elections. [...] Getting this next point across inside Greenpeace was one of my biggest challenges in building the organization. [...] Partly it would just make us bigger, and our voice harder to ignore for any government. But it also would mean that we can focus our energy on the paramount issues, instead of dissipating it getting involved in little national campaigns. (McTaggart, 2002:147-148)

The new international organisational structure of Greenpeace was based on a democratic voting mechanism. The votes represented each office, one office one vote, which left the hitherto successful North American offices in a weakened position within the international cohort of Greenpeace offices and started to shift the decision making power to the European offices. In the early 1990s the US office lost its financial advantage and the European offices became the authoritative political and financial force of the Greenpeace Council (Weyler, 2004:562;569; Zelko, 2007:309-313). The Greenpeace Council was registered with the Amsterdam Chamber of Commerce as Stichting Greenpeace Council in 1979, it is however mostly referred to as Greenpeace International (Durrant and Constandse, 1996; Greenpeace International, 2005a:3, 50).

The success of Greenpeace in Germany and the shift of power to the Greenpeace offices in Europe, provided the international Greenpeace Council with an upper hand to pursue its agenda because of the many votes issued to the European Greenpeace offices. The international Greenpeace Council was now empowered to settle a mainstream approach for Greenpeace as an environmental campaigning NGO - a far more conservative approach than initially envisioned by its leaders (Greenpeace Foundation and White, 2010; Pearce, 1996; Zelko, 2004b, 2007). The international Greenpeace Council was in the next decade(s) established as the central decision making power of the organisation both politically and financially (Zelko, 2004a; 2007: 133 & 312-13). This new consolidated authority was and is maintained by charging rents from twenty-eight national Greenpeace offices, a fixed rate of eighteen percent of the income of each national office is paid to the international headquarters to cover its operation (Greenpeace International, 2005a; Interview 11, 2009).

It should be noted that Dale (2001) also attributes the success of Greenpeace in Europe to Greenpeace's media strategy and claims that the most powerful unit in the organisation was its London based communication department owned and run by Greenpeace International (Companies House, 1997; Dale, 2001:106-108). Access to the media had played a significant role for disseminating Greenpeace's legitimacy claims from the start. Hunter's columns in the Vancouver Sun, and Metcalfe's position at the Canadian Broadcasting Company were integral to the worldwide publicity of the Greenpeace protest against the French Navy's nuclear testing in the South Pacific.

Hunter recalls:

calling on ecologists to heed Marshall McLuhan's advice: take over the control towers of the mass communications system and deliver new images that will liberate people from their primitive tribal mindsets, creating a new global consciousness. (Hunter, 2004:18)

In 1982 the Stichting Greenpeace Council (Greenpeace International) incorporated a subsidiary media unit in London, called Greenpeace Communications Limited. It was incorporated as Gemvode Limited, then changed to Greenpeace Films Limited but was best known under the name adopted in 1987 Greenpeace Communications Limited until dissolved in 2000 (Companies House, 2010). Its mission was "producing videos and other media material in connection with world ecology [and to provide] media support to other Greenpeace organisations" (Greenpeace Communications Limited, 1994:1). The Greenpeace Communications was entirely funded by payments from other European Greenpeace organisations (about one million sterling in the mid nineties). The directors were from Greenpeace International and the company had about thirty people employed (Greenpeace Communications Limited, 1994:6). When the company was wound up in 2000 its assets went to Greenpeace International.

The establishment of Greenpeace in the UK was part of the aforementioned internal power struggle in the Greenpeace Foundation that played out in the UK. According to Zelko (2004) the Greenpeace national offices, that were established prior to Greenpeace International, were left to their own devices and up for grabs "either competing or cooperating until a dominant group emerged to proclaim itself the

official Greenpeace organization in a particular country” (Zelko, 2004a: 132). This was, however, a somewhat more nuanced process in the case of Greenpeace in the UK.

Claiming legitimacy for Greenpeace in the UK

When McTaggart came to the UK along with Thornton to set up a Greenpeace office, they were met with resistance from the London Greenpeace group. The London Greenpeace group was established around 1971 and was directly associated with PeaceNews and War Resisters’ International whose members were mainly peace and anti-war activists. It was a grassroots group that had loose organisational structures, akin to the original Vancouver group, and was affiliated with radical democracy and anarchism through magazines such as the Fifth Estate (McSpotlight, 1990: preamble). The Greenpeace London group was never formally registered (not under company or charity law); it remained a loose affiliation of individuals with no formal membership or power structures:

“London Greenpeace was not even an unincorporated association, but something much looser, no more than a collection of individuals, with no formal membership. [...] there was no formal membership and that “no-one had formal authority over anyone else”. (EWCA Civ 1144, [1999]:42, art.12)

It was inspired by the same principles envisioned by the early Vancouver group and campaigned on the same issues under the name Greenpeace, such as the protests against the French nuclear bomb tests in 1972 (McSpotlight, 1997; The Radical History Network of North East London, 2009). When the competing factions in the Greenpeace Foundation started to lay claims to the name Greenpeace the London Greenpeace group got caught up in the power struggle:

...in late 1976 members of that organisation came to London and met people from Greenpeace (London). The Vancouver people wanted the London group to “take its orders from” the Board of Directors in Vancouver” [...] “Activists in London – including the people who had come from Canada – who DID want to be under the control of the Vancouver Foundation, formed a London Branch of the Vancouver Foundation, which then formed a limited company and became known as Greenpeace Ltd or Greenpeace UK. Since 1977 Greenpeace (London) and Greenpeace Ltd have been quite separate organisations” [...] “The original London Greenpeace Group has deliberately stayed as a small group of activists, without leaders, with decisions taken by consensus of all those involved”. (McSpotlight, 1997)

The London Greenpeace group refused to let go of the name Greenpeace and relinquish their power to the Greenpeace Foundation. Thus, the London group did not become part of the organisational consolidation of Greenpeace. Instead, it opted to manage its affairs in line with the original ethical agenda of the old Vancouver group. Weyler, however, refutes the claims of the London group and says the Greenpeace London group plagiarised the material of the Vancouver group and never had formal relations with the Greenpeace group in Vancouver and therefore cannot rightly call itself Greenpeace (Weyler, 2009b). Whether the message of the London group paid due respect to the Vancouver group or not, it was attuned to the early mission and campaign agenda of the Greenpeace Vancouver group. One of the first missions of the Greenpeace London group was for example to campaign against the French nuclear bomb testing (McSpotlight, 1990, 1997; The Radical History Network of North East London, 2009). The London group remained active and in 1985 it organised a high profile campaign against the McDonalds food chain that resulted in a libel case against individual activists (EWCA Civ 1144, [1999]). Greenpeace London ceased its operations in 2000.

The Greenpeace Foundation claimed the name Greenpeace in UK based on legal legitimacy, it is important to note that the claim was a legal legitimacy claim. Once the Greenpeace Foundation had registered the name Greenpeace in the UK the organisation could claim it as its representative national office denying other existing Greenpeace groups their claim to the name Greenpeace.

Greenpeace was registered with the Companies House in 1977 as Greenpeace Limited. It was set up as a shareholder company with two shares issued to McTaggart and Thornton for £1 each, who in effect became the owners of the company (Greenpeace Limited, 1979, 1991b, 1991c). To run the office in UK McTaggart and Thornton had hired three previous staff from the Friends of the Earth in London who were soon offered shares in the company and managerial positions of Executive Director, Directors, and Secretary (Greenpeace Limited, 1979, 1991b, 1991c). Wilkinson claims

that the group of the ex-Friends of the Earth staff was the “trio who could, along with McTaggart, lay legitimate claim to having founded Greenpeace in the UK” (Wilkinson and Schofield, 1994:19). Weyler, however, includes Thornton in the founding trio and not Wilkinson (Weyler, 2004:476-7). The capital for the Greenpeace office in the UK was donated by the World Wildlife Fund. The Greenpeace UK office sent an appeal to the Dutch office of the World Wildlife Fund, which in return sent £38,000 to invest in a boat to protest against whaling in Iceland (Greenpeace Limited, 1979; Wilkinson and Schofield, 1994:19).

The first years of Greenpeace Limited were akin to grassroots style NGO with ad hoc management, but it soon became entangled in the organisational structures that accompanied the growth of Greenpeace in Europe and the increasing role of the international Greenpeace Council (Greenpeace International) in managing national Greenpeace offices. The legitimisation of decision making processes was also moving away from a consensus model to what Zelko refers to as an “international environmental “corporation” ” (Zelko, 2004a:128). Wilkinson insisted that under the newly established international Greenpeace Council:

National offices round the world faced the prospect of being reduced to fund-raising typing pools, providing cannon fodder for the direct action required by distant decision-makers, instead of generating their own home-grown campaigns. (Wilkinson and Schofield, 1994:57)

The growth of Greenpeace in Europe and tensions over the management style of the new hierarchy also applied to the UK office that resisted conforming to the new rules. In the mid eighties the board of Greenpeace in UK, headed by Wilkinson, was forced to resign by the international Council. Wilkinson was replaced by Thornton as the new Executive Director to get Greenpeace in UK to comply with the international Council (Environmental Investigation Agency, 2004; Wilkinson and Schofield, 1994:58-9). To deal with the legal anomalies of the ownership structure of Greenpeace Limited, which was now owned by the shareholders (McTaggart, Thornton, Wilkinson and Bell), a new company was incorporated in 1990 with no share capital that would become the owner of Greenpeace Limited. The new company was called Greenpeace UK (later Greenpeace UK Limited) (Greenpeace UK Limited, 1991a; Thomson, 2010).

Currently Greenpeace International has three registered companies in the UK through its Greenpeace office, one of which is also a charitable trust. These are: Greenpeace Limited, Greenpeace UK Limited, and Greenpeace Environmental Trust.

Greenpeace was registered in the UK as Greenpeace Limited on 20 May 1977 as a shareholding company with two shares issued to McTaggart and Thornton, as mentioned above, with £1 share each. The Greenpeace Environmental Trust was formed subsequently in 1982. Greenpeace UK was incorporated in 1990 (it was changed to its current Greenpeace UK Limited in 1992) to overcome legal anomalies that had been established with issuing shares to the founders of Greenpeace Limited. Greenpeace UK thus became the owner of Greenpeace Limited with no shares thereby resolving a legal issue of ownership (Thomson, 2010). (All three companies submit reports to the Companies House on annual basis). Greenpeace UK Limited and Greenpeace Limited share the same board and directors, but the Environmental Trust shares two of their directors. The Environmental Trust is also registered as a charity with the Charity Commission. Despite this division the term Greenpeace UK typically refers to all the three companies as a single organisation. Recalling the division in registration from chapter four, the political activity of Greenpeace UK is from the point of view of the Charity Commission a legally separate entity from Greenpeace UK's charity, the Environmental Trust. This formal separation satisfies the criteria of the Charity Commission (Charity Commission, 2008b; Interview 9, 2009). However, the closely linked activity and mission of both the charity and the company casts doubt on this superficial rule of separation imposed by the Charity Commission. The vision and the mission of Greenpeace UK's Environmental Trust are not fundamentally different from the objectives of Greenpeace UK, on the contrary.

The regulatory implications of the legal form of Greenpeace UK (a company belonging to a global franchise) also highlights the lack of a wider accountability because of the inability of the current regulatory regime to cope with issues relating to political accountability of NGOs like Greenpeace UK. As a company, Greenpeace UK is regulated

according to company law. It was pointed out in chapter four that the Company Act is specifically tailored for regulating commercial agendas. Greenpeace UK's income does not define its purpose as a company, it may be important but it is not central to how it claims legitimacy. Greenpeace measures the success of its organisational objectives (as carried out in campaigns) in the impact they have on government and corporate policy and their annual report is called an 'impact report' (Greenpeace UK, 2009b; Interview 11, 2009; Interview 12, 2009). This creates a regulatory anomaly where Greenpeace UK as a not-for-profit company is regulated according to standards set for a profit-making company. Furthermore, one has to take into account that Greenpeace UK is not an independent NGO. It belongs to a consolidated hierarchy as a representative office of Greenpeace International in the UK. Thus assessing their legal legitimacy is complicated by the fact that Greenpeace UK is regulated by English law and Greenpeace International is regulated by Dutch law. In order to strengthen their claim to legitimacy at the international level Greenpeace International participated in establishing the international NGO Charter that has been tied into a reporting mechanism, the Global Reporting Initiative, tailored for industries with a sector supplement for NGOs (Global Reporting Initiative, 2011; INGO Accountability Charter, 2005). The purpose of this effort is (as discussed in chapters two and five) to establish credibility for NGOs as a sector by adhering to the same reporting mechanism as corporations (Brown, 2008; Interview 10, 2009; Interview 12, 2009). Greenpeace International has been one of the main instigators behind creating this system (it had representatives drafting both the Charter and the Reporting criteria for NGOs (Interview 10, 2009)). However, this system only applies to Greenpeace International as Greenpeace UK is not a signatory to the charter. At the national level Greenpeace UK is regulated via company and charity law and internally by its bilateral agreement with Greenpeace International.

The historical context of Greenpeace highlights the development of their internal organisation of power that defines the power relationship between Greenpeace UK and Greenpeace International. This is crucial for assessing Greenpeace UK's legitimacy

claims in the UK national context. By claiming legitimacy through incorporation the Greenpeace International established its authority over the name Greenpeace in the UK. This integration into the hierarchy and the consolidation and centralisation of decision making (power) in Greenpeace International has placed Greenpeace UK in a different position compared to Amnesty International UK. Greenpeace UK does not claim legitimacy through its members, its legitimacy claims are based on the authority of Greenpeace International and the sources Greenpeace International uses to justify legitimacy claims where Greenpeace UK represents (by campaigning) these claims in the UK on behalf of Greenpeace International. The next section is about the relationship between Greenpeace International and Greenpeace UK. It explains the internal organisation of power and how Greenpeace is governed in the UK thus providing the organisational context for the analysis of Greenpeace UK's legitimacy claims.

Internal organisation of power and Greenpeace UK's legitimacy claims: Greenpeace International and knowledge production as authoritative sources of legitimacy

This section analyses the relationship Greenpeace UK has with Greenpeace International as its national Greenpeace representative in the UK by explaining the remit of their respective powers. In order to understand in what capacity Greenpeace UK presents its legitimacy claims it is crucial to understand its power relationship with Greenpeace International. I explain that Greenpeace UK is a representative of Greenpeace International in the UK (not the other way around as is the case in the Amnesty International hierarchy). This internal organisation of power brings me to the second point of this section, which is to demonstrate the significance of environmental science in justifying Greenpeace UK's legitimacy claims. This involves explaining the role of Greenpeace International's research facility registered in the UK, the Greenpeace Research Laboratories. Although it is not a national Greenpeace office its task as Greenpeace International's Science Unit has become increasingly important for justifying legitimacy claims and, as I will argue, a focal point of the fusion between political objectives and scientific justifications in Greenpeace UK's legitimacy claims.

Greenpeace International has twenty-eight national offices that form the international Greenpeace Council, each holding one vote as members of the Council. The national offices have territorial exclusivity; only one office is allowed to have a Greenpeace franchise in each country (Greenpeace International, 2005b:6-7, art.4a). The structure of a Greenpeace national office is thus:

Each office should be legally established, or incorporated. It should have a voting membership (to elect the Board), a Board (to govern the organisation and supervise the Executive Director), an Executive Director (to run the organisation), and a Trustee (to represent the office to Council). (Greenpeace International, 2005c:39, art. 3.9)

The voting system at Greenpeace International's Annual General Meeting enables the members, the national Greenpeace offices that form the Council, to influence the articles of association and the agenda of Greenpeace International's board of directors (Greenpeace International, 2005d:19-27, art.4).

Greenpeace International is governed by a board of directors. The board then appoints (and has powers to dismiss) a board chair (the chair can be from within or outside the group of board members) (Greenpeace International, 2005b:7, art. 5.1-3). According to Greenpeace International's Articles of Association the powers of the board of directors, as Greenpeace International's governors, over the national offices are considerable when it comes to the Greenpeace name and publication material of the national offices. The board has for example: auditing powers over the national offices; exclusive control over the name: “to control and to protect the use of the name Greenpeace and the vignette”. The board also has a right to supervise implementation of changes in the national offices that have been adopted by Greenpeace International; and “to supervise the publications of the national organisations” (Greenpeace International, 2005b:8, art.5.4 (a-k)). However, resolutions of the board of directors regarding changes to Greenpeace International's Articles of Association and Rules of Procedure for national offices need a prior consent of the international Council to take effect. The Rules of Procedure are essentially a guide for implementing Greenpeace International resolutions in the Greenpeace national offices (Greenpeace International,

2005b:9-10, art. 8 and 9). Thus the policy and agenda agreed by Greenpeace International's Council at Annual General Meetings determines the guidelines for the national offices (Greenpeace International, 2005c:39, art. 3.7).

The relationship between Greenpeace International and Greenpeace UK is based on the following understanding:

National (and multinational offices) are the fundamental building blocks of the international organisation. The strength of the organisation lies in the fact that each office acts as a reliable and accountable partner in building an international organisation. This objective is furthered by a clearly defined relationship and by offices adopting similar ways of organising themselves. (Greenpeace International, 2005c:36, art. 2)

As such the national offices collectively pay for the cost of operating Greenpeace International. This is a proportional amount of eighteen percent entitlement Greenpeace International has to the income of each national Greenpeace office (Greenpeace International, 2005c:36, art. 3.1). Central to the 'clearly defined relationship' between Greenpeace International and Greenpeace national offices is a bilateral agreement that is based on and defined by the following documents:

The License Agreement, which sets out conditions for the use of the name Greenpeace;

An annual Organisational Development Plan, agreed between the International Executive Director and the National Office which sets the broad outlines of each national office's plans for three years and Greenpeace International's contributions to those plans;

The Framework Agreement, which sets out some of the rights and responsibilities of Stichting Greenpeace Council and the National Office in relation to one another.

The Rules of Procedure and National Office Guidelines, which make explicit the rules governing the relationship between Greenpeace International and the National Offices. (Greenpeace International, 2005c:35, art. 1, underscoring is mine)

The Organisational Development Plan is a detailed executive arrangement between national and international executives of Greenpeace that describes the power relationship of decision making in the Greenpeace hierarchy:

The format of the Organisational Development Plan and the information it will request shall be drawn up by the International Executive Director in

consultation with the National Offices and subject to the approval of the Stichting Greenpeace Council Board. The national Executive Director shall draft these plans for submission to the International Executive Director, and they shall be agreed in co-operation between the International Executive Director and the National Executive Director. (Greenpeace International, 2005c:36, art. 3.2)

Hence, although Greenpeace UK has some control over its agenda it is subject to the ultimate authority of the board of directors of Greenpeace International. If a national office disagrees with the international office it can appeal to the board whose decision is final (Greenpeace International, 2005c:37, art. 3.3).

The International Executive Director has direct access to board meetings of national Greenpeace offices. His power enables him to amend, make recommendations to the general management of the national office or intervene to take over the management in case budgetary targets are not met or there is two year consecutive drop in membership of twenty percent (Greenpeace International, 2005c:38, art. 3.5 (A-C)). The powers of the International Executive Director are ultimate when it comes to disputes between a national office that has internal organisational problems or refuses to comply with the framework agreement; including: “[u]ndertaking of activities determined by the International Executive Director in consultation with the International Board to be grossly prejudicial to the integrity of Greenpeace and its campaigns” (Greenpeace International, 2005c:38, art. 3.5 (I)).

The national offices, as stated above, have to comply with and be responsible to Greenpeace International. Greenpeace UK’s bilateral agreement with Greenpeace International binds Greenpeace UK in two ways. First, it is bound by a constitutional relationship as defined in the Articles of Association and the Rules of Procedure for national offices. Second, it is bound by a legal relationship as defined by the Licence Agreement and the Framework Agreement. Furthermore, Greenpeace UK’s Executive Director “is responsible for interaction with SGC [Stichting Greenpeace Council or Greenpeace International] on all operational, campaign and management issues.” (Greenpeace International, 2005c:39, art. 3.10).

The institutional embedding of national offices in Greenpeace International and the centralisation of the decision making power means that all major decisions on finance, campaign strategy, policy and objectives of Greenpeace UK have to be approved on and monitored by Greenpeace International. The executive directors and programme meetings are considered to be the most important decision making meetings in Greenpeace International and as a consolidated organisation Greenpeace International imposes a uniform agenda on each national office that is considered to be a representative of Greenpeace International (Interview 10, 2009; Interview 11, 2009) (see appendix for organograms). One of the arguments behind the organisational consolidation is that there is no (or far less) confusion over what the mission and organisational objectives of Greenpeace are. All the Greenpeace offices are delivering the same (or a very similar) message. Having control over the campaign agenda also reduces libel risk that can be induced by unruly national offices following their own agendas. It is clear, judging by the internal organisation of power, that Greenpeace UK is a subsidiary of, and in a subordinate power relationship with, Greenpeace International. It is a national office in an international hierarchy dominated by Greenpeace International where Greenpeace UK's policies and campaigns are subject to approval from Greenpeace International that coordinates and manages all Greenpeace national offices. The organisational units of Greenpeace International operating in the UK are subordinates of the hierarchy. The ultimate decision making power of the Greenpeace hierarchy is vested in its board of directors (the legal representative entity of Greenpeace) and the International Executive Director who is appointed by the board (Greenpeace International, 2005a:55; 2005b:art.5.3; Interview 10, 2009; Interview 11, 2009).

Although organisational efficiency seems to be at the heart of this arrangement it also seems to come at the cost of democratic accountability, thus making Greenpeace International less democratic and undermining claims to represent public opinion on environmental issues. It also demonstrates that when one assesses Greenpeace UK's legitimacy claims one has to look to Greenpeace International as an authoritative

source of legitimacy (Beetham, 1991:70-76). It is because the internal organisation of power in the Greenpeace hierarchy shapes the way legitimacy claims are maintained and reproduced that:

“Any explanation for the ideas or beliefs that people hold, therefore, must be based upon an internal analysis of their plausibility or credibility to them in the context in which they are situated, rather than simply on an account of the means of their dissemination” (Beetham, 1991:106; 104-108).

This brings me to the second point of this section which is the justifiable content of the legitimacy claims based on Greenpeace International’s policies that are delegated to Greenpeace UK to campaign on. I now turn to explain the significance of Greenpeace International's Science Unit, the Greenpeace Research Laboratories, to highlight this point further as the research facility has an important role in justifying Greenpeace UK's legitimacy claims.

The Greenpeace Research Laboratories

Greenpeace International has registered several independent companies in the UK since 1977, companies that are directly linked to Greenpeace International and not Greenpeace UK. During the 1980s and 1990s when its European offices were growing it registered a media unit in London to provide the Greenpeace offices with media support (see above). A similar unit albeit with a different purpose is what I want to discuss here. Greenpeace International has registered its Science Unit in the UK, whose explicit function it is to provide scientific support to Greenpeace's campaigns and policy through the research of its scientists (Greenpeace Research Laboratories, 2011a). The Science Unit is registered as Greenpeace Research Laboratories and based at the University of Exeter (the names Science Unit and Greenpeace Research Laboratories are used interchangeably henceforth).

The Greenpeace Research Laboratories was set up by its current director, Paul Johnston, in 1987 at the University of London but moved to the University of Exeter in 1992. According to Johnston it was an accident as he took a phone call where Greenpeace had called the University to scout for researchers to take part in a

Greenpeace project (Interview 13, 2010). Johnston accepted the offer and the initial research project eventually became institutionalised as the Greenpeace Research Laboratories.

The institutional arrangement that Greenpeace has with the University of Exeter involves the following: the scientists hired at the Greenpeace Research Laboratories are employees of and on the payroll of Greenpeace International. They have the status of Honorary Research Fellows at the University in the School of Bioscience; but are not on the payroll of the University. Nonetheless, they contribute to teaching and research supervision and are able to attend some relevant departmental meetings through their status as Honorary Research Fellows (Greenpeace Research Laboratories, 2011b; Interview 13, 2010). The contract and arrangement Greenpeace International has with the University provides the employees of the Research Laboratories with access to the research community and research facilities. Although little exists in the public space on the arrangement it appears to be akin to other arrangements that universities make with private sector industries and similar organisations. The Greenpeace Research Laboratories moved into a new facility in 2009 and their website was updated to a corporate design in 2011 (Erwood, 2009:13; Interview 13, 2010).

The work of the Greenpeace Research Laboratories has a crucial role in providing scientific credibility to Greenpeace International's campaigns. On Greenpeace UK's website they emphasise the role of scientific research for their campaigns and refer to the work of the Greenpeace Research Laboratories:

Investigations are also at the heart of our solutions work, and we often commission scientific research into solutions from our Exeter Laboratories. We publish the results of our research widely, producing papers for national and international scientific journals and books, and we often work in collaboration with other academic, governmental and scientific institutions. (Greenpeace UK, 2011a)

Greenpeace Research Laboratory's explicit function in the Greenpeace hierarchy is to strengthen the legitimacy claims of Greenpeace internationally (Greenpeace International, 2007). Their scientific reports inform Greenpeace UK's campaigns and legitimacy claims and are intended to give authority to their legitimacy claims. The

epistemic value of the reports is supposed to bring credibility to their legitimacy claims. For example, that the Greenpeace Research Laboratories is institutionally embedded into the academic community gives epistemic value to the credibility of the scientific arguments used in Greenpeace UK's legitimacy claims. However, the interest of Greenpeace in the strategic value of knowledge as a source for its legitimacy claims has also been criticised for having a more sinister side: "Environmental knowledge, for Greenpeace, is thus not valued for its own sake or for its place in an ecological philosophy; it is valued as pure instrument and as pure argument" (Eyerman and Jamison, 1989:114).

Thus the Beethamite legitimacy challenge is to assess how Greenpeace UK uses these sources to advance its own objectives; particularly as there are discrepancies in the mission statements, presented by Greenpeace International on the one hand and Greenpeace Research Laboratories on the other hand, regarding what the explicit role of the Science Unit is. The next section explains how the mission statements of Greenpeace have changed along with the organisational changes highlighting the increased importance of the Greenpeace Research Laboratories.

Scientific knowledge production as a legitimacy source

Establishing the consolidated mission of Greenpeace as environmental led to the development of new sources of legitimacy; science and knowledge production. The organisational objectives that Greenpeace UK adopted in the formation of Greenpeace International (the international Greenpeace Council) demonstrate this shift of emphasis in mission statements; from peace and disarmament to world ecology and nature reserve. Greenpeace started to focus its campaigns accordingly on issues such as marine policy, deforestation and climate change, instead of issues related to peace and nuclear arms. This also changed the tactics. The socio-religious driven agenda of the early Greenpeace was being replaced with emphasis on scientific credibility. In the consolidated Greenpeace hierarchy, science eventually took centre stage in legitimacy claims: "Greenpeace began to employ scientists rather than to rubbish them, giving

them leading staff positions” (Pearce, 1996:74). It is in this organisational context that the work of the Greenpeace Research Laboratories has become increasingly important for justifying legitimacy claims made in Greenpeace International's campaigns.

Although science has been part of Greenpeace from the beginning (for example its association with whale research) it was not central in Greenpeace's early legitimacy claims. However, the change in Greenpeace's mission statements becomes evident in its documents throughout the organisational change of the late 1970s, and onwards. As was pointed out in the history section Greenpeace was an ideological organisation during its first years that equally embedded peace and ecology missions in its early statements and attempted to embrace religion and ecology:

We call our ship the Greenpeace because that's the best name we can think of to join the two great issues of our times, the survival of our environment and the peace of the world. Our goal is a simple, clear, and direct one - to bring about a confrontation between the people of death and the people of life. (Weyler, 2009a)

We can end our surrender to this death-oriented government and industry by massive non-acceptance of the "values" and non-cooperation with their structures [...] We must accept the responsibility for creating new institutions - political, cultural, economic - which encourage people to live creatively and in harmony with the environment. (Irwing quoted in Weyler, 2009a)

The Whole Earth Church believes that all forms of life possess some degree of consciousness. Members of the Whole Earth Church are asked only to assume their rightful role as Custodians of the Earth. The Whole Earth Church has no hierarchy. Only ministers. Every member is a minister. Every minister is a Custodian of the Earth. With absolute responsibility for its preservation. (Hunter quoted in Weyler, 2009a)

The element of science was also present in the first mission statement of the Greenpeace Foundation, albeit coupled with religion: “Like religion, ecology seeks to answer the infinite mysteries of life itself. Harnessing the tools of logic, deduction, analysis, and empiricism, ecology may prove to be the first true science-religion” (Weyler, 2009a). The statement concludes with an emphasis of how a value-inspired ecology can guide human institutions:

Through an understanding of the principles of ecology, we must find new directions for the evolution of human values and human institutions. Short-term economics must be replaced with actions based on the need for conservation and preservation of the entire global ecosystem. (Weyler, 2009a)

The fusion of religion and science in Greenpeace's mission statements was however severed when the link with the old Vancouver group was being replaced with a new consolidated structure of Greenpeace.

When Greenpeace was incorporated in the UK the new faction of the Greenpeace Foundation presented a more sober version of Greenpeace's objectives in the organisational documents. In 1977 the principle activity of Greenpeace Limited is listed simply as world ecology (Greenpeace Limited, 1979). Although this becomes more elaborate in later documents, it remains decisively void of any religious or peace references. In its Memorandum of Association Greenpeace Limited declares its objectives to be the promotion of "wildlife and the elimination of threats and damage to the environment or the global environment of the Earth" (Greenpeace Limited, 1991b). The statement is repeated in Greenpeace UK Limited governing documents (Greenpeace UK Limited, 1991b). The same goes for Greenpeace UK's Environmental Trust, but elaborated in a sturdy list of twenty-four objectives that focus on education and research. Its first objective states "To educate the public in world ecology" and its third objective is "To conduct and procure research concerning world ecology" (Greenpeace Environmental Trust, 1993). This is a long way from the Whole Earth Church and a lot closer to the Greenpeace Research Laboratories.

Although the current mission statement of Greenpeace International has been adjusted to a more secular and corporate version – Greenpeace International's main objective is simply the "promotion and conservation of Nature" (Greenpeace International, 2005b:art. 2.1) – some of the values of the early years have remained. The core values of Greenpeace International are a testimony to the mission change that has occurred alongside the organisational changes:

We 'bear witness' to environmental destruction in a peaceful, non-violent manner; We use non-violent confrontation to raise the level and quality of public debate; In exposing threats to the environment and finding solutions we have no permanent allies or adversaries; We ensure our financial independence from political or commercial interests; We seek solutions for, and promote open, informed debate about society's environmental choices. (Greenpeace International, 2006)

The Greenpeace Science Unit has taken this mission change furthest. The Greenpeace Research Laboratories defines its mission as adding scientific value: “the laboratories provide scientific advice and analytical support to Greenpeace offices worldwide, over a range of disciplines.” (Greenpeace Research Laboratories, 2010). Despite organisational consolidation and a unified agenda there is discrepancy between Greenpeace International's and Greenpeace Research Laboratories' statements on what the mission of the Science Unit is. Whilst Greenpeace Research Laboratories emphasises the science, Greenpeace International envisages the role of its Science Unit (the Greenpeace Research Laboratories) as contributing to Greenpeace's campaign agenda. Greenpeace International states that the Greenpeace Research Laboratories is supposed to be:

Shaping our campaigns

Influencing policy

Changing opinions

We commission many scientific research reports and investigations to support our campaigns. We also use science to seek solutions. For example, in order to avoid fruitless scientific controversy over levels of harm of particular products, we provide alternatives. (Greenpeace International, 2007)

The role of the Greenpeace Research Laboratories is therefore significant in providing justifications based on scientific knowledge for Greenpeace's legitimacy claims; claims that are made in Greenpeace campaigns and intended to shape peoples behaviours to comply with Greenpeace International's objectives: “to help bringing about a fundamental change in Man's way of thinking” (Greenpeace International, 2005b:art. 2.2 (b)). Although Greenpeace Research Laboratories is the most significant component inside the Greenpeace hierarchy when it comes to scientific knowledge, Greenpeace UK also commissions scientific reports from relevant authorities to support the legitimacy claims made in their campaigns, for example industry consultants (Greenpeace UK, 2011a; Poyry Energy (Oxford), 2008).

As a contributor of knowledge, Greenpeace's Science Unit also liaises with knowledge producing institutions in their field. In addition to their academic involvement at the University of Exeter's School of Bioscience, the employees of the Greenpeace Research Laboratories are connected to the scientific community through academic publications and links to global knowledge producing institutions, such as the United Nations Intergovernmental Panel on Climate Change. The director of the Greenpeace Research Laboratories was, for example, a co-author of a chapter in the Intergovernmental Panel on Climate Change's report on carbon capture and storage that was based on his research at the Greenpeace Research Laboratories (Caldeira, Akai, et al., 2006; Johnston and Santillo, 2003).

Within this context Greenpeace International acts as a contributor to science, a role that has been labelled the 'democratisation of expertise' where environmental NGOs like Greenpeace are found to be key actors (Eden, Donaldson, et al., 2006: 1073-4). The object of knowledge producing institutions is according Miller to:

...construct independent sources of authority that can use their ability to produce and validate knowledge to shape intersubjective epistemic frameworks and place limits on the credibility of justificatory claims, and so to constrain the exercise of power and authority in world affairs. (Miller, 2007:328)

In the case of Greenpeace UK, the legitimacy problem is how to justify the epistemic value of Greenpeace International's knowledge production. Arguments about Greenpeace UK representing public opinion have to be assessed by taking into account how Greenpeace International produces and uses knowledge. It involves assessing how they use knowledge as a source to justify their legitimacy claims. Eden and her coauthors argue that although obtaining scientific credibility is difficult for NGOs they can still be conceptualised as "reflexive scientific specialists and diverse knowledge producers" that are: "typically versatile in their use of legitimation: where it is useful, they draw on classical notions of expertise and where it is not they begin to develop and legitimate their own" (Eden, Donaldson, et al., 2006:1064;1073). What merits attention regarding knowledge as a legitimacy source is the alignment of science with specific ideological and political purposes.

The role of Greenpeace International as a knowledge producer raises the issue of representation in the context of legitimacy. It has been pointed out that environmental organisations are primarily faced with normative questions about their legitimacy because their claims of representation are decoupled from their sources of authority and accountability. This, O'Neill argues, leaves environmental NGOs with a legitimacy problem: "Those who claim to speak on behalf of those without voice do so by appeal to their having knowledge of the objective interests of those groups, often combined with special care for them." (O'Neill, 2001:496). An example of this is a motto frequently displayed in Greenpeace documents: "Greenpeace exists because this fragile earth deserves a voice. It needs solutions. It needs change. It needs action" (Greenpeace International, 2011a; Greenpeace UK, 2011b). This problem has also been raised by lawyers who ask whether environmental rights should be treated differently in law (Sands, 2008; Stone, 1996).

However, it can be argued that Greenpeace UK's claims are not necessarily decoupled from their authority but from a particular type of authority valued in the context of liberal democracies, namely representation. Yet this does not fully explain the legitimacy questions raised in the context here where the purpose of the Greenpeace Research Laboratories as a knowledge producer is amalgamated with the political purpose their work has in Greenpeace International's campaigns (as shown above). It is important to stress here the distinction that Beetham (Beetham, 1991:69) makes between authoritative sources and justifiable content; knowledge production is a legitimacy source, the justificatory content is the claims. It is necessary to distinguish between these two justificatory measures when assessing Greenpeace UK's legitimacy claims because one is a means to speak or present a claim the other is the content of the claim. That is, authoritative sources explain with what authority Greenpeace UK (or Greenpeace International) claims to present (voice) its legitimacy claims whilst the justifiable content explains what these claims are actually saying (not with what authority they are spoken). This is often diffused in the literature and the source is

treated as the content thereby arguing that knowledge production per se suffices to justify the claims of Greenpeace UK or Greenpeace International. The legitimacy problem created in this context is how to justify the epistemic value produced by Greenpeace Research Laboratories that is intended to inform democratic debates about environmental issues and policy in Greenpeace International campaigns implemented by Greenpeace UK.

In order to explore this problem I now move on to the embedded case study of the Kingsnorth case. It highlights the role of science and knowledge production as legitimacy sources in justifying Greenpeace UK's legitimacy claims in a legal case against Greenpeace UK activists (the Kingsnorth Six). It explains how science was used in the defence of six Greenpeace UK activists that were accused of property damage during a campaign to influence UK government policies. The campaign was Greenpeace International's energy campaign as implemented by Greenpeace UK (Greenpeace UK, 2005).

Greenpeace UK and the Kingsnorth case

This section is an embedded case study of the Kingsnorth case. The aim of the embedded case study is twofold: a) to demonstrate how Greenpeace UK uses its authoritative sources (Greenpeace International and scientific knowledge production) to justify its legitimacy claims, and b) to demonstrate the fusion between environmental science and environmental politics in their legitimacy claims. The Kingsnorth case refers to a direct action of Greenpeace UK activists who climbed a chimney at the Kingsnorth power station in Kent to protest against the use of coal as an energy source. The activists subsequently went on trial for causing damage to private property (painting the chimney). The section starts by describing the political context of the Kingsnorth case. The direct action was part of a Greenpeace UK campaign on climate change and energy that had a political context as well as a scientific one. It then discusses the legitimacy claims made by Greenpeace UK in their campaign and in the direct action at Kingsnorth. Having explained the legitimacy

claims, the justifications that were made in defence of the Greenpeace UK activists during their trial are discussed. This highlights the role of knowledge producing institutions and the link between science and politics in Greenpeace UK's legitimacy claims. The section ends with looking at witness testimonies for the activists in order to clarify the links between science and politics in the Kingsnorth case. The witness statements are proportionally long but they are important for emphasising the relevance of science as a legitimacy source for Greenpeace UK's legitimacy claims. The statements are also important for highlighting how science is used to justify legitimacy claims that are used in a political context. I begin, however, with the political context of the Kingsnorth case.

The political context of Greenpeace UK's legitimacy claims

The Kingsnorth case is part of a campaign on renewable energy in the UK by Greenpeace UK. The Greenpeace UK campaign is a contextualised campaign policy of Greenpeace International on climate change (Rochon, Bjureby, et al., 2008). In the UK the campaign was tied to the governments' energy review and proposed legislation in the period 2006-2008 (Blair and Department of Trade and Industry, 2006; Darling and Department of Trade and Industry, 2007). The political rhetoric in 2006 and 2007 was focused on renewable energy and lower carbon emissions in accordance with international agreements as well as to respond to energy demand by industry by providing energy security (Prime Minister's Office, 2007). The Energy Review report (Blair and Department of Trade and Industry, 2006) and the Energy White Paper (Darling and Department of Trade and Industry, 2007) demonstrate this. In order to meet their targets the aim was to increase nuclear energy generation and use coal with a new technology of carbon capture and storage. In 2007 the Prime Minister stated:

we must find new ways of capturing and storing the carbon dioxide it produces....And I can announce today that we are launching a competition to build in Britain one of the world's first commercial CCS [carbon capture and storage] coal projects, demonstrating the full chain of CO₂ capture, transport and storage. (Brown, 2007a)

The subsequent Energy Bill (Energy Bill 2007-08) and related bills on climate change (Climate Change Bill [HL] 2007-08) and planning (Planning Bill 2007-08) thus became the focus of Greenpeace's energy campaign.⁴²

In response to the Prime Minister's speech above Greenpeace UK demanded that UK government policy be compatible with renewable energy plans in Germany and at the EU. Greenpeace UK claimed that there was a gap between political rhetoric and government policy when it came to 'renewable industrial policy for Britain'. This gap was also discussed in government circles. A meeting in the department for Business, Enterprise and Regulatory Reform on coal in the UK noted:

It is recognised that various statements made by the Secretary of State and the Minister for Energy constitute positive support for the proposed new coal fired power station at Kingsnorth and a clear recognition of the need for continued coal-fired generation in the UK. However, it is also clear that the case has not been generally accepted and looking to the future, some of the green NGO's give conditional support to CCS. Others such as Greenpeace are hostile to its development. (Tenth Meeting of the UK Coal Forum, 2008:8)

Greenpeace UK used this general lack of acceptance to exploit the aforementioned gap and drive home its criticism on the government's energy policy:

There will need to be a house-clearing in some Whitehall departments, where too many officials have blocked progress on renewables and energy efficiency for too long. Ministers will need to support policies that will propel Britain from the bottom to the top of the renewable energy league table. We need to follow the example of countries like Germany in developing the cutting edge technologies that can beat climate change. If we succeed the benefits for the economy and jobs will be enormous. (Greenpeace UK, 19 November 2007)

The solution that the Greenpeace UK energy campaign pushed was a decentralised energy system that emphasised low carbon emission and a nuclear free Britain (Greenpeace UK, 2005; Greenpeace UK and WADE, 2006). This was in contrast to government's plan to increase nuclear energy to meet energy shortage (although the office of London's Mayor did participate in Greenpeace UK's proposed schema (PBPower Energy Services Division, 2006)).

⁴² The Energy Bill and the Climate Change Bill presented stepping-stones to a renewable energy industry in the UK and attainable reduction in emissions. However, the government was, at the time, divided on how to approach a potential energy shortage. The energy secretary, John Hutton, and the environment secretary, David Miliband, were in opposite camps on how to deal with providing more energy within the framework of climate change.

The case of Kingsnorth refers to a direct action campaign undertaken by Greenpeace UK activists to protest against a planning proposal to build two new 800MW (referred to as units 5 and 6) coal fired power generators (Tenth Meeting of the UK Coal Forum, 2008). The site and generators are owned by the energy company Eon and located at Kingsnorth in Kent and has a total capacity of 1940MW energy output (Eon, 2011). The proposal made by Eon was scheduled for approval by the UK government.⁴³ The new units at Kingsnorth were the first new coal-firing generators in decades to be built in the UK.

Eon's environmental statement regarding the Kingsnorth project attempts to address climate change issues, and points to governmental targets such as European Directive and the Kyoto Protocol. The statement emphasises that the new generators would emit less CO₂ than the old ones and generate more energy providing UK with independence from external energy sources thereby addressing energy security (Brown, Cresswell, et al., 2006:1-2;24;44). Eon acknowledges the issue of climate change at the onset of the report (Brown, Cresswell, et al., 2006:13-14) – Eon's report includes a number of environmental factors (seven factors ranging from air to transport and noise) that are used to assess the environmental impact and risk of the project – but this is not discussed at any length in the report's impact assessment (Brown, Cresswell, et al., 2006:44). Eon's main argument is that the new station would be more efficient and therefore emit less CO₂ compared to the original Kingsnorth generators (built in 1963) (Brown, Cresswell, et al., 2006:44).

The proposal required approval by the Secretary of State for the Department for Business, Enterprise, and Regulatory Reform and was submitted by Eon in late 2006 (Medway Council, 2006). The following year, 2007, concerns were raised at meetings

⁴³ Greenpeace UK obtained, under the Freedom of Information Act, the email communication between government secretaries and Eon that documents the exchange between the government and Eon over Kingsnorth on the proposal and relevant policies (Gary, 2008a, 2008b; Land, 2007, 2008).

of parties involved about how to move the project forward given inconclusive government policy, doubts about application of the technology of carbon capture and storage and general lack of an informed public debate about the issue of carbon capture and storage (Gary, 2008a; Tenth Meeting of the UK Coal Forum, 2008:8). Greenpeace (along with other environmentalists) was explicitly against the Kingsnorth project of Eon and pushed for its own policy option of decentralised energy infrastructure as an alternative solution to meeting energy demand and stay within government targets of carbon emissions.

The activism that took place at Kingsnorth was part of the campaign Greenpeace International was running to stop climate change at the international level, in which Greenpeace UK was its representative in the UK. It directly targeted the Kingsnorth facility to address the Prime Minister, Gordon Brown at the time, and criticise the government's energy policy as it was playing out at Kingsnorth. On the 8 October 2007 a group of Greenpeace activists interrupted the operation at the Kingsnorth facility. These were in total 23 activists but only six were prosecuted for causing damage on private property (see discussion below). The Greenpeace UK activists locked themselves to conveyor belts inside the Kingsnorth station and climbed a two hundred meter high chimney to paint the word "Gordon" on it (the Prime Minister's name). The primary aim of Greenpeace UK was to shut down the power station for a few days and the secondary aim to get the attention of the Prime Minister (Rose, 2008:5-6; Stewart, 2008:27; Williams, 2008:25-26).⁴⁴ Eon filed an injunction against the activists that were subsequently arrested and charged with criminal damage and trespassing (Bex, 2007a, 2007b; Joss, 2008).⁴⁵ The case was tried in Maidstone Crown Court by a jury, as a case of criminal damage to private property. The activists were acquitted in September 2008 (Vidal, 2008). Although the Crown Court does not produce legally

⁴⁴ The Kingsnorth activism was filmed by a film director who produced a twenty minute long film of the action as part of the campaign strategy (Broomfield, 2009). This was published as campaign material. A note accompanied a copy I received upon request from Greenpeace UK that encouraged its distribution in schools emphasising politics teachers (Padjowski, 2010).

⁴⁵ The direct activism was followed up on with further protest at the Kingsnorth facility by Greenpeace and by groups such as the Climate Camp which organised a week of protest on Eon's Kingsnorth premises (Camp for Climate Action, 2008).

binding results it gives strong precedence. After the acquittal of the activists, Greenpeace UK's director stated that the campaign was "[t]he biggest single blow to government plans [and] [i]f it wasn't for Kingsnorth Six, it's likely that plans for a new highly polluting plant at Kingsnorth would still be on the table" (Sauven, 2009). At the end of 2009 Eon decided to postpone, but not abandon, its plans for new generators at Kingsnorth.

Greenpeace UK's legitimacy claims in the Kingsnorth case: scientific knowledge (production) and politics

Scrutinising the legitimacy claims in the Kingsnorth case demonstrates how science and knowledge producing institutions are used as a legitimacy source for Greenpeace UK's legitimacy claims. It furthermore highlights the interplay between science and politics in Greenpeace UK's legitimacy claims. The legitimacy claims made by Greenpeace UK in the Kingsnorth campaign are based on Greenpeace International's mission statements and organisational objectives and highlight, not only how Greenpeace International has grounded their legitimacy claims in scientific sources, but also how Greenpeace International is an authoritative source for Greenpeace UK's legitimacy claims. The legitimacy claims draw upon Greenpeace Research Laboratories research and the scientific community, including knowledge producing institutions at the global level (such as the National Aeronautics and Space Administration and the International Panel for Climate Change), to justify their claims.

The aim of the Kingsnorth activism as part of Greenpeace International's energy campaign was to stop Eon and the UK government from reaching a binding agreement about installing a plan that allowed the redevelopment of coal fired generators. The ultimate demand made by Greenpeace UK was a moratorium on coal as an energy source (Bex, 2007c; Greenpeace International, 2011c; Rochon, Bjureby, et al., 2008; Stewart, 2008). This is based on scientific arguments that coal has contributed most of all fossil-fuel CO₂ emissions and thereby coal firing generators are "the most environmentally damaging means of generating electricity yet devised" (Greenpeace UK, 2009a:1). The claim that Greenpeace UK made in the Kingsnorth case was that:

no credible person supports continued unabated coal generation in the face of climate science and the need for low-carbon energy generation seems inarguable – and the barriers almost entirely political. (Greenpeace UK, 2009a:11)

Pitching science against politics, Greenpeace UK argued that there should be a “legal limit on the amount of carbon emissions a [new] power station is allowed to produce per each unit of energy they generate” and that this would provide “a cast iron guarantee that high emissions would be illegal in the future” (Greenpeace UK, 2009a:2-3). Shutting down the Kingsnorth power station was a measure “to stop climate change” (Stewart, 2008:26) and confront the Prime Minister with Greenpeace UK's claims.

According to one of the lawyers who defended the Greenpeace activists in the trial, the challenge was to demonstrate that the accused had acted within and according to their conscience in effort to salvage a greater good in an emergency situation (Wolkind, 2009). They were tried under criminal law in a Crown Court and acquitted by a jury of nine. The Greenpeace activists pleaded not guilty to causing property damage and their defence was lawful excuse (Whitaker, 2008). The argument of the defence was about how the activists set out to protect property worldwide, from Siberia to Africa and Canada to China, as well as property in Kent. Their lawyer emphasised: “I wanted the case to be a landmark play of the climate change debate” (Wolkind, 2009). Although the results are not binding on any court they give a strong precedence and the acquittal raised concerns about future activism against businesses:

The decision could have serious implications for companies in the energy field [...] campaigners need only demonstrate an honest belief that their actions will protect other property. Consequently, acquittals such as this one could encourage more action against businesses involved in the provision of energy considered to be environmentally unfriendly. (Allen, 2008:1-2)

After the acquittal a news reporter quotes one of the defendants saying: “If jurors from the heart of Middle England say it’s legitimate for a direct action group to shut down a coal-fired power station because of the harm it does to our planet, then where does that leave government energy policy?” (Dixon, 2008).

The legitimacy sources underlying Greenpeace UK's claims are based on scientific research either conducted by the Greenpeace Research Laboratories team, commissioned by Greenpeace UK or derived from knowledge producing institutions. The government's energy and climate change bills were also benchmarked against the sources of some of these knowledge producing institutions. This includes, for example, UN's 1992 Conference on Climate Change and the Kyoto Protocol, Annual Assessment Reports by the International Panel for Climate Change, and European agreements that respond to or reflect those publications. The concerns raised by Greenpeace UK about the government's policy targets (varying from the energy review report to the bills introduced, such as that forty percent of UK's energy is to be generated by renewable energy sources by 2020) were elaborated in a commissioned report for Greenpeace UK (Poyry Energy (Oxford), 2008). Similar concerns about the implications of such policy targets were also raised in reports commissioned by the government (Stern and Peters, 2007) and at the individual level. When the Kingsnorth case broke in the media the director of the National Aeronautics and Space Administration's Goddard Institute for Space Studies, James Hansen (Hansen, 2011), wrote an open letter to the Prime Minister warning him against coal fired power plants and urging him to take action against the consequences of climate change caused by CO₂ emissions (Hansen, 2007). The legal defence of the Greenpeace UK activists was based on sources from the scientific publications of the aforementioned knowledge producing institutions as well as on witness testimony of scientists.

The interplay between science and political action is also evident in the defence of the activists. All the activists refer to the scientific arguments behind climate change in support of their actions at the Kingsnorth facility. As mentioned above the aim of the direct activism was not only to stop Kingsnorth from emitting CO₂ and thereby protect bigger property from the consequences of climate change as argued by scientific research. The second aim was to pitch scientific arguments against government policy and influence public policy by getting politicians to listen. In the Kingsnorth trial one campaign activists exclaimed:

One of the reasons why I did this, why I climbed up a chimney was because I felt that I was just fed up with speaking to politicians who talk a good talk but don't do anything about it. [...] We painted Gordon Brown's name because he is the man who can ultimately do it [...] Bin it. Like, close it down, stop it, end this, end this madness. (Stewart, 2008:9,16 and 36)

The Kingsnorth campaign was directed at UK's Prime Minister, Gordon Brown. Pointing to inconsistency in government policy, between political rhetoric and decisions, the Greenpeace UK activist's claim was that government fails to protect the wider interests and global property - as defined by science:

The scientists that I read, and I think they are the greatest scientists in the world, are saying it is now, we have got about 100 months to do something about this [climate change]. [...] You know, it is just no good sitting around and waiting for these venal politicians like Gordon Brown and Tony Blair to do what they say they are going to do, because it wasn't happening, it isn't happening. (Stewart, 2008:14)

This, the Greenpeace UK activists argued, justified their direct action at Kingsnorth. Action, taken to protect further property damage and expose inconsistencies of politicians who are not acting to protect the environment despite knowing the scientific facts (see Hansen below on scientific certainty). By granting permission to Eon to operate a coal generator with increased capacity ('supercritical'), the government would enable Eon to do property damage on a global level that is not justifiable given the scientific arguments against it.

The Greenpeace UK legitimacy claims are thus posited in the context of scientific knowledge where knowledge producing institutions are an important source of legitimacy. However, I reiterate what I argued above, that science is used here as an authoritative source for Greenpeace UK's legitimacy claims, the justifiable content of the claims is not under dispute but whether the activists (defendants) can demonstrate their belief in the authority of the sources. This is furthermore evident in the witness testimonies as I now discuss.

The witness statements: the significance of scientific knowledge (and knowledge producing institutions) for Greenpeace UK's legitimacy claims

The witness testimony of Hansen (the director of the National Aeronautics and Space Administration's Goddard Institute for Space Studies, see above) focused on the

scientific certainty of climate change. Hansen's testimony focuses on five facts that have contributed to climate change and government and industry are aware of, one of which is coal. The five facts presented by Hansen are: tipping points of the climate system; coals' dominant role for CO₂ excess; recognised responsibilities of UK as "the most responsible of all nations that are major emitters of CO₂" (Hansen, 2008:14); recognised impacts of climate change where government, Eon, and the industry are well aware of the impact of coal emissions; and green-wash where the above actors contradict themselves making it "practically impossible to avert climate disasters for today's young people and future generations" (Hansen, 2008:14)

Hansen presents and refers to technical data and claims that the information produced by institutions such as UN's Intergovernmental Panel on Climate Change is known by the UK government and the fossil industry. He then claims that this knowledge confers responsibility upon those actors. He further claims that because they recognise the responsibility in speeches and policy plans they are contradicting themselves when increasing the coal emissions by allowing the operation of the Kingsnorth facility. This, Hansen says, justifies the actions of the Greenpeace activists who knew the same facts and because of government and industry plans, decided to act to protect worldwide property (see Wolkind above) from the harm these plans allegedly can cause.

Hansen argues that global warming is causing ice sheets to melt; consequently global warming is only a matter of time not certainty (Hansen, 2008:8). His testimony states that in order to prevent the consequences from occurring a political decision has to be made about phasing out coal emissions "the one critical element in solution of the global warming problem, in preservation of a planet resembling the one on which civilization developed" (Hansen, 2008:10). His testimony furthermore emphasises time as of the essence that requires "... an immediate moratorium on new coal-fired power plants that do not capture and sequester CO₂ and a phase out of existing coal plants over the next 20 years" (Hansen, 2008:10).

Hansen argues that UK has to lead the way as it emits most per capita and, as of political urgency, to convince China and India of the importance of the argument which will otherwise lead to a “prescription for planetary disaster” (Hansen, 2008:13) because the biggest polluters are increasing their coal use. He concludes that the UK government, Eon, the industry and the defendants, knew the facts. Knowing these facts, according to Hansen, confers responsibility upon those in power which justifies the actions of the Greenpeace activists who acted as they did to “protect life and property of the present and future generations” (Hansen, 2008:14).

A six page witness statement with three page supplementary testimony is provided by Meaden as an academic expert in geography and life sciences. Meaden also emphasises the “tipping points” such as ice cap melting and rising sea levels caused by the global warming “It can be stated with certainty that the actual rise in sea levels is occurring exponentially” (Meaden, 2008a:2). He quotes the scientific adviser to the World Bank for global warming of 4 Celsius and claims that “this fact was agreed by the British government’s chief scientist” (Meaden, 2008a:2). Meaden then describes the potential impact of flooding in the area of Kent, UK and that the government is currently not ready to protect Kent properties and infrastructure that are at risk leading to more expensive insurances for these properties (Meaden, 2008a:4-5). Drawing a comparison to a disaster in New Orleans, he claims that “we in Britain will certainly have a major marine flood event to come, [...] the longer we wait the more catastrophic it will be when it does occur.” (Meaden, 2008a:5-6). Meaden advances that “all the time that global warming continues the likelihood of catastrophic events grows incrementally” which, he predicts, will lead to twenty percent of Kent going under the sea:

The situation is so urgent that unless we act immediately to rapidly reduce greenhouse gases emissions, by the end of the next century we may have to abandon up to 20% of Kent to the sea. The physical, social and economic consequences of this can only be negative and potentially catastrophic. (Meaden, 2008a:6)

Meaden then urges that reducing emissions of CO₂ as the cheapest method to prevent this scenario from occurring. His supplementary statement identifies the properties

that the Greenpeace UK activists claim they want to protect, such as ice caps, ice sheets, river banks, tropical forests, and private and public land properties distributed across the planet because they believe these properties are at risk due to climate change. Despite the variety in risk to the properties “there is absolutely no doubt that, by and large, the examples quoted by the defendants are true circumstances.” (Meaden, 2008b:1). He then continues with examples to show that climate change can incur “huge financial loss”, “affect large human populations”, and “can lead to death and property destruction on a massive scale” (Meaden, 2008b:1-2). Meaden concludes his testimony by referring to climate forecast modelling by numerous knowledge producing institutions and although these are difficult to forecast accurately “it is easy to recognise specific property damage that the defendants have done and have admitted to, it is far more difficult to perceive the immensely greater property damage caused by climate change” (Meaden, 2008b:3).

There are two other witness testimonies used by the legal defence; not scientists, but a politician (Goldsmith) and an NGO employee (Morgan). Goldsmith was at the time of the trial a prospective Conservative candidate and responsible for the review of the Conservative party’s environmental policy 2005 -2007 and Morgan was a director of the World Wildlife Fund campaigns and E3G .Both corroborate the scientific claims and their impact at the political level in the UK and in intergovernmental institutions. Goldsmith’s testimony focuses on a democratic deficit in the policy process and the lack of “public involvement [and] popular participation in decision making” (Goldsmith, 2008:3). He argues by citing politicians and Prime Ministers that the scientific facts pertaining to global warming are well known to the political class, yet politicians refuse to do anything about it; hence the gap between rhetoric and action. This gap justifies, according to Goldsmith, the actions of the Greenpeace activists.

Morgan argued from an international angle and the unwillingness of US to make binding agreements on climate change. The ramifications, she says, are failure to tackle global warming politically at the international level (citing a G8 meeting at

Gleneagles as an example) (Morgan, 2008:10). The witness statement of Morgan testifies that an international agreement on binding commitments to tackle global warming has failed. This she attributes mainly to the US's position and its rejection of UN principles and frameworks and its failure to a leading role on environmental issues. She dates the problem to the 1992/1994 UN Convention on Climate Change that subsequently produced the Kyoto Protocol in 1997. She also refers to the Intergovernmental Panel on Climate Change Assessment Reports that introduced scientific evidence that indicated global warming was anthropogenic. In 2007, International Panel for Climate Change issued its Fourth Assessment Report further stressing the human impact on global warming and the need for urgent action to prevent melting of ice caps and therefore rising sea levels. Although this was the subject of the Climate Change Bill and an Energy White Paper, Morgan says this was not met with increased government spending on renewable energy – pointing out that there was a gap between political rhetoric and policy (Morgan, 2008:para.21):

Thus, while the scientific community was increasingly united on the issue of climate change, and public pressure was growing for an urgent response, political leaders had yet to overcome their differences and global emissions continued to rise. (Morgan, 2008:para26)

It is evident from the testimonies above that environmental science and knowledge producing institutions are an authoritative source for Greenpeace UK's claims in the Kingsnorth case. The claims made by Greenpeace UK in the Kingsnorth case demonstrate two things. First, that the claims are based on the science of climate change using the data of global knowledge producing institutions and Greenpeace International's own research facility and supported with witness testimony of high ranking scientists such as Hansen. Second, that the purpose of the claims has a clear political component. The Kingsnorth case demonstrates that Greenpeace UK makes claims about UK government policy based on the policy agenda of Greenpeace International using its authoritative legitimacy sources. This imposes a dilemma when it comes to assessing Greenpeace UK's legitimacy claims. In particular the evaluation of the epistemic link between Greenpeace UK's legitimacy claims and knowledge producing institutions as a source for political legitimacy.

The dilemma is the conflation of sources and content of the legitimacy claims where testimonies of academics assert what Beetham calls 'the impressiveness of the source'. Addressing this dilemma properly is important because it is the legitimacy claims that are supposedly to be consented to (and consent confers legitimacy), hence the importance of their justificatory means to unveil that agreeing with a legitimacy claim does not mean that consent is given to the process that produces it (Beetham, 1991:91-97). The alignment of Greenpeace UK's (as a representative of Greenpeace International) legitimacy claim's justifiable content with the interests of knowledge producing institutions demonstrates what Beetham argues are 'ideas of common interest' used to overcome the principle of differentiation (Beetham, 1991:77-83). The alignment with science research, a scientific community (universities) and knowledge producing institutions (International Panel for Climate Change, NASA) has given academic impetus to Greenpeace International's political claims. The Kingsnorth case is an example of this. Instead of scrutinising the science per se, the scrutiny is based on the activists' faith or ability to demonstrate ideological congruence with what the science can be interpreted to mean. That is, the justifiable content has become an analysis of whether an individual can demonstrate faith in the legitimacy claim and its sources rather than scrutiny of the justifiable content of the claim, in this case scientific research. Focusing on what people think about legitimacy claims does not explain how the power system maintains and reproduces such claims (Beetham, 1991:9-25).

Conclusion

A Beethamite approach to Greenpeace UK's legitimacy claims is a multidimensional, holistic and contextual approach. The argument developed in the sections above demonstrates how this is important for assessing Greenpeace UK's legitimacy claims.

The historical context showed how the internal power struggle in the Canadian Greenpeace Foundation impacted on the way legitimacy was claimed for Greenpeace

in the UK. The internal power struggle and the establishment of Greenpeace International ultimately led to the consolidated structure of Greenpeace International as a global hierarchy. This section explained how Greenpeace claimed legitimacy in the UK in spite of the existing Greenpeace group(s) and how the consolidation of power in the international office, Greenpeace International, made it an authoritative source of legitimacy for Greenpeace UK's legitimacy claims. The historical context also demonstrated how Greenpeace increasingly focused on environmental science as a source of legitimacy (departing from its original quasi-religious inspirations and anti-hierarchical consensus model). One upshot of this was the creation of the Greenpeace Research Laboratories in the UK whose research has come to play a pivotal role in the policies of Greenpeace International thus directly affecting Greenpeace UK's legitimacy claims. The internal legitimisation of power is epitomised in the bilateral agreement between Greenpeace International and Greenpeace UK. The contract is binding and solidifies Greenpeace International's authority over Greenpeace UK. The subordinate position of Greenpeace UK means that it is a representative of Greenpeace International carrying out its policies in the UK. Thus when one is scrutinising Greenpeace UK's legitimacy claims one is in effect discussing Greenpeace International's policies and decisions.

A proper scrutiny of Greenpeace UK's legitimacy claims is important if one takes their role in society seriously. Greenpeace UK plays a role in the wider democratic process as an environmental campaign NGO that targets government (and corporate) policy to try to make an impact, as was demonstrated in the embedded case study. It showed how Greenpeace UK is believed to be representing public opinion and filling in the legitimacy gaps in untransparent public policy processes (see in particular the testimonies of Stewart, Goldsmith, Morgan, Dixon and Wolkind above). Reflecting the literature discussed in chapter two the embedded case study of Kingsnorth highlights a particular problematic regarding NGO legitimacy theories because it is not clear how Greenpeace UK's legitimacy claims (as a possible representation of public opinion) are linked to the wider democratic processes that can justify such claims.

The Beethamite analysis has highlighted the complications involved in assessing Greenpeace UK's legitimacy claims, in particular their justifiable content. Because membership is not central to how Greenpeace UK claims legitimacy this is not a fruitful avenue for exploring their legitimacy claims. In order to assess Greenpeace UK's legitimacy claims it is necessary to focus on how Greenpeace UK justifies its legitimacy claims and try to assess the difference between an authoritative source and the content of a particular claim. This entails taking into account how Greenpeace International produces and uses knowledge because agreeing with a claim does not automatically justify, or mean that one agrees to, the power structures that produce it. What merits attention is the alignment of scientific knowledge with specific ideological and political purposes that perhaps have more value for Greenpeace UK's own organisational aims (in the context of their internal legitimating processes) and are not necessarily shared by the public.

This chapter has explained on what grounds Greenpeace UK claims legitimacy and the sources of its legitimacy claims. Based on the above the chapter has explained how Greenpeace International, through its UK representative unit Greenpeace UK, is influencing UK government policy and how the regulation of Greenpeace UK under UK company law does not cover the agenda of Greenpeace International as it only regulates the financial accounts of Greenpeace UK. This means that Greenpeace UK's legitimacy claims as Greenpeace International's representative are largely unaccounted for at the national level in the UK.

Chapter 7 A Beethamite assessment of Cafod's legitimacy claims: a case study of a faith-based NGO

Cafod is different from the other two case studies in many ways. It is a faith-based NGO and its institutional context is such that it does not answer to an international NGO hierarchy but to the Catholic Church. This chapter explains how Cafod maintains and reproduces legitimacy claims as an agency of the Catholic Church of England and Wales and in what way this affects their constitutive remit and ability to make legitimacy claims in the context of the Holy See. The analysis entails examining how Cafod claims legal legitimacy, the internal organisation of power and process of legitimation, and in particular the normative proclamations of the Holy See as presented in the documents of the Second Vatican Council. The analytical focus is on Cafod as a Catholic agency and a member of the international hierarchy of the Catholic Church, thereby contextualising the assessment of Cafod's legitimacy claims in the Holy See hierarchy.

The questions that I started with when looking at Cafod's legitimacy claims pertained to its affiliation with the Catholic Church: How is Cafod related to the Catholic Church and the Holy See hierarchy? Is the Catholic religion at the heart of Cafod's authority when claiming legitimacy or is it merely a veneer? Are Cafod's legitimacy claims justified with secular sources, religious sources, or both? It quickly became evident that the Catholic Church and the Catholic religion was a major part of how Cafod claims legitimacy. Thus my questions started to focus more on the power relations between Cafod and the Church: To what extent does the Catholic religion influence Cafod's legitimacy claims? With what authority does Cafod claim legitimacy? How does Cafod manage its religious agenda in its programmes?

The main reason for selecting Cafod as a case study was its religious identity. It is important to stress that the organisational context of Cafod's legitimacy claims is religious, not secular or democratic. In its capacity as a Catholic agency, Cafod is

accountable to the hierarchy of the Holy See and its organisational edifice in the UK, the Catholic Church in England and Wales. This religious contextualisation of Cafod's legitimacy claims is important because Cafod also operates in a secular context as a development NGO which can create an internal conflict.

The first part of the chapter, on Cafod's organisational context, includes details about the institutional origin of Cafod and the structures and sources that justify Cafod's organisation of power. It is important to emphasise that Cafod is subject to both the ecclesiastical realm of canon law and UK charity law. Cafod uses the word Catholic in its title and is thereby obliged to comply with the rules and canons of the Catholic Church. This pertains both to the international level (the Holy See) and the national level (the Catholic Church of England and Wales). Thus, although Cafod is a registered charity in the UK, and as such complies with charity law, Cafod relies first upon the approval from the Holy See hierarchy for its claim to legitimacy. The chapter therefore focuses on Cafod's legal status within the Holy See hierarchy, rather than their charitable status in English law, as this is primarily the way Cafod claims legal legitimacy.

The legitimacy sources analysed in this chapter comprise legal and organisational documents and moral-theological documents of Catholic social teaching. The documents are mainly derived from Cafod, the Catholic Church of England and Wales and the Holy See.⁴⁶ The chapter analyses Cafod's legitimacy claims within its institutional context of governance and normative authority in order to identify

⁴⁶ Regarding general terminology of the Catholic Church, the terms Holy See and Catholic Church are used as follows. The Holy See is the seat of the pope who is the head of all Catholic Churches and his administration, the Roman Curia (Baumgarten, 1910). The Catholic Church is understood to represent the society of Christians as constituted by Christ, both spiritual and physical: "...the hierarchical organization of the Church was, in its essential elements, the work of the Apostles themselves; and that to this hierarchy they handed on the charge entrusted to them by Christ of governing the Kingdom of God, and of teaching the revealed doctrine [...] The church, as has been seen, is a society formed of living men As such it resembles other societies. Like them, it has its code of rules, its executive officers, its ceremonial observances. Yet it differs from them more than it resembles them: for it is a supernatural society. The Kingdom of God is supernatural alike in its origin, in the purpose at which it aims, and in the means at its disposal. Other kingdoms are natural in their origin; and their scope is limited to the temporal welfare of their citizens" (Joyce, 1908).

Cafod's legitimacy sources (such as canon law and encyclicals). These sources demarcate the context of Cafod's legitimacy claims and affect Cafod's ability to present credible legitimacy claims.

The chapter includes an embedded case study of the controversial 'condom issue' to highlight the institutional embedding of Cafod and what this entails for the credibility of Cafod's legitimacy claims. The condom issue is a legitimacy challenge for Cafod that reveals the legitimacy difficulties involved as Cafod treads the line between different theological interpretations to achieve social outcomes. One of Cafod's main slogans is to 'put faith into action' as 'the social arm' of the universal Catholic Church. Cafod's legitimacy sources that justify Cafod's social action are normative and legal sources rooted in the Holy See and the Catholic Church. The ability of Cafod as a Catholic organisation to proclaim moral legitimacy when recommending the use of condoms for those who are HIV infected creates a tension between its secular realities and its theological and ecclesiastical legitimacy sources. This presents a legitimacy challenge for Cafod because the sources are contentious and subject to competing theological interpretations by liberal and conservative members of the Catholic Church.

The outline of the chapter is as follows. The first section is on Cafod's history. The history describes how important Cafod's Catholic identity is right from the start of its first project. Despite being a lay-led project, the institutional context and the role of the Church was of key significance for Cafod's development. The second section describes the organisational structure of the Holy See based on its apostolic constitution and canon law. This includes describing the relevant institutions of the hierarchy to Cafod's own organisation of power and legal legitimacy. The third section of the chapter explains the Catholic source of Cafod's normative legitimacy. This is an analysis of the documents of the Second Vatican Council as a normative source for Cafod's legitimacy claims. Contingent to this is a debate between traditional and progressive forces in the Catholic Church on the moral authority of these documents that has brought forth legitimacy challenges to Cafod's Catholic agency. The fourth

section of the chapter is an embedded case study on Cafod's legitimacy claims that attempts to highlight the importance of the contextualisation of Cafod's legitimacy claims regarding the use of contraception to prevent HIV, for the reasons given above. The conclusion is a summary of the main arguments of the chapter.

Historical context of Cafod: from a lay organisation to an institutionally embedded agency of the Catholic Church

The history section is an important in a Beethamite analysis. Beetham's emphasis on history enables one to explore the legitimating principles of Cafod, in particular in relation to its Catholic identity and how that plays a role in establishing Cafod's legal and normative legitimacy. The origin of Cafod is within the international network of Catholic women's organisations. The network consisted of a local entity, the Catholic Women's Organisation; a national entity, the National Board of Catholic Women's Organisations; and an international entity, the World Union of Catholic Women's Organisations (Catholic Women's League of England and Wales, 2011; National Board of Catholic Women's Organisations, 2011; World Union of Catholic Women's Organisations, 2009). In the years between 1957 and 1960 Cafod's first project came into fruition through the layers of this network. All were established in the first decade of the twentieth century and by the time that the United Nations (UN) is formed, the World Union of Catholic Women's Organisations forged links with the Food and Agriculture Organisation and became one of the first NGOs to be upgraded from a liaison to a consultative status in 1959 (Food and Agriculture Organization of the United Nations, 1959). It was through the status of the World Union of Catholic Women's Organisations at the Food and Agriculture Organisation that the National Board was delegated a project for the Catholic women's Organisation.

The idea for the project, according to Orchard (1986-7), was delegated from the Food and Agricultural Organisation via the World Union of Catholic Women's Organisations. The World Union of Catholic Women's Organisations had had longstanding relations with the Food and Agricultural Organisation and was a keen supporter of its work

(Food and Agriculture Organization of the United Nations, 1959). One of the World Union of Catholic Women's Organisations' main goals in the late 1950s was to campaign against hunger based on statistics from the Food and Agricultural Organisation (World Union of Catholic Women's Organisations, 2009: see section 1957). The Catholic Women's Organisation's first project in the UK was a response to that campaign (Orchard, 1986-7:3). The National Board of Catholic Women on behalf of the Catholic Women's Organisation approached the World Union of Catholic Women's Organisations to ask them to ask the United Nations Food and Agriculture Organisation for a suitable project (Orchard, 1986-7:2). The response was a project in the West Indian island of Dominica run by nuns from the Social League of Catholic Women who were integral in establishing a number of projects in Dominica (Honychurch, 1995:178 & 196). Consequently the Catholic Women's Organisation contacted the project manager – Sister Alicia de Tremerie who was an instigator of social welfare issues and is credited with founding the credit union movement in Dominica⁴⁷ – in 1959 to inform her of their decision to adopt the project (Orchard, 1986-7:3). The adoption of this project by the UK Catholic Women's Organisation in 1960 can be claimed as Cafod's starting point.

The fundraising for the project was based on a model that had been successful in Austria and was set around an idea of a Family Fast Day, that is, during Lent family members would give up some food items and donate the equivalent amount saved to the Family Fast Day Fund. In order to promote the idea of Family Fast Day the National Board did two things. First, it appealed to the bishops to mention Family Fast Day in their letters to parish priests. Second, it associated Family Fast Day with the hunger campaign run by the World Union which gave the National Board access to the symbol and slogan of the campaign as well as its moral support (Orchard, 1986-7:5; World Union of Catholic Women's Organisations, 2009: see section 1955).

⁴⁷ Sister Alicia de Tremerie was a Belgian national who is cited as the founder of the credit union movement and cooperative banking in Dominica (Dominica Cooperative Societies League Limited, 2011; Honychurch, 2003, 2011).

The Family Fast Day fundraising model was initially an expression of thanksgiving by an Austrian Catholic schoolteacher. Due to its success the model was adopted by the World Union of Catholic Women's Organisations as a general model and disseminated for reuse by Catholic women's organisations worldwide (Orchard, 1986-7:2). In the UK the idea of the Family Fast Day was embraced by the Catholic Women's Organisation – and sponsored by the National Board of Catholic Women in England and Wales – as the fundraising model for their first project.

The fundraising was successful to a degree that it caught the eye of the Church's establishment. In 1961 the Family Fast Day was already being supported by the Cardinal and Archbishop of Westminster, William Godfrey, and his private secretary Mgr Derek Worlock (who later became one of Cafod's trustees when the fund was incorporated into the Church structures). Cardinal Godfrey and his private secretary Mgr Worlock also became integral in launching Cafod (Godfrey was a traditionalist and argued against the Second Vatican Council whose documents have become an essential reference in justifying the work and agenda of Catholic charities in modern times). Mgr Worlock advised the National Board of Women's Organisations to register their fund as a charity: "both to keep on the right side of the law and to save paying income tax" (Orchard, 1986-7:5). Thus the Family Fast Day Fund was registered with the Charity Commission on 5 July 1961 with a governing document titled "public appeal charity on 24 February 1961" whose objective was "the relief of poverty in Rosean [sic] on the island of Dominica in the West Indies" (Charity Commission, 2011a). It was removed from the registry in 1968. The role of the Cardinal, Orchard points out, was a pastoral letter written by Cardinal Godfrey in support of the objectives of the charity and to promote Family Fast Day in the parishes. In his letter addressed to the Archdiocese of Westminster Godfrey states:

We propose to respond to the appeal for a Family Fast Day on Ember Friday, 24th February. What we save, thereby, can be offered for the hungry and starving. Such a sacrifice would be very much in the spirit of Lent, for it would touch both palate and purse. Something could be saved too in our care of pets. They also could benefit by being fed with less expensive foods. A plump and pampered poodle might run all the more gaily after a reduced diet on simpler fare and, perhaps, a denied visit to a hair stylist. (Godfrey, 1961:10)

Cardinal Godfrey presented a pastoral letter at Westminster and “appointed [the pastoral letter] to be read in all the churches and chapels of the Diocese” (Godfrey, 1961:11). The cardinal urged the idea of Family Fast Day strongly “We commend it earnestly to all families of Our flock. We are asking Our priests to explain to you at the beginning of Lent this idea of the Family Fast Day” (Godfrey, 1961:10). The support of the archbishop and the endorsement of the idea in his pastoral letter that was “to be read in all the churches and chapels of the Diocese” (Godfrey, 1961:11) made an institutional difference for the legitimacy of Cafod's beginning. The mention of pampered poodles, triggered a response of readers' letters in the Catholic Herald where a poodle dog was offered for auction for the appeal which a bishop then purchased for £25 as a donation to the Family Fast Day fund.⁴⁸

The decision of the Catholic Church of England and Wales to establish a Catholic fund for international development was mainly a response to the success of the fundraising appeal of Family Fast Day. The first fundraising in 1960 raised £6,673 and by 1962 this figure was £50,932 (almost eightfold increase). The reason, according to Orchard, was that “[b]y this time the hierarchy was getting worried by the success of our campaign, and the amount of “Catholic” money we were gathering in” and that it was all going to one place. The National Board was therefore informed “that the hierarchy was going to set up a new fund for charitable work overseas which would incorporate Family Fast Day” (Orchard, 1986-7:10). In 1962 Cafod was established as “the official overseas development and relief agency of the Catholic Church in England and Wales” (Catholic Church in England and Wales, 2011e). Cafod was initially an acronym for Catholic Fund for Overseas Development but was changed in 2000 to Catholic Agency for Overseas Development (Hitchen, Fitzalan-Howard, et al., 2009:1, footnote1).

⁴⁸ The responses were directed both to the National Board and the Bishops Office (House) and led Mgr Worlock to publish information about the Family Fast Day fundraising in the media (Orchard, 1986-7:6-7). I have however been unsuccessful in verifying any articles by Worlock or Godfrey regarding Family Fast Day in the years between 1959-1963 in the newspaper archives as mentioned in Orchard's pamphlet.

The reasons Orchard attributes to the success of Family Fast Day in the UK were the association with the World Union hunger campaign and the pastoral letter by Cardinal Godfrey endorsing Cafod's cause. Prior to this, however, the National Board had written letters to ask parish priests to mention Family Fast Day in their mass. They were asked to explain the idea of Family Fast Day in their mass to promote the cause and raise funds for Cafod (Orchard, 1986-7:5). This is still an important venue for promoting Cafod's work, providing access to Catholic parishioners through the priests' ecclesiastical territory. However, the reception of Cafod is mixed and maps onto other debates within the Catholic Church that are related to the Second Vatican Council and its documents. Some priests welcome the promotion of Cafod in their mass and dedicate special masses to Cafod and its cause. Others are less keen on promoting Cafod with some parish priests actively refusing any promotional material related to Cafod (Interview 5, 2009). Parish priest can thereby be seen to be acting as gatekeepers granting access to their parishioners when they accept Cafod's legitimacy claims.

In terms of Korten's (1990) generations of NGOs Cafod has evolved, like many other NGOs, from being a first generation 'charity to the poor' NGO to becoming more professional and corporate in its approach. Cafod is primarily a partnership agency; it is Cafod's partners not Cafod that implement the programmes. Cafod's implementation projects is primarily based on the network of Catholic Churches where Cafod works. For example, Cafod operates in Zimbabwe through bilateral arrangements with Caritas Zimbabwe and Caritas Zimbabwe hires partners in local communities that then implement Cafod's projects (Interview 5, 2009; Interview 6, 2009). However, Cafod is in charge of accountability and reporting (Interview 8, 2009). The widening agenda of fourth generation NGOs includes increased emphasis on political structures and political agendas which has made NGOs more politically astute players in national and international politics (Korten, 1990). When Cafod became an official agency of the Bishops' Conference in England and Wales (the administrative and policy level of the Church) it became an embedded unit in the hierarchy. However, it has kept links with

the women's organisations. The Catholic Women's Organisation (now League) still operates and supports Cafod's work through its relief and refugee fund (Catholic Women's League of England and Wales, 2009a:3; 2009b). The National Board remains a consultative entity to the Bishops' Conference (Catholic Church in England and Wales, 2011a) and continues to work with Cafod (National Board of Catholic Women, 2011). The World Union has strengthened its structural ties with the Church and in 2006 it was granted a canonical status with the Holy See as a public international association of the faithful (Barrientos, 2007).

The early history of Cafod shows that it was reliant on Catholic networks, both lay organisations such as the network of the women's organisations and the hierarchy of the Catholic Church. These channels disseminated the idea of Family Fast Day and raised the funds that were the main income of Cafod's first years. Although the Catholic women's network (the local, national and international entities) was the instigator of the idea it was nonetheless reliant upon the Church's approval for its takeoff and success; both in terms of using Catholic relationships, such as the World Union and the Social League in Dominica, and in terms of the formal support it received from the hierarchy (Cardinal Godfrey). The historical context demonstrates that Cafod's legitimating principle is its Catholic identity. It is through its Catholic identity that Cafod gained access to other Catholic networks, gained institutional support and eventually was embedded in the Catholic Church. This is crucial for assessing Cafod's legitimacy claims because it enables one to understand both that Cafod's claim to legitimacy is ultimately Catholic and that being a Catholic agency affects Cafod's legitimacy claims. That is, Cafod does not claim constitutionally generated legitimacy (as is the case in my previous two case studies albeit differently) but is dependent on legitimacy granted from the Holy See through the Catholic Church of England and Wales.

When Cafod was integrated into the hierarchy of the Catholic Church officially it became subject to the Roman Curia of the Holy See. This institutionalisation

strengthened Cafod's institutional legitimacy and structured its mandate. It is the Holy See that provides the normative underpinnings of Cafod's legitimacy claims as its authoritative source of legitimacy. Assessing Cafod's legal legitimacy thus goes beyond its charitable registration in the UK and is directly related to understanding its agency and function in the Holy See hierarchy where Cafod's legal legitimacy is based on the premise that it communicates what the hierarchy teaches (Pope John Paul II, 2004a). By drawing an analogy with the early groups of Catholic action it can be said that Cafod is empowered with an apostolate mandate that belongs to the learning (lay) side of the Church. Its function is to carry out the gospel as a lay organisation through its social action. The mandate to teach the gospel belongs to the Holy See hierarchy by divine right. This distinction between teaching and learning is the distinction the hierarchy makes between clergy and lay. According to this, Cafod is a lay organisation with an apostolate social mandate from the hierarchy whose function it is to communicate what the hierarchy teaches (Oliveira, 2006 [1943]:283-285).⁴⁹ This is crucial to understanding Cafod's Catholic agency and the legitimacy challenge this involves is highlighted later in the chapter's embedded case study. I now turn to analyse the power relationship between Cafod and the Church in order to assess how Cafod, not only claims legal legitimacy, but also how it justifies its Catholic agency as a faith-based NGO.

The institutional context of Cafod's authoritative sources of legitimacy: the Holy See and its documents

According to Beetham legal validity, the rule of law, is 'a necessary first step' in the legitimisation of power:

"[this is] ensured by the fact that established rules provide the recognised source of entitlements, and because a generalised respect for rules is the condition for any social order or settled expectations. That it is *no more* than

⁴⁹ In his book Oliveira is explaining the mandate of Catholic Action as a lay organisation of Catholics who albeit not participants of the hierarchy have an apostolate mandate from the hierarchy and 'exercise functions of hierarchical character' (Oliveira, 2006 [1943]:6). Catholic action came to influence social and political processes through Christian political parties at the onset of democracy (Benigni, 1908). The Catholic action mandate is largely attributed to Pope Pius X's encyclical in 1905 on Catholic action in Italy (Pope Pius X, 1905). Catholic action is sometimes associated with conservative Catholics and social action with liberal Catholics.

a first step follows from the fact that rules cannot justify themselves simply by being rules, but require justification by reference to considerations which lie beyond them." (Beetham, 1991:69)

In order to explain Cafod's legal legitimacy as a Catholic agency it is necessary to examine the institutional context of how Cafod claims legitimacy. This includes not only Cafod's legal status and registration but also the authoritative sources of its normative purposive statements. It is important to identify Cafod's institutional context of legal legitimacy because it contains the sources that provide justifications for Cafod's legitimacy claims. The institutional context for Cafod's internal organisation of power is the Holy See. It is the ultimate authority for Cafod's legal legitimacy and Catholic identity. The following is an analysis of how Cafod is subject to the authority of the Holy See and the Catholic Church as expressed in Church documents for its legitimacy claims. Because the Holy See is a vast and complex institution I stress that the section only outlines those aspects that are most relevant for Cafod's legitimacy claims. I start with analysing Cafod's legal legitimacy by explaining the power relationship between Cafod and the Holy See. Then I turn to the normative sources of Cafod's legitimacy claims that the hierarchy provides, which are the documents and teachings of the Second Vatican Council because "[i]t is the impressiveness of the source from which they derive as well as the moral persuasiveness of their content that gives social rules their justifiability" (Beetham, 1991:70).

The Holy See is the apostolic seat of the universal Roman Catholic Church. It is presided over by a pope who has Episcopal jurisdiction over the universal Catholic Church (Pope John Paul II, 1983:canons 349-359). The central governing system of the Holy See is the Roman Curia. Alongside the Curia, bishops are involved in the governing of the Holy See through the college of bishops and the synod of bishops. The governance of the Holy See is based on apostolic constitutions of which, in this context, *Pastor Bonus* is most relevant. The legal system of the Holy See is the Code of Canon

law (Pope John Paul II, 1983). One of the main economic supports of the Holy See is a levy on Catholic dioceses from around the world.⁵⁰

The governance of the Holy See is in the hands of the pope. The pope is assisted by the college of bishops and the synod of bishops. The former includes bishops who exercise power over the universal Church through their voting rights in an ecumenical council (Pope John Paul II, 1983:canons 337 and 339). The latter is composed of bishops that counsel the pope on ecclesiastical discipline but do not have voting rights or formal authority to resolve problems (Pope John Paul II, 1983:canons 342-343). The synod of bishops was one of the main outcomes of the Second Vatican Council in an effort to engage the universal Church more directly with its dioceses around the world but whose power remains limited to deliberation forums of pastoral and doctrinal relevance (Holy See Press Office, 2010).

The Roman Curia is the administrative and executive unit of the pope and operates in his name as the supreme power of the universal Church (Holy See, 2011d). The main role of the Curia is to regulate the Church; it is the governing body of the Church. The Curia is associated with the conservative forces of the Holy See (Wilde, 2007:5). However, despite its traditional stronghold of power in the Holy See the power of the Curia was ‘truncated’ during the Second Vatican Council during a battle between conservative and progressive forces within the Church.⁵¹ The latter were able to

⁵⁰ Part of the Holy See is the Vatican. The Vatican is a sovereign city-state that came into existence in 1929 when the Holy See negotiated a treaty with Italy (Gasparri and Mussolini, 1929). It is a sovereign monarchy ruled by ecclesiastical government and shares its head of state with the Holy See, the pope. Although the pope holds full legislative, executive and judicial powers, Ratzinger has argued that the monarchy of the pope is not absolute but rather that he serves as a reference point for a community of local churches (quoted in: Hirpinus, 2002). The function of the Vatican city-state is to serve the Holy See as “an instrument of the independence of the Holy See, and of the Catholic Church, from any earthly power” (Uffici di Presidenza S.C.V., 2011a, 2011b). The diplomatic relations of the Vatican are however carried out by the Holy See, which renders the Holy See a sovereign position under international law (Das, 2007:361; Lindblom, 2005:64, footnote42).

⁵¹ Note that there are many subgroups and different theological emphases within the church that merit more detail than I have space for here, this is therefore a broad categorisation. I have chosen to use the labels conservative and progressive although other labels are also used, such as traditional, Thomists (after Thomas Aquinas) and orthodox Catholics. The conservatives tend to favour traditional mass, arguments of dogmatic infallibility and natural law theories. The progressives are also called liberals and are associated with the outcomes of the Second Vatican

organise their vote in a democratic fashion that enabled their progressive agenda to come through in the Second Vatican Council and brought about the synod of bishops (Wilde, 2007:15-16; 13-28).

The Curia is comprised of twelve departments. These include the Secretary of State, Congregations, Tribunals and Pontifical Councils along with administrative units (Holy See, 1998, 2011d). The highest office of the Curia is the Secretariat of State (Holy See, 2011e). For the purpose of my argument I highlight here the Pontifical Council of Justice and Peace, the Pontifical Council Cor Unum, and the Congregation for the Doctrine of the Faith. These are important for understanding the institutional context of Cafod's legitimacy claims.

The Pontifical Councils oversee particular activities of the Holy See. In general, the Pontifical Councils are administrative offices for specific topics that relate to the Church's interests, such as peace and development, migration, and health (Holy See, 1998). The Pontifical Council of Justice and Peace has jurisdiction over Catholic charities that deal with social justice and development in the name of the Catholic Church. It was created after the Second Vatican Council to oversee 'the social arm' of the Church in modern times. It is governed by bishops who report directly to the pope (Holy See, 2011c). However, the Pontifical Council Cor Unum is the supervisor of Caritas International legal status and responsible for Caritas's policies that require vetting by the council prior to enactment as it deals with intergovernmental offices.

The Congregations are the oldest dicasteries (legal courts) of the Curia. Their historic role has been canonical discipline. The oldest, and perhaps most renowned, is the Congregation for the Doctrine of the Faith (Holy See, 2011a).⁵² Its purpose is "to

Council. They tend to look favourably on the social aspects of the Church, that is charity as the social arm of the Church, and putting faith into action. Liberals also look more benignly on the influence of enlightenment on the Church.

⁵² This congregation is also known as the Holy Office but is perhaps best known from its historical function as the Universal Inquisition. It was established in 1542 as the Supreme Sacred Congregation of the Roman and Universal Inquisition. It has undergone the following name changes

promote and safeguard the doctrine on the faith and morals throughout the Catholic world” and defend Christian tradition where it is “in danger because of new and unacceptable doctrines” (Holy See, 2011a). According to the apostolic constitution, Pastor Bonus, the Congregation for the Doctrine of the Faith also carries a censorship role where it examines:

writings and opinions that seem to be contrary or dangerous to true faith, and, if it is established that they are opposed to the teaching of the Church” [it guarantees that] “errors or dangerous doctrines [...] do not go without apt rebuttal. (Holy See, 1998:Art.51(1-3))

Serious offences against the faith, as judged by the Congregation, can lead to an “imposition of canonical sanctions in accordance with the norms of common or proper law” (Holy See, 1998:art.52). The accuracy of doctrinal interpretations as set by the Congregation has implications for Cafod's ability to make legitimacy claims as a Catholic agency. For example, in the case of the ‘condom issue’ it was the Congregation for the Doctrine of the Faith that issued a public statement to clarify the position of the pope on the use of condoms. Cafod’s endorsement of condoms in its HIV policy is an example of Cafod explicitly participating in the debate about birth control, as set out by the pope in *Humanae Vitae* (Pope Paul VI, 1968), on which the Church is divided. When Cafod's legitimacy was challenged in the UK, Cafod had to seek ecclesiastical support and ask its trustees to issue a statement about Cafod's work being legitimate and within the realms of the Church’s teaching (see below). Before proceeding to a discussion on the normative sources of Cafod's legitimacy claims I first outline the status of Catholic NGOs in canon law. This clarifies why Cafod is not a representative of Caritas International but of the Church.

The Code of Canons as an authoritative source of Cafod's Catholic agency

The sovereign legal system of the Catholic Church is the Code of Canons (Pope John Paul II, 1983). The hierarchy of associations that represent the Holy See is outlined in the Code of Canons depending on their geographical status; international, national and

since then: the Supreme Sacred Congregation of the Holy Office in 1908; the Sacred Congregation for the Doctrine of the Faith in 1965 at the Second Vatican Council; and in 1988 Sacred was dropped and it is now known as the Congregation for the Doctrine of the Faith (Holy See, 2011a).

diocesan (Pope John Paul II, 1983:canons 298-329). Canon law clarifies the territorial responsibilities of different Church entities over Catholic associations such as Cafod and Caritas International. Under canon law Cafod is classified as a national association and Caritas International as an international association and this has implications for how they are governed under the Holy See hierarchy. An organisation that wishes to use the word 'Catholic' in their title needs to consult an ecclesiastical authority according to the canon law. Canons 300 and 312 specify that a permission is required from the Holy See for international associations, the Bishops' Conference of a particular territory for national associations, and a diocesan bishop for diocesan association (Pope John Paul II, 1983:canons 300 and 312). This applies to all Catholic associations. For example, Caritas International is accountable to the Holy See, Cafod is a national organisation and accountable to the Bishops' Conference in England and Wales, but the Catholic Women's Organisation is a diocesan organisation and accountable to its diocesan bishop. The canonical status of Cafod means that Cafod is subordinate to ecclesiastical discipline overseen by the Bishops' Conference of England and Wales (Catholic Bishops' Conference of England and Wales, 2001:1).

The overseas development agencies of the Catholic Church are organised in a confederated network that is coordinated by a head office, Caritas International (also called by its Latin name Caritas Internationalis). Cafod is a member of Caritas International and the Caritas network is its preferred partner (Interview 7, 2009). Cafod along with Sciaf in Scotland and Troicare in Ireland are notable exceptions to the use of the term Caritas in their title but all are members of Caritas International. There is also a Caritas UK organisation registered with the Bishops' Conference of England and Wales but it is considerably smaller in scope and size than Cafod. The relationship between the national member organisations of the confederation and their headquarter office, Caritas International, is different compared to my other two case studies. In my other two case studies, the legal legitimacy of the UK national offices is based in national law and their organisation of power intrinsically dependent on their respective international office that is also based in national law. In the case of Cafod

and Caritas International, both offices have an independent relationship with the Holy See based in canon law. Caritas International has an ecclesiastical status with the Holy See whilst Cafod has a canonical status that is regulated and organised through the Catholic Church in England and Wales.

Caritas International is a public juridic person; a “competent ecclesiastical authority” (Pope John Paul II, 1983:canons 116-123). An Ecclesiastical Advisor appointed by the Holy See supervises the ecclesiastical role of Caritas International by retaining right to participate in Caritas’s activities at the institutional level. The Pontifical Council Cor Unum is responsible for the activities of Caritas International at the international and regional levels and receives Caritas’s documents before their publication (the particular responsibility of this Pontifical Council is international organisations in the world). Caritas International has also to comply with the Secretary of State of the Roman Curia in matters regarding international organisations. Furthermore Caritas International has to cooperate with various Pontifical Councils when it comes to specific matters (such as health and migration) as defined by the apostolic constitution of Pastor Bonus (Holy See, 1998). Based on its canonical status, even the location of the office of Caritas International is subject to the authority of the pope (Pope John Paul II, 2004b).

Cafod’s claim to legal legitimacy, although subject to UK charity law (as discussed in chapter four), is ultimately based in the documents and canons of the Holy See hierarchy. Thus, the relationship between Cafod and Caritas International is fundamentally different from the relationship between Greenpeace UK and Greenpeace International or Amnesty International UK and Amnesty International. Unlike the latter two whose internal organisation of power is embedded in their international offices, Cafod’s internal organisation of power is embedded in the Holy See not Caritas International. The Catholic Bishops’ Conference in England and Wales holds a directory of Catholic organisations. In order to enlist, a Catholic organisation must fulfil the following criteria:

A fundamental commitment to the teaching and practice of the Catholic Church, particularly as expressed by the documents of the Second Vatican Council and the Catechism of the Catholic Church [...] The word 'fundamental' relates to the key objectives of the organisation as formally written and as corporately pursued. It is tolerant of some variety of emphasis in expression and in operation, but not of deviation from ultimate loyalty to the Church, nationally or internationally. (Catholic Bishops' Conference of England and Wales, 2001:2)

This statement affirms that Cafod, as an enlisted Catholic organisation of the Bishops' Conference, derives its legitimacy from the Holy See as a Catholic agency of the universal Catholic Church.

It is the Catholic Church as a universal entity that provides the legal and normative sources for assessing Cafod's 'legitimacy-in-context'. The Holy See is the institutional embodiment of the system of power that Cafod belongs to as a Catholic agency; the structure that can "sustain and reproduce its legitimacy beliefs, or systematically undermine them over time" (Beetham, 1991:22-23). However, there are two dimensions to take into account here. One is the Holy See that represents the international superstructure of the universal Catholic Church and is the ultimate authority for Cafod's legal legitimacy claims that justifies Cafod as a Catholic agency. The other is the Catholic Church in England and Wales which represents the national dimension of the universal Church and supervises the ecclesiastical regulation of Cafod. Together these are the sources for Cafod's legal and regulatory legitimacy claims. I now describe the internal organisation of power within Cafod according to its Trust Deed to clarify the organisational authority the Catholic Church of England and Wales holds over Cafod as its regulator.

Cafod as an institutionally embedded agency of the Catholic Church of England and Wales

The justifiability of rules in Cafod's case lies mostly within the hierarchy of the Holy See. The power relationship with the Catholic Church is further elaborated in Cafod's Trust Deed. It demonstrates Cafod's internal organisation of powers and how Cafod is accountable to the Church through the trustees. It is worth reiterating that Cafod's

accountability regarding its legal legitimacy is primarily to the Church as a Catholic agency.

When the Family Fast Day charity was formally integrated into the Catholic Church of England and Wales the agenda items of its first meeting were centred on the process of integration. According to Orchard, the agenda was about how the Family Fast Day would be organised within the new fund, how the new fund should be organised, what should be its title and objectives, and now it was part of the Catholic Church what was the part to be played by Catholic organisations (Orchard, 1986-7:11). Hugh Ellis-Rees was the first administrator of Cafod.⁵³ The early work areas of Cafod were split into three: Projects that covered the work in Dominica; Fundraising that covered arrangements of funds (Family Fast Day, Self Help groups, and Friday Self-denial groups etc.); and Development Education that was “to make people aware of their Christian duty” (Orchard, 1986-7:11).

The earliest accessible document is Cafod's Trust Deed from 1982 signed by the original trustees of Cafod. The original trustees are Right Reverend Hitchen, His Grace Fitzalan-Howard Duke of Norfolk, and the previous private secretary of Cardinal Godfrey, now Most Reverend Worlock. The 1982 deed is, with amendments, Cafod's current statutory document (Hitchen, Fitzalan-Howard, et al., 2009).

The deed articulates the powers of the trustees. The trustees are separated into Original Trustees, Foundation Trustees and Trustees. Cafod is a trust fund that is held upon trust by these trustees to carry out the objectives of Cafod in consultation with its director. The organisational objectives of Cafod according to the deed are: relief of poverty, advancement of education, advancement of the Christian religion, relief and prevention of sickness disease and physical or mental disability, and other charitable purposes “anywhere in the world as are for the benefit of the United Kingdom

⁵³ Sir Hugh Ellis-Rees was a high-ranking civil servant economist that had led British delegations at the OEEC and a World Bank economic mission to Spain during 1950s. He retired in early 1960s from office at the HM Treasury (Newton, 1984:398, footnote 24; OECD, 2011).

Community” (Hitchen, Fitzalan-Howard, et al., 2009:section 2). All of the objectives are universal in scope.

The functions of the trustees are identical but the powers differ between foundation trustees and trustees. The foundation trustees (minimum of four) can only be appointed with approval from the Catholic Bishops’ Conference of England and Wales (Hitchen, Fitzalan-Howard, et al., 2009:sections 1(aa,b) and 7(1,2)).⁵⁴ The foundation trustees have more power than regular trustees as they can hire and dismiss any number of additional trustees without permission (Hitchen, Fitzalan-Howard, et al., 2009:section 7(2B)).

Twenty-five clauses define the powers of the trustees. Of these, ten clauses are exclusively entrusted to the foundation trustees. This includes hiring of secretaries such as the director and other staff of Cafod (Hitchen, Fitzalan-Howard, et al., 2009:section 3(5)). All trustees, however, have powers to make rules and regulations for the management and administration of Cafod, to promote development projects for poverty relief, and to audit Cafod's accounts as they see fit (Hitchen, Fitzalan-Howard, et al., 2009:section 3(1,2,3,21)).

The governance of Cafod is in the hands of trustees and a board and executed by Cafod’s director and a team of five divisional directors that together form a corporate leadership team. A bishop from the Catholic Church of England and Wales chairs the board of Cafod (see appendix for organogram). The governing regime of the Holy See requires that Catholic agencies, like Cafod, report to the Bishops’ Conference of England and Wales, who report to the Bishops’ Conference of the Holy See that is

⁵⁴ The Catholic Church is administered by a conference of bishops. There are 34 bishops that preside over 22 dioceses across England and Wales. Together they form the Bishops’ Conference of England and Wales that is funded by a levy on each diocese (Catholic Church in England and Wales, 2011b, 2011c). The administration of the Catholic Church of England and Wales is incorporated in the Catholic Trust for England and Wales. The Catholic Trust is a company and a registered charity presided over by the Bishops’ Conference and has a close relationship with Cafod (Catholic Trust for England and Wales, 2009:7). In practice, the bishops have legal ownership of the Church via the trust under English law. However, their legitimacy is derived from the Holy See because the bishops receive their power through ordination by the pope and act as his agents in England and Wales.

answerable to the pope. The internal dimension of legal legitimation is aligned with the hierarchical governing structures of the Holy See.

Because Cafod's legal form is a trust it is governed by a trust deed and not a constitution which means that it is not a democratic organisation in the sense that its board and directors are not elected (Interview 8, 2009). It is officially in the 'social arm' of the Catholic Church along with other charities of the Bishops' Conference whose aims are to realise the social policy of the Catholic Church in England and Wales as laid out in the Common Good report (Hume, 1996). Cafod is not governed by members, but entirely by its trustees and executives who are hired by the Bishops' Conference in the name of the Catholic Church. Cafod's decision making processes are thereby not democratic in the sense that issues cannot be put forth for voting at annual general meetings; there are no members with designated voting rights as in NGOs that are governed by a constitution and voting members. However, two things should be noted here: first that Cafod is a lay organisation and being a Catholic is not a prerequisite for working in Cafod, and second that despite the fact that Cafod is not democratically organised supporters of Cafod can influence its policy (Interview 7, 2009).

According to the above it is clear that the executive power of Cafod is in the hands of the bishops and that the organisational objectives of Cafod are grounded in the ecclesiastical hierarchy of the Holy See. Although the executive team is responsible for the daily running of Cafod and the trustees are responsible for hiring the executive team, there is considerable interaction on behalf of the trustees with Cafod's daily governance. The foundation trustees together with other trustees form the board of trustees. The Board meets four times a year with Cafod's executive team (Corporate Leadership Team) of which one is a residential weekend "to allow deeper understanding of Cafod's programme work" (Cafod, 2009:2). The Trustees get involved in Cafod's executive level "to ensure that collectively they have the overview necessary for the proper governance of Cafod" (Cafod, 2009:2). It is also important to

note that in the Trust Deed Cafod's purpose is more aligned with the purpose of the Catholic Church than what is expressed in Cafod's mission statements, corporate documents and in documents retained by the Charity Commission.

Cafod is officially an agency within the department of international affairs (one of six) of the Bishops' Conference of England and Wales. Because Cafod is an official agency of the Catholic Church it carries out executive functions in the name of, and is therefore answerable to, the Bishops' Conference (Catholic Church in England and Wales, 2011a). Although Cafod is regulated by the Charity Commission and has to comply with UK charity law, the moral agency and ecclesiastical accuracy of Cafod's application and interpretation of the Catholic social teaching is regulated by the bishops as stated in the Catholic Directory of England and Wales (Catholic Bishops' Conference of England and Wales, 2001).

The documents that are the source of Cafod's normative legitimacy are the documents of the Second Vatican Council. These have come to constitute a body of teaching that is referred to as Catholic social teaching. The ecclesiastical guidelines that Cafod follows under the auspices of the Catholic Church in England and Wales are explained in the report *The Common Good*. *The Common Good* explains how the Church's public policy is informed by the Catholic social teaching and how Catholic social teaching can be applied to British society (Catholic Church in England and Wales, 2011d; Hume, 1996). Although the Church of England and Wales supports Cafod as its agency, it by no means represents unanimously the complete Catholic community in those territories. The competing views of Catholics in the UK over the legitimacy of Cafod are in fact competing over normative sources; reflecting a wider debate within the universal Catholic Church, namely between 'conservative' and 'liberal' forces. The bone of contention is the Second Vatican Council, in particular the documents it produced which have become the main source for Cafod's normative legitimacy claims and a way of justifying their organisation of power in the name of the Church. The tension that is intertwined into the documents of the Second Vatican Council supersedes the

organisational divide between the international (Holy See) and the national (Catholic Church in England and Wales), as it harbours a fault line between competing factions over the interpretation and status of these documents.

The Beethamite framework enables an assessment of Cafod's legitimacy claims in a way that the theories described in chapter two bypass. The default starting point of most of these theories would be to focus on Cafod's service providing abilities and contracts and judge their legitimacy in terms of their performance in meeting their stated targets. Having explained the legal and regulatory sources of Cafod's legitimacy claims I now turn to the documents that provide the justifications for the content of Cafod's legitimacy claims.

The Second Vatican Council and Catholic social teaching: Cafod's 'institutional testimony'

The institutional integration of Cafod in the Catholic Church is crucial for its claim to legitimacy. The Holy See and its documents provide the context and sources for Cafod's legitimacy claims. In 1971 the Synod of Bishops proclaimed that "[t]he Church has the right, indeed the duty, to proclaim justice on the social, national and international level" (quoted in: Walsh, et al.,1984:vii). For an organisation like Cafod that is part of enacting this proclamation the encyclicals and documents that the Holy See produces, and constitute Catholic social teaching, are crucial for justifying its legitimacy claims. These are, according to the Archbishop of Westminster, 'the Church's guidance' for organisations like Cafod that strive "to put the Gospel into practice within modern society" (quoted in: Walsh, et al.,1984:vii). Cafod as a charitable organisation that has been entitled by canons to register as a Catholic agency in the name of the Catholic Church, is part of the Church's 'institutional testimony':

In addition to the personal testimony of faith and holiness for which individual believers are responsible by virtue of their Baptism, the Church is also called to give an important institutional testimony before the world.

For this reason, the Risen Lord's command to make disciples of all nations and to teach them "to carry out everything I have commanded you" (Mt 28:19-20) must be the indispensable reference point for every activity of the Church. Her many religious, educational and charitable institutions exist for

one reason only: to proclaim the Gospel. Their witness must always proceed *ex corde Ecclesiae*, from the very heart of the Church. It is of utmost importance, therefore, that the Church's institutions be genuinely Catholic: Catholic in their self understanding and Catholic in their identity. All those who share in the apostolates of such institutions, including those who are not of the faith, should show a sincere and respectful appreciation of that mission which is their inspiration and ultimate *raison d'être*. (Pope John Paul II, 2004a:n.1, italics original)

Cafod's mandate as a Catholic agency thus places Cafod in a subordinate position to the Holy See hierarchy. In the institutional context of the Church the pope is the ultimate authority for accountability. Although there are democratic elements in the form of consultation, such as the synod and college of bishops, the pope presides over the Curia, the Vatican city-state, and the Holy See (the administration, the monarchy and the apostolic universal Church), and although his powers may not be absolute they are ultimate. The rules are set by the Holy See and justified with a body of normative teaching that includes, along with the Bible, the teachings of popes, bishops, and various dicasteries of the Curia found in a variety of documents (*Ad Limina*, *Motu proprio*, *Encyclicals* and more).

It is the Holy See that holds the authoritative sources that justify Cafod's legitimacy claims, whether legal or moral. However, Cafod is a lay organisation and its *modus operandi*, as the social arm of the Church, is to solve problems it encounters in its fieldwork and partnerships. This can potentially expose Cafod to an internal legitimacy deficit between the principles it advocates in the name of the Catholic Church as its official agent and the secular reality of the problems it is trying to solve (Interview 5, 2009). In order to examine this I focus on the documents produced by the Second Vatican Council that have come to represent Catholic social teaching as the authoritative sources that justify the content of Cafod's legitimacy claims.⁵⁵ I intend to demonstrate how this takes precedence over other potential legitimacy sources (secular) because of Cafod's Catholic identity and institutional embedding in the Holy

⁵⁵ There are a number of documents that comprise Catholic social teaching. A number of these are not cited here as I only cover those documents that are important for the context of Cafod. For more details on Catholic social teaching see the bibliographical addendum to chapter seven.

See (the legitimacy challenge resulting from Cafod's Catholic identity is discussed in the following section of the embedded case study).

The 'social question' had been raised in Catholic circles before the Second Vatican Council and the encyclical *Rerum Novarum*, published in 1891, is considered to be the founding document (Pope John Paul II, 1987; Walsh and Davies, 1984). In their comprehensive overview of the encyclicals of the Second Vatican Council, Walsh and Davis explain the *Rerum Novarum* as a belated response to the communist manifesto, and point out that its publication coincided with the year that the Italian socialist party was founded (Walsh and Davies, 1984: xiii; see also Wilde, 2007:70, 89). The encyclical was however also associated with the conservative faction and the Catholic action 'movement' (Benigni, 1908; Oliveira, 2006 [1943]). *Rerum Novarum* became the "first great social encyclical" (Walsh and Davies, 1984: xiii), that was about "presenting and putting into practice a Christian solution to the social question" (Taveiro, 2006:xviii).

The encyclicals associated with the Second Vatican Council have since developed into a comprehensive teaching on social justice that has also come to supply Cafod with normative justifications. The second Vatican Council was called by Pope John XXIII in 1962 to renew the relations of the Holy See with the modern world by engaging in a dialogue with democracy. It lasted three years and was closed in 1965 by Pope Paul VI. Both popes declared that the Second Vatican Council was of pastoral, not dogmatic, significance contrary to the First Vatican Council (1869-70) that was conservative in direction and proclaimed papal infallibility, that is doctrinal statements made by the pope are exempt from, even the possibility of, error (Wilde, 2007:60). The documents published by and after the Second Vatican Council in the period between 1961 and 1981 are considered to be of pastoral status (Walsh and Davies, 1984:xi). Although the documents are not considered infallible they are regarded to contain authoritative teaching that provides Catholics with moral standards set by the pope (Hume, 1996; Walsh and Davies, 1984:xxi, footnote 1). Cafod is inspired by the Catholic social

teaching which it regards as authoritative as the “Catholic Church’s ethical framework for analysing the economic, social and political realities of the world we live in” (Cafod, 2003).

The ecclesiastical treatment of the topics of politics and economics in these documents should not be confused with the science of these subjects which is secular. Celebrating the anniversary of *Populorum Progressio* the pope wrote: “The church’s social doctrine [...] aim is thus to guide Christian behavior. It therefore belongs to the field, not of ideology, but of theology and particularly of moral theology” (Pope John Paul II, 1987:section 41). The subjects of economics and politics as discussed in the encyclicals are, according to the Church, sub-branches of ethics and as such part of moral theology.

The two documents that introduce the theological justification for Catholic charity ‘in the modern world’ are the pastoral constitution *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World) (Pope Paul VI, 1965) and the encyclical *Populorum Progressio* (Development of Peoples) (International Jesuit Network for Development, 2007; Pope Paul VI, 1967; Walsh and Davies, 1984).⁵⁶ Cafod refers to and cites these documents as its normative source for moral proclamation to legitimise its work (Cafod, 2003).

Populorum Progressio as a continuum and elaboration of *Gaudium et Spes* addresses more directly the development work of Cafod and Catholic charities in general. In *Gaudium et Spes* the problems of poorer nations are viewed to be “progressively resolved through development” whilst in *Populorum Progressio* the pope is more confrontational in addressing economic problems (Walsh and Davies, 1984:xiv). *Populorum Progressio* follows upon a theme from *Gaudium et Spes* on balance of trade between rich and poor countries. The encyclical touches upon a variety of principles:

⁵⁶ These documents are known and referred to by their Latin titles. I have maintained this to avoid confusion.

the right to a just wage; the right to security of employment; the right to fair and reasonable working conditions; the right to join a union and strike as a last resort; and the universal destination of resources and goods. The pope attacks free trade by rejecting “the notion of entirely free trade” due to the unequal status between rich and poor nations to a point where the pope “seems to be applying the criteria for a just war” although he does not follow through with that argument (Walsh and Davies, 1984:141).

Gaudium et Spes is the pastoral constitution of the Second Vatican Council (Holy See, 2011b). *Gaudium et Spes* is considered to contain the gesture of opening a dialogue between the Church and democracy: “Its description of the free society as having three parts – democratic political community, free economy and vibrant public moral culture, the last being the most important” (Weigel, 2003). The themes in *Gaudium et Spes* are constructed around ‘peace and social justice’ in modern societies where peace is seen to be intrinsically bound up with justice as “a consequence of the right ordering of society” (and not merely the absence of war) (Walsh and Davies, 1984:xiv).

As the constitution of the Council, whose mission it was to modernise the Church, *Gaudium et Spes* carries more weight than *Populorum Progressio*. *Gaudium et Spes* addresses democracy and human rights and directly engages with matters of economics, poverty, and social justice in that context:

For excessive economic and social differences between the members of the one human family or population groups cause scandal, and militate against social justice, equity, the dignity of the human person, as well as social and international peace. (Pope Paul VI, 1965: part1, ch2, para29)

Human institutions, both private and public, must labor to minister to the dignity and purpose of man. At the same time let them put up a stubborn fight against any kind of slavery, whether social or political, and safeguard the basic rights of man under every political system. (Pope Paul VI, 1965: part1, ch2, para29)

Christians who take an active part in present-day socio-economic development and fight for justice and charity should be convinced that they can make a great contribution to the prosperity of mankind and to the peace of the world. (Pope Paul VI, 1965: part2, ch3, para72)

Economic development must ... not be left to the sole judgement of a few individuals or groups, possessing excessive economic power, or of the

political community alone, or of certain powerful nations. It is proper, on the contrary, that at every level the largest number of people have an active share in directing that development. (Pope Paul VI, 1965:para65)

When Cafod justifies its work and mission it turns to these encyclicals. Cafod claims that putting faith into action is an expression of social justice as envisioned by the pope in *Gaudium et Spes* and *Populorum Progressio*: “The Pope’s statements on debt provide inspiration and motivation for our campaigns work on issues of global poverty” (Cafod, 2003). At the higher level of its organisational objectives, Cafod is obliged to promulgate the social teaching as laid out by the Church (see discussion on the trust deed above). The mission of Cafod as described in Cafod’s 2010 annual report is fourfold: to work with poor communities; protect lives, relive suffering and reduce risks to vulnerable communities; educate about the causes of poverty and injustice; challenge those with power to promote social justice and end poverty (Cafod, 2010b:2). This is a variation of its organisational objectives as set out in Cafod’s trust deed (see above). There is less emphasis on evangelisation and more on education. Yet the essence of Cafod’s organisational objectives, and its mission, is Catholic social teaching. The documents are Cafod’s source for claiming normative legitimacy and a benchmark for Cafod’s moral authority. On its website Cafod is more explicit about its ecclesiastical embedding: “we work to enact Gospel values ... We put into practice the solidarity and communion for which the Church stands ... We are proud of our identity as a Catholic organisation” (Cafod, 2003). Cafod also claims that its vision, mission and values are formed by Catholic social teaching and that “The Pope’s statements and teaching on debt provide inspiration and motivation for our campaigns work on issues of global poverty” (Cafod, 2003). There is no mistaking that Cafod is a Catholic agency and derives its normative legitimacy from the Church’s social teaching.

Theological interpretations and controversy: the status of the Second Vatican Council documents

The status of the documents, and indeed the Second Vatican Council itself has, however, been questioned by conservative Catholics (Guimaraes, 1999; Rowland, 2005). Despite the progressive and liberating reforms achieved by the Second Vatican Council, the Catholic Church in Rome “has also gone in a very conservative direction

since the Council, especially in regard to issues of sexuality” (Wilde, 2007:127). The institutional embedding of Cafod in the hierarchy of the Holy See and its reliance on the documents of the Second Vatican Council makes Cafod vulnerable to the challenges put forth by conservative Catholics.

Gaudium et Spes was and is a controversial document in the sense that it sparked a debate within the Church that is ongoing. It is also “renowned for its theological imprecision” (Rowland, 2010). The argument put forward by conservative Catholics is that a pastoral document leaves an option for future popes to canonically annul the Council’s documents thereby leaving the Council vulnerable to being held in error and its documents technically non-authoritative “with no compromise to one’s Catholic faith” (TRADITIO Traditional Roman Catholic Network, 2010). According to Guimaraes (1999) the ambiguity of the texts of the Second Vatican Council have led the Church to make “grave doctrinal concessions” that deny the Church its superiority where “[a] messianic-religious socialism is advocated for society and a secular socialization for the Church as a result of the reversibility between the two spheres”, that is the temporal and transcendental spheres (Guimaraes, 1999:218-219).

As a pastoral constitution *Gaudium et Spes* was an attempt to reconcile the Church with modernity. As a consequence *Gaudium et Spes* had to strike a balance between different fractions and as such it is a complex document that “became the subject of a riot of interpretations” both within and between lay and clergy (Rowland, 2005:18). The criticism by the conservative forces in the Church was that “the document lacked the form of a constitution” especially since terminologies such as modern and culture that are frequently referred to in *Gaudium et Spes* are not clarified as constitutional concepts (Rowland, 2005:18). Rowland attempts to clarify what is meant by ‘modern’ in the context of ‘culture’ in *Gaudium et Spes* in light of the tensions between nature (secular-enlightenment) and grace (natural law) interpretations in Catholic theology. She concludes, contrary to prominent interpretations of *Gaudium et Spes* as a necessary step to ‘accommodate’ the Church with modern society, that the problem

inherent in the meaning of 'culture' needs to be engaged with by exploring the "theological significance of culture" – as opposed to a sociological or philosophical significance (Rowland, 2005:34). The argument posited by Rowland is that politics and economics are "sub-branches of the discipline of ethics that is intrinsically related to theology" (Rowland, 2005:29).

The implication of this theological debate – as to what degree should the ecclesiastical Church embrace the secular political and economic systems of modernity – is complicated when it comes to the social enactment of the faith by the Church's social arm. The justifiability of Cafod's legitimacy claims is reliant on the authoritative sources Cafod's claims and its Catholic identity rests upon. However, operating in the secular political systems of modernity Cafod is not immune to its influences. The dilemma of justifiability is reflected in the discrepancy between Cafod's Trust Deed that emphasises its religious purpose, and Cafod's corporate documents that emphasises its secular aspects. This is indicative of the different dimensions that Cafod occupies as a lay Catholic agency whose work is mostly carried out in secular circumstance and environment as a development NGO. Hence, when Catholics who disapprove of Cafod's secular stance want to challenge Cafod's legitimacy they do so by pointing to the theological uncertainty of Cafod's legitimating documents, the documents of the Second Vatican Council. Hence, when Cafod makes statements and policy claims about the prophylactic use of condoms to prevent harm, Cafod positions itself as liberal and is exposed to legitimacy challenges about the theological foundations of such claims, especially by conservative Catholics (this is discussed in the embedded case study below).

Catholic social teaching as the underpinning of Cafod's legitimacy claims' justifiable content (moral persuasiveness)

Despite the underlying tension over the canonical status of the Second Vatican Council, its documents have nonetheless developed into a coherent body of Catholic social teaching. The teaching has come to serve as a reference point for Cafod in justifying the content or moral authority of its legitimacy claims. The Bishops' Conference of

England and Wales introduces Catholic social teaching as a continuum in moral authority from the Second Vatican Council. It is the Church's attempt to enter modernity and become more 'systematic' in its 'thinking on complex contemporary realities' (Bishops' Conference of England and Wales, 2010; Cafod, 2003; Hume, 1996). The Archbishop of Westminster states the importance of Catholic social teaching as "something all Catholic ought to know about [and] Catholic parishes and Catholic schools are being urged to spread the word by whatever means they can (Hume, 1996:4) – as well as Catholics in positions to influence society (Hume, 1996:12). It is thus clear that Catholic social teaching is the underpinning of the moral persuasiveness of the Church's social engagement and actions extending to the agencies of the Bishops' Conference of England and Wales.

The Archbishop of Westminster states that the Church has come to fully embrace democracy and human rights through its Catholic social teaching (Hume, 1996:12, para34). He emphasises that the Catholic social teaching is not an optional teaching because it is integrated with "the rest of the Church's moral teaching" (Hume, 1996:14, para 43) reinforcing the view that politics and economics are ethical subjects in Catholic social teaching. Cafod's legitimacy is directly related to its ability to justify itself as a Catholic agency of the Church based on the documents of the Second Vatican Council, in particular the documents that comprise Catholic social teaching. These are the authoritative legitimacy sources that justify, not only the mission and objectives of Cafod but also the content of its legitimacy claims. The internal controversy present in the Church as evident in theological debates and factions about the status of these sources thus feeds into the debate about the justified authority of Cafod's legitimacy claims. Cafod's attempts at balancing ecclesiastical and secular principles in its HIV policy fuels this debate as I will now explain.

Cafod and the 'condom issue' – the justifiable content of Cafod's legitimacy claims and the challenge of a legitimacy deficit

The previous sections have explained the authoritative sources of Cafod's legitimacy. However, a Beethamite analysis also requires a scrutiny of the justifiable content of Cafod's legitimacy claims. That is, when assessing Cafod's legitimacy claims it is necessary to scrutinise not only the authoritative sources of Cafod's legitimacy claims (the Holy See and the documents of the Second Vatican Council) but also the justifiable content of the claims. This is where Beetham's 'principle of differentiation' and 'ideas of a common interest' are engaged to reveal the difference between Cafod's legitimacy sources and the content of Cafod's legitimacy claims (Beetham, 1991:69-77). The 'condom issue' refers to a legitimacy challenge that was imposed on Cafod when Cafod introduced secular sources to justify its HIV policy and thereby contradicted the official theological approach of the Holy See to sexual behaviour. I focus on the condom issue mainly as a debate between institutional forces of conservative theologians of the Holy See and liberal interpretations and applications of Catholic social teaching as adopted by Cafod. (The Catholic Church of England and Wales as the official governing body of Cafod is part of this debate, but I will only discuss their stance as an institutional link between Cafod's position and the official position of the Holy See on the condom issue.) Whilst Cafod's HIV policy contains secular sources for legitimising the use of condoms as a policy recommendation, the official stance of the Holy See is that condoms are not a solution to HIV and Aids. The liberal faction of moral theologians uses casuistry (instructive case analysis) and preventive care as its main grounds to justify recommendation of condoms as a medical prophylactic (Fuller and Keenan, 2000; McDonagh, 1994:11). The conservative faction, however, uses mainly encyclicals and traditional theological interpretations in their counterarguments (Ratzinger, 1988b; Rowland, 2005; Trujillo, 2003).

The 'condom issue': the challenge to Cafod's authoritative legitimacy sources

The condom issue presents a legitimacy challenge to one of Cafod's main policy areas, HIV and Aids. Since the public outbreak of HIV in the 1980s Cafod and Caritas

International have embraced HIV as one of their 'top priority areas of work' (Cafod, 2008a; Caritas International, 2011). The controversy over the 'condom issue' spilled over in 1987 when a conference of bishops in the US suggested that there might be situations where condoms might be an alternative solution to HIV preventive care. The suggestion triggered an immediate response from the Congregation of the Doctrine for the Faith to say that this was contrary to the true faith. The condom issue has since been debated by the competing factions of conservative and liberal Catholics. The main challenge for Cafod is to design HIV policies and programmes as a mandated agency of the Catholic Church.

The basic argument in the 'condom issue' is as follows. There are two basic elements regarding Catholic response to HIV, first is to *serve* those who are infected, and second is to work to *prevent* the spread of the disease. The moral dilemma is this: is it morally right to recommend the use of condoms to prevent the spread of HIV? The liberal and progressive response of Catholic bishops is to be "opposed to the promotion or advocacy of condoms", but when faced with "a person who could further spread the disease and whose conduct would not be altered" the principle of toleration takes precedence and the advice, "that the patient should use a condom to prevent the spread of the disease", is accepted (Fuller and Keenan, 2000:22). The use of condoms in this case is tolerated as preventive care because it is to prevent infection not conception, which would go against the pope's teachings on birth control (Pope Paul VI, 1968). The conservative response of Catholic bishops is to be categorically against any promotion of birth controls because it "could be construed as approving or promoting illicit sexual activity and therefore could compromise Catholic teaching". A second, less emphasised, response by conservative Catholics is that condoms are not effective and should therefore not be recommended as a prophylaxis (Fuller and Keenan, 2000:22). Implicit in this is the dilemma of Cafod's legitimacy sources. That is, to what degree does Cafod design its HIV policies/programmes as a social enactment of Catholic social teaching to influence people's sexual behaviours, and to what degree is this compromised when Cafod as a lay operating organisation uses secular sources

to respond to HIV and Aids problems that may conflict with how it justifies its mandate as a Catholic agency. The previous sections have demonstrated that Cafod's authoritative sources of legitimacy are derived from the Holy See. Hence, when Cafod tries to justify its policies with secular sources that do not align (or directly conflict) with its Catholic mandate, it faces a challenge of legitimacy deficit. Thus, responding to HIV and Aids means that Cafod faces a legitimacy challenge that has to do with how Cafod justifies its legitimacy claims.

The initial challenge to Catholic social teaching on the 'condom issue', referred to above, came in 1987 from a Catholic bishops' conference in the United States that issued a statement on Aids – *The Many Faces of Aids: A Gospel Response* (Hoye, 1987). The article goes a long way to reinforce traditional Catholic teaching on sexual behaviour: "We are convinced that the only measures that will effectively prevent this disease at present are those designed to educate and to change behaviour". However, it also includes the following challenge: "educational efforts [...] could include accurate information about prophylactic devices or other practices proposed by some medical experts as potential means of preventing AIDS" (Hoye, 1987). This sparked a row between conservative and progressive forces in the Church about Catholic social teaching that has affected Cafod's HIV policy. Within few months, on 29 May 1988, Cardinal Ratzinger, in his capacity as Prefect of the Congregation for the Doctrine of the Faith, had responded to the US Bishops' Conference's statement. His commentary 'on the many faces of Aids' was to clarify the issue of whether recommending prophylactic use of condoms was in accordance with the Church's teaching. In his argument Cardinal Ratzinger emphasises that promoting condoms as a prophylactic device is morally unacceptable from the standpoint of Catholic teaching: "... the only medically safe means of preventing Aids are those very types of behavior which conform to God's law and to the truth about man which the church has always taught" (Ratzinger, 1988a, 1988b). The Cardinal rejects condoms as a medical tool as a solution to a moral question. The legitimate solution, according to the Holy See, is theological. It was made clear that the official standpoint of the Holy See was against

promoting condoms as a prophylactic device as condoms are not a solution and morally unacceptable because the real cause of the problem is behavioural (Ratzinger, 1988a, 1988b).

Although Ratzinger as Pope Benedict XVI, has issued statements that admit a theological possibility for moral use of condoms, that is in situations to prevent individual harm, it remains the official policy of the Church that condoms are not a solution to HIV (Benedict XVI and Seewald, 2010; Caritas International, 2010). The Holy See has repeatedly reaffirmed the norm of the Catholic Church citing the encyclical *Humanae Vitae*, the Church's teaching on conjugation and birth control (Pope Paul VI, 1968; Trujillo and Sgreccia, 1995).⁵⁷ The encyclical proclaims that contraception is not acceptable, neither as a means nor as an end. In it the pope proclaims that "unlawful birth control methods" includes sexual intercourse that is "deliberately contraceptive", and therefore "intrinsically wrong" (Pope Paul VI, 1968: Art. 14). Based on this the Holy See (more precisely the Curia's Pontifical Council for the Family) has consistently taught that the norm is that sexual conjugation within marriage is sacred and outside of marriage is wrong (Trujillo and Sgreccia, 1995:n. 32):

...parents must also reject the promotion of so-called "safe sex" or "safer sex", a dangerous and immoral policy based on the deluded theory that the condom can provide adequate protection against Aids. Parents must insist on continence outside marriage and fidelity in marriage as the only true and secure education for the prevention of this contagious disease. (Trujillo and Sgreccia, 1995:139)

However, because the encyclical does not proclaim on sexual behaviour outside the context of married life, apart from it being categorically wrong, it has made inroads for the 'condom issue' in relation to HIV.

⁵⁷ Wilde argues that birth control was one of the issues that were not resolved or addressed by the Second Vatican Council and that when the pope removed it from the agenda there was little protest from bishops (apart from bishops concerned about overpopulation) (Wilde, 2007:ch6).

Cafod's HIV policy

Cafod started to collect data on HIV in the mid 1980s through its programme work (Cafod, 2006c). However, Cafod did not develop a comprehensive policy on HIV until about fifteen years later after having participated in various debates about secular and ecclesiastical approaches to the problem of HIV and Aids (Filochowski, 1999; Ogolla, 2006). Cafod started to develop and publish comprehensive policy targets in the period 2000-2002 that have carried its HIV policy and legitimacy debate into the second decade of the millennium. I look at the debate over the condom issue by using Cafod's HIV policy report published in 2004, which caused uproar in the UK, and use it to highlight the legitimacy challenges Cafod faces from within the Holy See. I focus on the build up to Cafod's 2004 report and how that report influenced Cafod's overall corporate HIV strategy in 2006, which underpins Cafod's current approach.

Cafod's first policy initiatives on HIV were built around the tension between religious principles promoting abstinence and secular principles promoting condom use. This tension became known as the ABC approach where A represented abstinence, B to be faithful, and C use of condoms. The approach started in secular quarters (for example the US government included abstinence in its HIV policy in the mid 1980s) but was embraced by faith based organisations who by 2001 were encouraging governments to use the ABC approach (Fuller, 2006; World Council of Churches, 2001). Cafod encouraged the following statement made at UN's Aids Assembly in 2001 by faith-based organisations (FBOs):

Many HIV prevention strategies, such as promoting temporary abstinence leading, for example to delayed sexual activity in young people, voluntary testing and counselling, mutual faithfulness in sexual relationships, and the use of condoms have contributed to the reduction of the risk of HIV transmission. These methods should be promoted jointly by governments and civil society including FBOs. (World Council of Churches, 2001)

The UN Aids Assembly was to recognise the need for resolve to the immediate threat of HIV to developing countries and its development programmes. However, the gap between the position of Cafod and the position of the Holy See was also evident in the statement by the Holy See's representative at the same Assembly. The head of the Holy

See delegation reiterated moral values and teaching of abstinence and fidelity as the priority of the Holy See and encouraged the Assembly to exclude “campaigns associated with models of behaviour which destroy life and promote the spread of the evil in question” (Barragan, 2001). The next three years demarcated Cafod's HIV policy as quite apart from the official Holy See stance on the issue of condoms.

Cafod adopted the ABC approach as its preferred policy approach to HIV in late 1990s. It had been touted as success in Uganda where lowering HIV infection rates were directly linked to the ABC approach (Singh, Darroch, et al., 2003). Cafod's policy initiative on HIV secured it a position within Caritas International as its HIV Liaison Agency due to its expertise, a position Cafod still holds in Caritas networks (Cafod, 2001a:12; 2009:16).⁵⁸ The turning point for Cafod, however, was at the end of 1990s when Cafod realised Aids was affecting its other programmes and in fact its mode of operation:

Cafod had to ask itself some searching questions, a process that intensified its commitment to making HIV/Aids a priority in all of its emergency and development work. It is now central to the organisation's thinking, policy-making and strategies for all responses to conflicts and disasters. (Filochowski, 1999)

This shift of emphasis was followed with scrutiny in the Catholic press. The Universe published an article that juxtaposes statements made by a Holy See official with statements made by Cafod's HIV strategist claiming that ‘Aids needs a rethink’. Although both are quoted to promote abstinence and fidelity Cafod's strategist adds that this is a long-term ideal and that short-term solutions must include condoms, a ‘medical fact’ that Cafod cannot ignore (Parry, 2000).

The policy work that Cafod was developing on HIV (Lee, 2002; Smith, 2002) brought it into open conflict with the official stance of the Holy See. Cafod came under pressure

⁵⁸ Cafod's collaboration with Caritas has been on the increase since its 2005-2010 corporate policy framework targeting strategic partnership. The partnership aims to coordinate better emergency relief through Caritas International and to increase lobbying and advocacy through an alliance of Catholic development NGOs. The organisational embedding at the policy level is both within the humanitarian and theological departments. The director of Cafod's Humanitarian Department is a member of Caritas International Humanitarian Advisory Council (a policy unit) and one of Cafod's trustees is a member of Caritas International Theological Commission (Cafod, 2009:16).

and had to issue a statement about the use of condoms, which Cafod admits “is particularly sensitive in the light of Catholic teaching” (Cafod, 2001b). Cafod however escalated the criticism by openly standing by its secular reasoning in defiance of the official stance of the Holy See on condoms and HIV.

Cafod's 2001 statement on its official position on HIV stated that Cafod was working within the “social and ethical teaching of the Catholic Church”. In the statement Cafod defends its position on the use of condoms as prophylactic device claiming that it is a part of a complex prevention strategy. Cafod points out that behavioural change is “the most important and fundamental way to reduce the spread of HIV” and that Cafod “aims to help people to modify their sexual behaviour [...] to strive towards living out the ideal expressed in the teaching of the Church of abstinence before marriage and fidelity within it” (Cafod, 2001b). The emphasis on the Catholic social teaching being an ideal and that people strive to live up to it, is both admitting that this is the teaching of the Church and at the same time introducing gradualism; that is, a step by step improvement towards the ideal as a long term goal (although this argument had been refuted by pope John Paul II (Pope John Paul II, 1981:n.34)). Cafod then moves on to point out the immediate emergency HIV causes and the need this creates for ‘immediate responses’. This Cafod equates with providing individuals with “full information about all means of HIV prevention and that this advice is scientifically correct” and all but spells out including condoms. However, Cafod retreats in the next step to declare that it does not “fund the supply, distribution or promotion of condoms” which has become the standard corporate reply of Cafod to allegations from conservative Catholics (Cafod, 2006c:8; Rawsthorne, 2002). Cafod concludes its statement by refuting theological dogmatism by claiming that the matter of condoms is an unresolved “theological reflection” which Cafod partakes in, to ask “what should our response be as Catholics[?]” (Cafod, 2001b).

A seminar of NGOs including Cafod on joint policy responses to HIV pushed HIV to the forefront of Cafod's programmes (Filochowski, 1999; Lee, 2002). The seminar was

followed with a report for the Overseas Development Institute compiled by Cafod's HIV strategist Ann Smith (Smith, 2002). The report calls for a holistic approach to NGOs HIV policies highlighting that a multitude of factors are an influence on policy targets for HIV risk reduction such as sexual behaviour and that information and education are merely awareness tools, or:

....means of providing information about possible behaviour changes. This information does not automatically lead to actual change. This will only become a realistic option when the initiative also addresses the social, economic and political factors making people affected by emergencies more vulnerable to HIV. (Smith, 2002:21)

The holistic (and secular) approach Smith takes is explored further in Cafod's HIV policy published two years later by Cafod's HIV strategy team after a presentation at the International Aids Conference in Bangkok in 2004 (Smith, 2004a; Smith, Maher, et al., 2004). The Bangkok report openly discusses the option of using condoms as a preventive measure against HIV infection, thus reinforcing Cafod's policy position.

In elaborating Cafod's HIV policy, the Bangkok report does three things. First, it attempts to bridge the gap between secular condom driven policies and ecclesiastical abstinence and fidelity only policies by calling for a nuanced understanding of the HIV problem. Second, part of this nuanced understanding includes a legitimacy claim based on science that Cafod uses as a justification for a moral problem. And third, the report reinforces Cafod's secular legitimacy claim through this nuanced policy approach by placing it in a wider societal context that enables Cafod to use Catholic social teaching in its defence. I begin with discussing Cafod's rejection of simplistic approaches to ABC and the rejections made by conservative Catholics in that regard. I will then discuss Cafod's nuanced approach in relation to Cafod's HIV 2006 policy overview that elaborates on the 2004 report.

The Bangkok report denounces simplistic ABC approaches of abstinence only and condom mainly that are driven by “dogmatic political or religious agendas” which has aligned the ABC approach with “judgemental dogmatism typical of groups that would claim a high moral ground” (Smith, 2004a; Smith, Maher, et al., 2004:8,14). The report

goes on to claim that behavioural changes are enmeshed in the contextual circumstances of people's lives and that 'good' and 'bad' behaviour with 'judgemental overtones' can be associated with a religious ideal where "the only acceptable behaviour change is that which complies with the ideal, and anything else is deemed unacceptable, even in the short term" (Smith, Maher, et al., 2004:6). Cafod's view, on the contrary, is that behavioural change is a continuum and a long-term goal:

Thus people speak of e.g. "behaviour change or condom use". This fails to recognise that an individual's decision to use condoms where they did not heretofore is a change in their behaviour. Thus, this paper asserts that any successful implementation by an individual of their chosen risk reduction strategy constitutes behaviour change, whether it be e.g. abstaining/delaying the age of sexual debut, reducing the instances of casual sex, not sharing drug injecting equipment, consistent use of condoms etc. (Smith, Maher, et al., 2004:6)

Short-term goals are to help individuals achieve their first steps in behavioural change for the long run. The meantime consists of juxtaposition between medical truths and Catholic social teaching.

It is under this rubric of gradualism that condoms are theologically justified according to Cafod. Using theological justifications from the liberal faction (Clague, 2004; Keenan, Fuller, et al., 2000; McDonagh, 1994) and focusing on risk reduction – one of its three layers of the holistic approach – Cafod proposes to reconcile medical truth with Catholic social teaching:

The proposed framework reconciles good scientific and development practice with established and evolving theological thinking within the Catholic Church. (Smith, Maher, et al., 2004:14)

Recommending condoms as a risk reduction factor in Cafod's HIV preventive care policies is a "scientific fact [that] cannot be excluded from or misrepresented in any information on risk reduction strategies, regardless of a group's cultural or religious ideology" (Smith, Maher, et al., 2004:10). In an article following up on the Bangkok report Cafod's HIV strategist reinforces the point of reconciliation between behavioural change and medical fact: "data is clear that condoms, when used correctly and consistently, reduce but do not remove the risk of HIV infection" (Smith, 2004a).

The controversy over the justifiable content of Cafod's HIV policy

The official stance of the Holy See had already reinforced that the Catholic social teaching on sex was according to *Humanae Vitae* where the norm of sex is within marriage only (Pope John Paul II, 1981:n.34; Pope Paul VI, 1968:n.14; Trujillo, 2003:n.3). To use science as a justification for a controversial moral topic amongst Catholics was a legitimacy claim that turned into a legitimacy challenge for Cafod's identity as a Catholic agency. The Bangkok report instigated a group of conservative Catholics to campaign against Cafod's open defiance with the Church calling Cafod's legitimacy as a Catholic agency into question. Groups like the Catholic Action Group and Christian Order threatened to boycott Cafod exclaiming that donating to Cafod was a sin (Catholic News Agency, 2005; Catholics for a Free Choice, 2005; Gray, 2005; Pead, 2005; Williams, 2005). The editor of the Christian Order exclaims that donating to Cafod is a sin for Catholics and criticises Cafod for becoming too secular as a Catholic organisation, referring to "Cafod's network of faithless allies" (Pead, 2005:6). He concludes that "adverse publicity and money are the only languages that speak to the hierarchy nowadays, keep your wallets and purses firmly shut next time a CAFOD appeal passes your way." (Pead, 2005:18). One conservative Catholic newsreel journal argued that this open dissent was an English schism but instead of openly dissenting with the Vatican, Church leaders in England and Wales "just ignore Rome" (Hester, 2004). One conservative activist asked the Bishops' Conference for a theological clarification on the condom issue:

In the light of the Catechism of the Catholic Church, the Magisterium, and other Encyclicals, is CAFOD's HIV policy as presented at the International Aids Conference in Bangkok in July 2004 entitled: 'CAFOD - HIV Prevention From the Perspective of a Faith-Based Development Agency', written by Ann Smith and others and available from CAFOD's website, free from error? (Mason, 2004)

Cafod again needed a pastoral statement from a Catholic Bishop to defend its position stating "that Cafod does not fund the supply, promotion or distribution of condoms" (Smith, 2004b) – thus repeating what a Cafod Foundation Trustee had declared two years before (Rawsthorne, 2002). The initial statement had, however, also alluded to Cafod's Catholic identity as a source of its legitimacy claims:

I am confident that Cafod values its Catholic identity immensely and does not act in any way that contravenes or diminishes that identity. Cafod has always worked within Catholic teaching in all it does and indeed draws deeply on that teaching to underpin its work. (Rawsthorne, 2002)

Thereby reinforcing the legitimating principle behind Cafod's claims; their mandate as a Catholic agency.

In defending Cafod as its agency, the Catholic Church of England and Wales came under considerable pressure on Cafod's HIV policy and had to issue a statement to defend itself:

In response to a number of articles and letters questioning the fidelity of the Catholic Bishops' Conference of England and Wales to magisterial teaching following recent statements by the Catholic aid agency CAFOD, a letter has been sent today [...]

- The Bishops oppose artificial contraception and do not advocate the promotion of condoms as a means of combating Aids. The way to combat Aids is through the Catholic sexual ethic of monogamy, fidelity and abstinence.
- The magisterium of the church always maintains the objectivity of the moral law, whilst also recognising the particular circumstances in which individuals endeavour to live her teaching.

It is therefore quite misleading to seek to portray the position of the Catholic Bishops' Conference of England and Wales as being at variance with magisterial teaching on this question. (Summersgill, 2004)

Cafod followed suit and clarified its policy stance with a carefully worded statement claiming its position firmly:

The use of condoms as an immediate and short-term measure for countering the transmission of HIV is part of many agencies' HIV prevention programmes.

It should be made clear that CAFOD does not fund agencies for whom condoms are central to their programme. The vast majority of Cafod's partners are Church partners. All partners, including secular ones, are made aware of our stance, which is that CAFOD neither funds nor advocates the supply, distribution or promotion of condoms. In this CAFOD seeks to exercise a role consistent with its Catholic character.

CAFOD readily recognises that individuals faced with the threat of HIV face moral dilemmas. CAFOD is committed to providing them with information that is scientifically correct. CAFOD respects a person's responsibility to make decisions about preventing HIV transmission that are consistent with their religious convictions and based on their knowledge and understanding of the risks of their individual situation. (Cafod, 2005b)

The main Church document that guides the social work of Cafod is the Common Good (Hume, 1996), although other policy documents of the Bishops' Conference are often intrinsically linked with Cafod's work (Catholic Bishops' Conference of England and Wales and Klos, 1999, 2003). This is notable in the case of the condom issue that is directly linked to a wider policy on birth control, elaborated in documents such as Cherish Life (Catholic Bishops' Conference of England and Wales, 2004). The report claims that "the only assured way to prevent passing on such an infection [HIV] is to express love in ways other than through sexual intercourse" (Catholic Bishops' Conference of England and Wales and Cormac Cardinal Murphy O'Connor, 2004:75, para 170) – although the issue of contraception is recognised as a controversial topic (Catholic Bishops' Conference of England and Wales, 2005:55-60, paras 160-65). The Catholic Church in England and Wales despite defending Cafod and its HIV policy, also makes clear in its statements and documents that the teaching of the Bishops' Conference on the use of condoms complies with the official stance of the Holy See.

In 2006 Cafod published an overview of its HIV policies that elaborates on its previous 2004 report. Cafod's ABC had by 2006 evolved into a corporate strategy:

CAFOD's HIV Programme and Strategy Framework specifies that a comprehensive response to the pandemic should combine three interlinked strands:

- Care, Support and Mitigation (mitigate the impact)
- Prevention (risk reduction)
- Advocacy (decrease vulnerability). (Cafod, 2006c:5, brackets mine)

These are the same categories as presented in Cafod's 2004 report, albeit relabelled. The nuanced understanding proposed in 2004 was a suggestion that the ABC approach should be a specific component within risk reduction of a multi layered HIV policy considering impact, risk and vulnerability (Smith, Maher, et al., 2004:11). The ABC nuanced understanding includes Catholic teaching controversies such as 'delaying the age of first sexual encounter', 'consistency in condom use', and that C can also stand for choice 'choose what you *can* change today'. A personal choice that is

“compatible with gradualist theological understanding” (Smith, Maher, et al., 2004:8-10).

On the criteria of prevention (risk reduction) Cafod emphasises a holistic approach and treads carefully around the issue of recommending condoms as a prophylactic device. Cafod states that:

1. It must help individuals to reduce or completely remove their risk of infection. Programme need to provide full and accurate information on the effectiveness and limitations of all risk reduction measures, so that individuals can make the choices appropriate to their circumstances.
2. It must decrease people’s vulnerability by tackling the root causes such as poverty, gender inequality, sexual violence, forced migration etc making them susceptible to infection.
3. It must mitigate the impact of the virus on those already infected and on communities affected, thus asserting that treatment and wider mitigation initiatives are indispensably linked to prevention, that, [...] prevents the decline of families and communities into the poverty that fuels HIV infection. (Cafod, 2006c:7, underscoring mine)

Here the condom issue has been buried in layers of complexity of development problems. On the first point: to reduce or completely remove the risk is the same as saying to use condoms or abstain from sex. To provide full and accurate information is about speaking the medical truth so individuals can choose whether to use condoms (as a gradual step to abstain from sex). On the second point: here Cafod gives a feedback loop into advocacy and the issue of power imbalances as root causes in decreasing vulnerability. It is under this layer that Cafod claims that its policy is “strongly endorsed theologically” by hinting at *Gaudium et Spes* and *Populorum Progressio* (Smith, Maher, et al., 2004:5). On the third point there is no controversy over care and solidarity with those who are HIV infected as this is embraced by the Holy See as the main approach of a Catholic HIV policy. However, Cafod also puts a feedback loop here into prevention (risk reduction), which is controversial. Cafod's argument is furthermore evident in statements such as one made in Cafod's annual report where Cafod reports about one of its partners, Caritas Mexico, having “successfully lobbied their bishops to publish a pastoral letter calling for Church initiatives to support people with HIV, oppose stigma, and promote holistic care and

prevention responses to HIV” (Cafod, 2009:9). The ‘holistic care and prevention responses’ in this quote reads as a recommendation that condoms can be used as a medical device to prevent the spread of HIV.

Thus the ABC approach has been integrated into Cafod's policy through wider societal problems of poverty where Cafod can more readily use the documents of the Second Vatican Council to justify its policy approach to HIV. The corporate statement is:

Frequently, what are termed HIV prevention responses are in fact risk reduction initiatives, and so fulfil just one of the three requirements of a comprehensive prevention strategy. CAFOD believes that all three layers must be addressed if HIV prevention is to be effective. This range of responses will probably come most often from various initiatives working as a concerted network, rather than from a sole programme partner embracing all aspects single-handedly. (Cafod, 2006c:7)

Although Cafod has curtailed its legitimacy claims with carefully worded statements on where its stands on condoms, it has not altered its position. Cafod's approach to HIV is still a ‘holistic’ policy that includes artificial contraception as part of a solution to a ‘complex problem’.⁵⁹ In Cafod's 2006 review report on its HIV programmes in East Africa the report's author states that:

The ongoing phases of scale up of prevention include promotion of healthy life styles, provision of adequate nutrition, sanitation, water, education, and basic health care, condom promotion, STI testing and treatment, diagnosis and treatment of TB and reproductive health care of women. (Ogolla, 2006:23)

The report implies a secular prioritisation of HIV criteria as expressed in Cafod's policy. The report makes modest, if any, reference to the moral commitment of Cafod as a Catholic agency or the ecclesiastical context of the programme's criteria. This is also true of some of Cafod's responses in defence of its HIV policy that are corporate and scientific in outlook (Cafod, 2006b, 2006c). The justifications introduced are institutional justifications such as “CAFOD's work, including its HIV-related work, has the full support of the Bishops of England and Wales” and a pre-emptive corporate line

⁵⁹ This is sometimes evident in links to openly defiant articles. An example is a link on Cafod's HIV site to a Worlds Aids day liturgy, 1 December 2010, to the Ecumenical Advocacy Alliance of which Cafod is allied through Caritas International (Cafod, 2008b; Ecumenical Advocacy Alliance, 2011). In one of its articles, on Church responses to HIV, it is argued that the Catholic Church's view and teaching on sexual behaviour is a “parallel reality: intended for public consumption, backed by social and religious sanctions, and designed to conceal the real facts” (Paterson, 2003:4).

about condoms: "CAFOD funds are not used for the purchase, promotion or distribution of condoms" (Cafod, 2006a). Another document that draws on secular material and policies is Cafod's HIV workplace policy (Kelly, 2004).

Cafod's Catholic identity and the HIV policy: secular versus ecclesiastical legitimating principles

The tension between the secular sources and reasoning Cafod introduces to justify its HIV policy legitimacy claims and the theological ideals taught by the Church that justify how Cafod claims legitimacy presents a real challenge for Cafod as a Catholic agency (Interview 5, 2009; Interview 8, 2009). This is also evident in the way Cafod tries to appease both the secular and the ecclesiastical camps.

The secular emphasis in Cafod's claims is what conservative bishops and conservative Catholics in the UK have criticised. The argument is about Cafod having strayed too far into the secular camp and away from its institutional testimony as an agency of the Church (Aladics, 2007; Blake, 2011; Finigan, 2006; Pead, 2005):

"Caritas International [and by implication Cafod] has a choice of either walking in step with the Church of today or walking away from it. Let us pray that the bishops of the world support the Holy See in drawing Caritas [and by implication Cafod] deeper into the mainstream Catholicism" (Blake, 2011).

However, the liberal faction has campaigned to the contrary (Catholics for Choice, 2008). In 2006 the editorial of the Tablet encouraged the Church to change its mind on the use of condoms: "...the Church would gain much public credit by admitting that condoms should not be ruled out as a protection against HIV – Aids, even if the practical questions concerning their advisability remain to be addressed" (Pepinster, 2006). Furthermore, the Caritas network is also aligned with the liberal faction and Cafod's claims. Caritas Europa published a report from its HIV/Aids conference in 2007 arguing along the lines of Cafod, concluding that "[t]he fact that the Holy See has not pronounced definitively on this topic is significant" (Conti, 2007). Caritas International published a report from a meeting of Catholic organisations engaged in Aids programmes that embraced a multilayered approach to Aids. The report emphasised how the condom issue had become a distraction and a media distortion

that hindered engagement amongst Catholics as well as engagement between the Church and secular institutions. It also stated that emphasising behavioural change increases HIV related stigma (Fuller, 2006:6, 90, 98-99).

Looking at Cafod's strategic framework for 2005-2010 Building Communities for Change (Cafod, 2005a) the language is less technocratic and reflects a religious audience. According to Cafod's director the strategic framework is a blueprint for Cafod's *modus operandi*: "Within this framework, divisions, departments and teams set out their own strategies, outcomes and performance indicators. Annual action plans; review and learning processes will be based on it" (Cafod, 2005a:preface). The framework reinforces Cafod's mission as an agency of the universal Catholic Church in "transforming the world to reflect the Kingdom of God" and claims that "Cafod's mandate is to act on behalf of the Catholic community of England and Wales" (Cafod, 2005a:3). The framework furthermore states that Cafod's aim is to "ensure our work draws from and reflects Catholic social teaching and to make this more explicit in our development and humanitarian policies" (Cafod, 2005a:8). This alignment with the official stance of the Holy See is less evident in Cafod's HIV policy documents.

The condom issue is at the heart of the tension between Catholics adhering to the documents of Second Vatican Council as authoritative with pastoral justification and Catholics challenging the authority of the documents as un-dogmatic and thereby fallible and open for debate. It remains the official stance of the Holy See that condoms are illicit. In a co-authored interview Pope Benedict XVI tackles the condom issue as 'banalization of sexuality' and dismisses the ABC approach as secular, condom fixated and not a real solution to HIV:

Meanwhile, the secular realm itself has developed the so-called ABC Theory: Abstinence-Be Faithful-Condom, where the condom is understood only as a last resort, when the other two points fail to work. This means that the sheer fixation on the condom implies a banalization of sexuality, which, after all, is precisely the dangerous source of the attitude of no longer seeing sexuality as the expression of love, but only a sort of drug that people administer to themselves. This is why the fight against the banalization of sexuality is also a part of the struggle to ensure that sexuality is treated as a positive value and to enable it to have a positive effect on the whole of man's being.

There may be a basis in the case of some individuals, as perhaps when a male prostitute uses a condom, where this can be a first step in the direction of a moralization, a first assumption of responsibility, on the way toward recovering an awareness that not everything is allowed and that one cannot do whatever one wants. But it is not really the way to deal with the evil of HIV infection. That can really lie only in a humanization of sexuality.

Are you saying, then, that the Catholic Church is actually not opposed in principle to the use of condoms?

She of course does not regard it as a real or moral solution, but, in this or that case, there can be nonetheless, in the intention of reducing the risk of infection, a first step in a movement toward a different way, a more human way, of living sexuality. (Benedict XVI and Seewald, 2010:117-119)

The interview prompted a statement from the Congregation for the Doctrine of the Faith to prevent misunderstanding on what the pope actually meant. The Congregation took on to explain what Pope Benedict XVI intended with his words in accordance with the faith:

The idea that anyone could deduce from the words of Benedict XVI that it is somehow legitimate, in certain situations, to use condoms to avoid an unwanted pregnancy is completely arbitrary and is in no way justified either by his words or in his thought. (Holy See, 2010)

The Holy Father did not say – as some people have claimed – that prostitution with the use of a condom can be chosen as a lesser evil.

However, those involved in prostitution who are HIV positive and who seek to diminish the risk of contagion by the use of a condom may be taking the first step in respecting the life of another – even if the evil of prostitution remains in all its gravity. This understanding is in full conformity with the moral theological tradition of the Church.

In conclusion, in the battle against Aids, the Catholic faithful and the agencies of the Catholic Church should be close to those affected, should care for the sick and should encourage all people to live abstinence before and fidelity within marriage. (Holy See, 2010)

And furthermore, a clarification from the publisher of the book, the Catholic Truth Society:

In reality, the words of the Pope — which specifically concern a gravely disordered type of human behaviour, namely prostitution (cf. *Light of the World*, pp. 117-119) — do not signify a change in Catholic moral teaching or in the pastoral practice of the Church. (Catholic Truth Society, 2010)

This section has demonstrated how Cafod has to adhere to the official limits of interpretation of Church documents (despite the debates that ensue over their status) to maintain its legitimacy as a Catholic agency. The previous sections showed that

Cafod is a representative of the Catholic Church of England and Wales (and by proxy the Holy See) and that Cafod's capacity to present itself as Catholic is measured by its institutional legitimacy sources that also structure its mandate. The condom issue highlights in particular the vulnerability of Cafod's Catholic identity and how the institutional embedding of Cafod's legitimacy sources places an effective limit on its mandate and presentation of legitimacy claims. It furthermore demonstrates that in order to comply with the Holy See, Cafod aligns its policy with the official stance of the Catholic Church; albeit by introducing alterations that camouflage the secular principles inherent in their HIV policy. A Beethamite assessment should therefore prioritise legitimacy assessments of Cafod's legitimacy claims based on how Cafod claims legitimacy as a Catholic agency (a faith-based NGO). Cafod is not a secular NGO nor are its legitimacy sources secular. Thus prioritising secular principles to assess their legitimacy claims (such as performance or efficiency of service delivery) would be ignoring their mandate.

Conclusion

This chapter has argued that Cafod's claim to legitimacy is ultimately Catholic. The argument is intended to highlight the contextualisation of Cafod's legitimacy claims as brought forward by a Beethamite analysis. The chapter has explained how Cafod as a faith-based NGO, depends on authoritative legitimacy sources of the Holy See (in particular its Catholic social teaching) to justify its legitimacy claims, which is furthermore contingent on a wider theological debate within the Church. This is fundamentally different from the previous two case studies because Cafod is not a constituted NGO but an agency of the Bishops' Conference of England and Wales. Therefore Cafod is only responsible to its members and internal documents in a limited way, its prime accountability is to comply with and deliver according to the documents and teaching of the Holy See. The institutional context of Cafod explains how power is organised internally. That is: a) how Cafod as a catholic agency is institutionally embedded in the Holy See and subject to the canons and the Curia; b) how Cafod is subject to the authority of the Catholic Church in England and Wales as

its agency; and c) how Cafod's internal organisation of power subjects Cafod to the power of its Foundation Trustees. Thus, although Cafod is strictly speaking not a religious organisation its institutional context certainly is and defines their power relationship with the clergy and other members of the Catholic Church.

Cafod's organisational outlook has evolved from a first generation NGO into an NGO with a corporate outlook that operates mainly on the policy level. The early institutional support from the Catholic Church of England and Wales, when it incorporated Family Fast Day formally into the Church, was crucial for Cafod's legal and normative legitimacy claims. The implications of being an official agency of the Catholic Church institutionally embedded in the hierarchy guaranteed Cafod access to institutional support from a Cardinal (Cafod's Patron) and Bishops (Cafod's Foundation Trustees) when confronted with a legitimacy challenge such as the condom issue. The institutional embedding, however, also places pressure on Cafod to conform to the Catholic ideal as taught by the Church. That is, Cafod's authoritative sources of legitimacy are derived from Church documents such as those of the Second Vatican Council and those that constitute Catholic social teaching. Thus, when Cafod responds to an emergency pandemic such as HIV that is sexual in nature it is subject to the Holy See teaching on what constitutes a legitimate response.

The institutional context of Cafod dictates that one should not assess Cafod's legitimacy claims based on secular criteria. It cannot proclaim its own sources. Cafod has to conform to a Catholic ideal as a representative agency of the Catholic Church. Its mandate as a Catholic agency is apostolate and its legitimacy as such is contingent on Cafod complying with its ultimate objective; 'to proclaim the Gospel'. The documents that comprise Catholic social teaching are a major source of legitimacy for Cafod, in particular those published during and after the Second Vatican Council. These justify Cafod's legitimacy claims and are what Cafod comes into conflict with when its legitimacy claims are challenged, such as in the condom case. Despite its institutional loyalty to the Church, there are also signs of selectiveness in Cafod's presentation of its

Catholic identity depending on the audience. Cafod's documents – its mission, programme, partnership, and policy documents – reflect this. Confronted with theological and ecclesiastical criticism it plays down its secular side and vice versa. This is also reflected in the conflicting presentations of Cafod's loyalty to its audience; presented either as a mandated agency of the Catholic community and the Church to bring forth the Gospel or as an NGO that embraces secular and science orientated sources. These can easily be within the same document, for example in Cafod's HIV policy overview where Cafod enlists both theological and secular principles that seem to represent different types of legitimacy (Cafod, 2006c:4).

The embedded case study demonstrated the power structures and how Cafod is reliant on the Holy See to justify its legitimacy claims. Using sources that are not officially sanctioned by the Holy See demonstrates how Cafod risks running a legitimacy deficit where its Catholic agency is challenged. The problems raised over Cafod's attempts to introduce secular sources as a justificatory reasoning for its HIV policy turned into a legitimacy challenge over Cafod's Catholic identity. The challenge was based on interpretations of the documents that constitute Catholic social teaching and the theological status of the Second Vatican Council. Cafod's legitimacy claims are also subject to a wider debate in the Church where the authority of Cafod's legitimacy sources is subject to competing factions of the Church with varying interpretations and understandings of theological ambiguities. The analysis suggests that insofar as Cafod operates within safe limits of theological interpretations its autonomy to operate independently is not questioned. It is when Cafod crosses the line as a lay Catholic organisation to interpret theological documents that legitimacy challenges are raised by conservative forces within the Catholic Church. The problem Cafod struggles with in the condom case is the apparent contradiction between its legitimacy claims based on theological and ecclesiastical sources from the Catholic Church as a Catholic agency that conforms to the Catholic ideal, and its legitimacy claims based on secular and scientific reasoning that underpin its HIV policies and contradict the teaching of the Church, in this case its moral instructions on sexual behaviour.

Legitimacy claims that deviate too far from the mission of Cafod as a Catholic agency can impose a legitimacy challenge and the risk of delegitimizing Cafod's Catholic agency. Cafod's institutional embedding thus creates a dynamic interface between Cafod's external and internal legitimacy sources that directly affects Cafod's ability to present legitimacy claims as a Catholic agency. This is underlined in the condom case where Cafod's Catholic agency is exposed to a legitimacy deficit by challenging its legitimacy sources as adequate justificatory provisions for its legitimacy claims.

The condom issue is highly instructive in revealing the power structures of Cafod's institutional context. Cafod's legitimacy claims are drawn from ecclesiastical, not secular, sources. Supporters of Cafod (mainly Catholics) and Cafod's institutional network (the Church) as well as Cafod's partners (mainly Catholic agencies) judge (accept or reject) Cafod's legitimacy claims in the context of the Holy See and its resources (hierarchical and theological documents). It is therefore difficult for Cafod to introduce medical facts (such as condoms are a useful prophylactic device against HIV) as a legitimate argument in their HIV policy without proper theological support. The official policy of the Catholic Church in England and Wales is in line with the official stance of the Holy See. It is therefore interesting to see how Cafod has maintained a defiant stance on the condom issue armed with medical truth and scientific facts as well as institutional support of the Catholic Church in England and Wales.

Having analysed all three case studies individually I now turn to the conclusion to recapping and discussing the three NGOs' legitimacy claims, comparing and contrasting these as identified in the case studies in order to provide a more generalised analysis of NGOs legitimacy claims.

Chapter 8 Conclusion

In order to conclude this thesis I give a short summary of each chapter and evaluation of the case studies before stating what the thesis contributes to knowledge about NGOs' legitimacy.

The first chapter introduced the political problem of NGOs' legitimacy and why one should examine their legitimacy claims. It explained that questions are being asked regarding NGOs' legitimacy and highlighted the need for a deeper understanding and more nuanced answers than are provided in the current literature. Chapter two provided an overview of theories on NGOs in relation to legitimacy, demonstrating the limitations of the main approaches when it comes to asking questions about NGOs' legitimacy. It introduced a Beethamite framework as a contextualised way to ask the necessary questions of powerful agents. Beetham's criteria enable a critical view of the internal organisation of power in NGO hierarchies that can explain the normative structure and social construction of NGOs' legitimacy claims. Applying Beetham's theory to NGOs therefore can highlight (as demonstrated in the case studies) the different dimensions of NGOs' legal legitimacy, justifications and presentations of legitimacy claims in various institutional contexts. Chapter three explained the methods used in conducting the case studies. The data collected for the thesis was based on public documents triangulated with interviews and direct observations. Operationalising Beetham's legitimacy criteria to create a template for analysing NGOs' legitimacy claims was discussed. Chapter four was a preamble to the case studies that explained the relevant aspects of the UK regulatory regime for NGOs. This emphasised the context and limits of NGO regulation where NGOs have to register either as a charity or as a company and how this relates to the organisational structures of NGOs. The next three chapters contained the case studies of Amnesty International UK, Greenpeace UK and Cafod. Their legitimacy claims were scrutinised using a Beethamite framework to explore questions about how NGOs claim legal

legitimacy, how their internal organisation of power emerged and is justified and the implications these have for their ability to make legitimacy claims.

An evaluation of the case studies

This section selectively reviews the case studies in order to show what has been learnt about NGOs' legitimacy claims by applying a Beethamite analysis.

Beetham highlights in his account of legitimacy that legitimisation processes require normative justifications, they do not stand alone but are informed by and judged on the normative criteria that underlies the creation of the system in the first place (Beetham, 1991:ch. 3). The case studies demonstrate that there is a particular normative structure for each NGO that explains how it claims legitimacy and that underlies its social process of maintaining and reproducing its legitimacy claims. In order to determine the normative structure of an NGO one has to look at how it claims legal legitimacy, its institutional context and internal process of legitimisation and how the NGO justifies its legitimacy claims by using authoritative sources and 'moral persuasiveness' of legitimacy claims. For example, the case studies showed that a scrutiny of how NGOs claim legitimacy is associated with their mission statements and organisational objectives as well as their institutional context because these define their authoritative sources of legitimacy. The sources of authority and the internal process of legitimisation also indicate the wider context of NGOs' legitimacy-in-context. For example, Cafod is a Catholic organisation and further scrutiny of their legitimacy claims is therefore associated with theology, whilst scrutinising Amnesty International UK and Greenpeace UK's legitimacy claims has to take into consideration the role of democratic principles and science and research.

Assessing the justifiable content of legitimacy claims thus requires a scrutiny that can explain the wider context of the claims (both internal to the NGO and external). This can be a complex exercise because the most commonly used criteria to assess NGOs' legitimacy claims are based on the private and public sector contracts that do not,

strictly speaking, apply to NGOs. That is: elections or legal-financial sanctions (or even self-regulation through peer reputation) as accountability systems only justify certain aspects valid in a specific context of NGOs' legitimacy, none is a holistic approach to NGOs' legitimacy claims. This raises a series of questions: what is the legal form of the NGO in question, is it governed by a trust or a constitution? What is its regulatory framework, is it a company or a charity or both? And what are the underlying principles of an NGO's internal organisation of power, are they democratic principles, religious orders or business efficiency? Certainly each NGO will espouse a mixture of principles that vary. Yet, power is organised internally according to particular structures based on particular principles with implications for the way an NGO claims legitimacy. This means that it is possible to identify principles of legitimation both by looking at the normative structure and the social constructions of legitimacy claims. The normative structure of an NGO can determine whether the NGO claims legitimacy based on democratic, religious, ideological, or other principles. The normative structure enables one to establish a framework for scrutinising the legitimacy claims made by an NGO and the social reproduction and maintenance of legitimacy claims within that NGO's hierarchy.

In all three case studies, it is evident that the legitimacy sources have to be evaluated in context because legitimacy-in-context is central to how NGOs claim legitimacy; albeit differently for each NGO. The structure of the case studies is informed by Beetham's criteria. It is based on an analytical framework that emphasises how history and internal organisation of power form a normative structure that enables scrutiny of legitimacy sources used to justify legitimacy claims and as such legitimate the social reproduction and maintenance of the authority of these claims. The increasing power of NGOs in political arenas means it is important to understand NGOs' legitimation processes properly as it is used to justify their powers and access to policymaking decisions.

The case studies demonstrate that history can play a key part in establishing legitimacy claims. This was particularly evident when scrutinising the legal legitimacy claims and how the NGOs established their organisational hierarchies. The existing NGO literature, discussed in chapter two, is typically ahistorical in nature and therefore bypasses the historical context of how NGOs claim legitimacy, in particular how they establish their legal legitimacy that underpins much of their organisational legitimacy. All the case studies show a shift from individuals to organisational hierarchy. Each NGO in the case studies started as an ideological grassroots group that became an NGO hierarchy with national and international structures. However, the organisational establishment of their legal legitimacy is different in each case. Cafod's legal legitimacy was established when the Family Fast Day was absorbed into the Catholic Church of England and Wales; Greenpeace UK's legal legitimacy was part of an internal power struggle where legal legitimacy was claimed through incorporating the Greenpeace name in the UK; and Amnesty International UK's was developed based on Amnesty International's legitimating principles but was later subject to organisational change due to a legal ruling of their mission as non-charitable. Hence, each NGO has established their claim to legal legitimacy in fundamentally different ways.

Part of contextualising the case studies involved explaining how NGOs are regulated in the UK. Chapter four showed that the UK context provides two regulatory systems for NGOs, the Charity Commission and Companies House, both of which are problematic. In the UK, scrutiny of NGOs beyond their financial accountability is channelled through the Charity Commission, albeit limited to the definition of charitable objectives. This excludes politically orientated organisations such as two of the case studies, Amnesty International UK and Greenpeace UK, and leaves gaps in the accountability of NGOs as a sector. This is of concern because many NGOs like Greenpeace UK and Amnesty International UK register and operate mainly under company law and company law is designed for profit making companies. The legitimacy claims of NGOs are however not based on profit goals and as such justified with financial scrutiny. They are based on things like mission statements that require normative justification. Thus, it is

pertinent – in order to regulate NGOs as agents operating in a democratic context, such as with UK governmental institutions or the UN system – that the regulation include more complex criteria than hitherto described in the literature. This is especially acute in the cases of NGOs that claim representative legitimacy, whether through their members, knowledge, ideology or faith.

When it comes to legitimacy sources there are clear differences between the case studies. Amnesty International UK is a membership organisation but its relationship with Amnesty International is twofold, it is a member of the unincorporated entity but not the incorporated entity. Its campaigns are conducted based on information it receives from the research library of the International Secretariat and this is a significant legitimacy source. However, the internal legitimisation process is justified with membership claims where members are the primary authoritative source of legitimacy. Yet, the internal process of legitimisation explains how the ‘real’ members belong to Amnesty International UK whereas members of Amnesty International are mainly comprised of national sections and this complicates the assessment of their legitimacy claims. Greenpeace UK is also a membership organisation but with clear statutory limitations as outlined in the bilateral agreement between Greenpeace UK and Greenpeace International. It does not claim legitimacy through its members. Greenpeace UK is a member of Greenpeace International and its legitimacy sources are contingent on Greenpeace International’s policy that is predicated on environmental science. Greenpeace UK’s authoritative sources of legitimacy are thus Greenpeace International and by extension the research conducted by the Greenpeace International Science Unit at Exeter (or other commissioned research). Cafod is different from the other two case studies in that it is not a membership organisation. It claims legitimacy as an agency of the Catholic Church in England and Wales. As such Cafod’s legitimacy sources are primarily based on documents of the Holy See such as the Catholic social teaching. Hence, the difficulty for Cafod to make legitimacy claims based on secular sources or theological sources not officially touted by the Holy See.

I now explain the Beethamite assessment of each of the case studies NGOs' legitimacy claims in more detail.

Amnesty International UK's context is the Amnesty International hierarchy of which it is a member. However its membership is limited to the unincorporated entity of the hierarchy where Amnesty International UK has representatives to vote into power those who control the incorporated entities of the hierarchy. Amnesty International UK partly funds and receives campaigning information from the International Secretariat. The ultimate authority in decision making and policy is with the International Executive Committee as delegated by the internal legitimisation process. Although research is an important component of Amnesty International's legitimacy claims, this is secondary to how Amnesty International UK claims legitimacy. Its primary legitimacy claim is membership based. This imposes a legitimacy challenge of representation. If an NGO, like Amnesty International UK, that demonstrates constitutional loyalty to Amnesty International, claims that it is part of a democratic movement with elaborate democratic procedures of legitimisation, is it then possible to assess their legitimacy claims avoiding democratic scrutiny? That is, although the membership claim takes precedence, many of Amnesty International UK's legitimacy claims are also sourced from Amnesty International's research library that serves as an epistemic legitimacy source. However, it leaves unanswered whether their internal process of legitimisation should be included when assessing their legitimacy claims. The case study demonstrated that it should in fact be central. And by implication, when a regulator (or an oversight body) interested in upholding democratic principles is making judgments about Amnesty International UK's and Amnesty International's access to power, they should make democratic scrutiny central to their assessment.

Greenpeace UK's context is Greenpeace International and the internal organisation of power along with environmental research (whether conducted internally or commissioned) and knowledge production. Its chain of command is defined by the bilateral agreement between Greenpeace International and Greenpeace UK.

Greenpeace's central claim to legitimacy is its ideology on environmental issues coupled with scientific research and knowledge production. Although Greenpeace UK and Greenpeace International do refer to democratic processes this is not central to the internal legitimation process of the Greenpeace hierarchy. Greenpeace UK's legitimacy claims are mainly based on references to scientific research which along with knowledge production is central to the way Greenpeace UK justifies its legitimacy claims. This places an enormous strain on the Greenpeace Research Laboratories (Greenpeace International's Science Unit) whose results are infused with the political message and policy of Greenpeace International and passed on to Greenpeace UK. When campaigning in the UK, Greenpeace UK is carrying out the policies of Greenpeace International that is not registered in the UK and therefore outside the reach of the regulatory regime. As such, Greenpeace International is not accountable to anyone in the UK. It is however accountable through its representative unit, Greenpeace UK, which is a registered company and thus only financially accountable. In this case it is essential for the regulator (or the oversight body), when assessing Greenpeace UK's access to power, to take into consideration that the regulator is in effect dealing with Greenpeace International. It is also important to take into account how the Greenpeace hierarchy uses science (its own and others) as a legitimacy source for political legitimacy to advance its political impact.

Cafod's organisational context is the Catholic Church and the documents produced by the Holy See. Cafod is bound by the rules of the hierarchy of the Holy See (where its ultimate decision making authority is the pope). Cafod's central claim to legitimacy is its Catholic identity where it is bound by the rules of the Holy See hierarchy. Cafod's authoritative legitimacy sources are the documents of the Second Vatican Council and the Catholic social teaching. Its legitimacy is by default vulnerable to the theological debates that ensue between conservative and liberal factions of the Catholic Church. When Cafod engages with secular sources, such as in its HIV policy, to justify its legitimacy claims it is confronted with legitimacy challenges that threaten its Catholic identity. However, Cafod's institutional embeddedness also ensures institutional

support from its organisational superiors; the bishops that hire Cafod to enact the social policy of the Catholic Church. Normative aspects of Catholic teaching are central to Cafod's legitimacy claims and dictate the internal process of legitimation. For a regulator (or an oversight body) the challenge is to assess Cafod's legitimacy claims in a democratic context when its legitimacy sources are faith-based. How Cafod uses its legitimacy sources can therefore be a challenge. However, Cafod's focus on service delivery allows it to escape from confronting legitimacy problems of its advocacy. As a faith-based NGO it is intrinsically problematic to assess its legitimacy claims because their legitimacy sources lie outside the secular context.

Overall, the case studies demonstrate how NGOs use different legitimacy sources to justify their legitimacy claims. The case studies have provided insight into how the internal process of legitimation works for the NGOs and the contingent institutional complexities involved when addressing the underlying normative structure of how NGOs claim legitimacy and their ability to present legitimacy claims. The Beethamite framework of each case study reflects the normative structure of that NGO's legitimacy claims. As such, each case study stands by itself as a useful addition to the literature on NGO legitimacy as well as contributing to a wider understanding of NGOs' legitimacy claims. The case studies thus overcome some of the gaps in the literature, in particular regarding the organisational histories that show how legitimacy claims are established and developed. Indeed most of the literature is ahistorical. The histories of individual NGO's organisational contexts have only been sparsely done before, often written by non-academics or individuals directly engaged in that NGO. Indeed there is little research that engages the organisational history of NGOs' legitimacy claims in their analysis thereof. The historical contexts in the case studies thus expose gaps that need to be filled for a better understanding of how NGOs organise power and claim legitimacy. The case studies also help to illustrate the usefulness of a contextualised analysis in identifying the problematic in the literature. The theories discussed in chapter two tend to focus on a single aspect or dimension of what makes NGOs legitimate. The gap in the literature spurred the creation of the four models to pin

down the analytical insights of the literature on NGOs' legitimacy and demonstrate the usefulness of a Beethamite analysis. The case studies are also a useful practical contribution, whether for the NGOs themselves or others involved or engaged with NGOs, such as regulators, politicians and businesses.

The contributions of this thesis

The main contributions of this thesis are as follows:

- a) the concept legitimacy, when applied to NGOs, has to be anchored in their organisational context;
- b) the analytical gap between NGOs' national and international legitimacy needs bridging;
- c) the role of NGOs as democratic agents needs more clarity based on how they claim legitimacy and their internal legitimisation processes as this structures their representation;
- d) there is a lack of democratic scrutiny of UK NGOs

I now discuss each point in more detail.

The first contribution relates to the conceptual limits of NGOs' legitimacy claims and the need for a better conceptual understanding of NGOs' legitimacy that is inclusive of NGOs' internal organisation of power. It is not sufficient to look at the substance of their claims only or contractual relations mainly. A debate about the legitimacy of NGOs has to have the organisational context of NGOs at its centre of explanation, rather than try to explain NGOs' legitimacy in a contingent context as often happens in the literature. In order to explore NGOs' legitimacy NGOs have to be the unit of analysis. This thesis has argued that NGOs' normative structure of legitimacy is essential for assessing the social construction of their legitimacy claims. It is necessary to establish NGOs' legitimacy-in-context holistically, not least their internal organisation of power as it affects their mandate and in what capacity legitimacy claims are presented at the national and international levels. By applying a Beethamite framework to analyse NGOs' legitimacy claims it is possible to identify the normative

structure of NGOs legitimacy and thereby arrive at a better understanding of their legitimacy claims.

Such an approach is also inclusive of NGOs' political dimension. Many of the issues that NGOs care about and campaign for are highly political both in international politics and in the national political context. The case studies of Amnesty International UK and Greenpeace UK demonstrated this clearly. And even though an NGO is not campaigning on a political issue, its objectives can be politically complicated when negotiating a service delivery contract (such as the condom issue in Cafod's case), or the circumstances it operates in can be highly political or politically volatile. The political context of NGOs is furthermore tied in with their democratic role in society. This is especially true at the international level where NGOs are increasingly envisioned to have a significant democratic role to play.

In the UK, the political context of NGOs has been comfortably brushed aside by assigning their role to service delivery with focus on contractual obligations – and if this does not fit, then to the commercial world of businesses where they are exempt from democratic scrutiny. Using a Beethamite analysis, one is able to identify the normative structure of how NGOs claim legitimacy and the social construction of their legitimacy claims, thus providing a platform for an immanent critique. This approach exposes the contingency of legitimacy sources and the importance of context when assessing NGOs' legitimacy claims thus highlighting the analytical relevance for how power is organised in each NGO and the interplay between the legitimacy sources and the organisation of power in each NGO. It has furthermore highlighted that the three NGOs examined in this thesis operate as parts of hierarchies where the power relations between the subordinate and dominant units are significantly different and the legitimacy sources used to justify their claims vary based on the normative structure of their legitimacy.

A Beethamite approach is more suited to analyse the legitimacy claims of NGOs compared to the approaches discussed in chapter two because it is more holistic. This is mainly because a Beethamite approach can better analyse NGOs' legitimacy claims in a political context as democratic agents. This is important if one is to better understand their role in the new world order and how to justify their role in a democratic context, not only at the national level but also at the international level. A democratic role is being assigned to NGOs, whether they embrace it or not, which demands more clarity on the concept of NGO legitimacy. This enhanced democratic role of NGOs, especially at the international level, is crucial, but it cannot and should not be taken out of the national context because it does not exist independently of it. The rules are almost always based in national law but the justifications for the rules are far more complex and need to be included to explain and assess their legitimacy claims. Rather, NGOs should be contextualised as organisational entities that operate both on the national and international level and analysed based on the internal organisation of power between their units. That is, an analysis that can integrate NGOs' internal legitimisation with their legitimacy claims enables an exploration of the mandate of their claims and how NGOs can fit into the wider power structures of society.

Thus, the second contribution of this thesis is about the gap that exists in the literature between NGOs' national and international legitimacy. The thesis has established that the national and international contexts of NGOs are interrelated. An NGO that operates globally has various sources of legitimacy that transgress the national-international divide. However, this divide can be overcome if its legitimacy claims are analysed in the context of the NGO. This explicates the features of its internal power relations and integrates the national-international dimension into the analysis of the legitimacy claims, rather than excluding one or the other from the analysis. How NGOs claim legitimacy matters for how one is to evaluate their legitimacy claims.

On the one hand the international relations literature dominates in asking interesting legitimacy questions about NGOs in terms of their democratic agency and representation of normative values expressed as global public opinions. The limitation of these questions is that they are mostly normative in nature and annexed to a particular context such as the UN or other global institutions of power. What is left out in the discussions of globally operating NGOs is the link between the international level and the national level of the same NGO. This literature does not directly engage with questions such as whether Amnesty International can stand alone as an NGO unaffected by Amnesty International UK, or if Cafod is an independent NGO whose remit as a development agency is unaffected by the Catholic Church. On the other hand, the literature that discusses NGOs in the national context has shed the normative angle and is reluctant to discuss the legitimacy of NGOs as a political concept, instead opting to focus on Weberian empirical legitimacy in terms of NGOs' service delivery functions using contractual criteria such as accountability and efficiency.

Any scrutiny of NGOs' legal and organisational context will reveal that NGOs as legal entities are based in national law not international law. There are, however, interesting caveats here as was discussed in chapters one and two. The case of Cafod also demonstrates an interesting analytical dimension that is often left out in both the literatures above and that is that Cafod prioritises the supernatural over the temporal; hence canon law takes precedence as a justificatory source of legal legitimacy over its secular charitable registration under English law.

The thesis argues that the national-international dimension of NGOs is a single analytical level, not two separate levels. It is a central feature in the analysis of NGOs' legitimacy claims as the Beethamite approach expounds and the case studies demonstrate. NGOs' legitimacy claims are not split between the national and international levels of the same NGO, quite the contrary. The sources of legitimacy vary between the two levels and it is important to identify them when one is to make

assessments about their legitimacy claims and democratic authority. This means analysing the power relations between the national and international entities of the same NGO.

This brings me to the third contribution of this thesis which is about NGOs representative ability. A Beethamite analysis of NGOs' legitimacy claims involves looking at NGOs internal organisation of power of the NGO which can help explain the mandate of the legitimacy claims and the issue of representation. This is important because NGOs are often portrayed as vital agents in democratic processes, whether they are seen to be representing the poor and disempowered, the environment or universal norms such as human rights. Thus understanding how the internal mandate of that agency is justified is crucial for evaluating their legitimacy claims. This thesis has argued that there is an inherent legitimacy deficit in NGOs' organisational structures that raises questions about NGOs as representative entities of civil society or the third sector. The pertinence of this finding is that the mandate of the representational entity of an NGO hierarchy is often promulgated as NGOs' democratic agency in a larger societal context of liberal democracy, when in fact, as this thesis has shown, their democratic credentials are far from clear.

For example, in comparing the representative ability of Greenpeace International and Amnesty International at the international level there are significant organisational differences that influence the assessment of their legitimacy claims (as potentially representing global public opinion or civil society). Greenpeace UK is a representative of Greenpeace International in the UK and subject to its authority according to a bilateral arrangement between the two that is binding. Amnesty International UK on the other hand has a voluntary arrangement with Amnesty International. On top of that Amnesty International UK has the 'real' members (along with other sections) that constitute the mandate of Amnesty International at the international level as its authoritative source of legitimacy. These differences are down to how their mandate is legitimated internally. That is, the *de jure* powers of their mandates differ, although

the de facto powers of their mandates may be the same. Amnesty International receives its mandate from the members of its national sections, a process that is largely based on democratic principles. Statements about Amnesty International's legitimacy claims representing public opinion are according to this process more about representing their members. Furthermore, Amnesty International's mandate suffers from the power gap that exists between the unincorporated Amnesty International and its incorporated companies where the latter hold all executive powers. Greenpeace International on the other hand has a bilateral agreement with each national office that limits the remit of their democratic agency and is perhaps more akin to corporate structures that licence franchises. This makes the de jure mandate of Greenpeace International less democratic than Amnesty International's. However, based on its authoritative legitimacy source of environmental science Greenpeace International's de facto mandate is very similar to Amnesty International's when it comes to assessing their representational claims. These differences are often excluded or conflated in discussions about their legitimacy or representative abilities where the substance of their claims is detached from the legitimacy of the mandate to present the claims when in fact it should be central to the assessment of their claims.

The above points culminate in the final point which is the lack of democratic scrutiny of UK NGOs. If NGOs are to assume the roles assigned to them in society this needs addressing; whether it pertains to their functions of delivering welfare services or filling legitimacy gaps in (inter)governmental institutions or other relevant democratic processes. The regulation of NGOs as based on the legal forms and definitions in company and charity law is minimal and not appropriated to their organisational or normative structures. The overarching emphasis by the regulators on financial accountability suggests that they either think financial auditing is central to what makes NGOs legitimate or that democratic scrutiny falls short in the registration forms available to NGOs. In focusing on the NGOs as units of analysis and in particular their internal organisation of power, it is possible to shed a light on the shortcomings of the regulatory systems used to scrutinise their legitimacy claims.

Although the literature has pointed out the shortcomings of the regulatory regime for NGOs there is very limited discussion on democratic control and how this relates to their legitimacy claims in the context of English law. Hopefully this thesis has added something to that debate.

The motivation for writing this thesis was the desire to provide a more detailed explanation to the question: what makes NGOs legitimate? It is a vital question to answer because of the rising power of NGOs in national and international political systems which is tied in with a lack of democratic scrutiny of NGOs' legitimacy claims. This thesis provides a starting point for exploration of NGOs' legitimacy claims in more detail than hitherto provided in the literature. Analysing the legitimacy claims in the UK context has demonstrated that there are complex organisational structures involved when analysing how NGOs claims legitimacy and multiple dimensions that need to be considered when assessing their legitimacy claims. This is particularly true when it comes to assessing the political interface of NGOs' legitimacy claims which is often overlooked by the regulators. NGOs have a potentially important role to play in society and the importance of what makes them legitimate should not be overlooked.

Appendices

Appendix chapter 1

NGO factsheet

This factsheet is a working guide. The information is based on annual reports, constitutional documents and information disseminated by the UK regulators and the NGOs. The terms are comparable units between the NGOs, albeit limited to the validity and reliability of the data and susceptible to possible ambiguities of terms. That is, the terms members, registration, legal form, income and employees are comparable units between the NGOs. There are however some nuances. *Territory* refers to the NGO as registered under English law; it does not refer to the operational territory of the NGO. Territory varies somewhat between what the NGOs describe in their own official documents and what the Charity Commission describes as its regulatory remit, which is England and Wales, thus excluding Northern Ireland and Scotland that are included by the NGOs as their proclaimed territory. I have used the declared territory of the NGOs. *Established* is also a comparable unit but again depending on validity of original documents retrieved. *Income* can vary between annual reports and what the Charity Commission publishes, I have used the figures given in annual reports and the data from Charity Commission for support or if annual report was inaccessible. The term *Employees* means a full-time salaried position, where available I have also attached part time position. *Members* is a term that refers to the legal members of the entity as they are defined in the governing documents of that entity. Members is thus a different term from volunteers or supporters. I will stress here that the terms *Volunteers* and *Supporters* are not comparable units as these two terms are not clearly defined based on the data I have collected (unlike members that are a clearly defined term in governing documents). The information I have on these two units, volunteers and supporters, is scattered and based on various applications of the terms in the documents. Nonetheless, I have decided to include them where available, with this pretext, as they give an insight into one of the many dimensions of NGOs. I will stress here that the following information should be reviewed in the context of the case studies that explain much of the information in details. The entities included here are entities that feature in my case studies and comprise the legal core of the NGO under scrutiny. Many of these entities have numerous subsidiaries such as trading companies that I have not included in my factsheet. I have, however, included legally related entities that at some point formed part of the legal core of that particular organisation, such as the Prisoners of Conscience Appeal Fund that is still governed by the original Amnesty International trust deed declared in 1962.

Amnesty International

Amnesty International⁶⁰

Established: 1961

Registered: 1962 (as Prisoners of Conscience Appeal Fund, separated from Amnesty International in 1982)

Income: not applicable

Employees: not applicable

Members: International Executive Committee and members of Amnesty International Council as defined in the statute

Volunteers:

Active supporters (all members and supporters of all Amnesty International sections): 3million (2009)

Registration: not registered

Legal form: unincorporated organisation governed by statute

Territory (declared): global

⁶⁰ Information retrieved from Amnesty International website (Amnesty International, 2009, 2010a; Charity Commission, 2011b).

Prisoners of Conscience Appeal Fund⁶¹

Established: 1962

Registered: 1962 (separated from Amnesty International in 1982)

Income: £321,568 (2009)

Employees: 4 (2009)

Members: Trustees (not a membership organisation)

Volunteers:

Active supporters:

Registration: Charity, no. 213766

Legal form: Trust governed by a Trust Deed

Territory: UK

Amnesty International Limited⁶²

Established: 1982

Registered: 1982

Income: £27,736,000 (2008)

Employees: 450

Members: International Executive Committee (9-11 persons)

Volunteers:

Active supporters:

Registration: Company, no. 1606776

Legal form: Company governed by articles of association and the statute of Amnesty International unincorporated

Territory: (No territory is declared in the annual reports but it has offices, in addition to the London office, in New York, Hong Kong, Geneva, Paris, Kampala, Dakar, Moscow and Beirut)

Amnesty International Charity Limited⁶³

Established: 1986

Registered: 1986

Income: £20,290,000 (2009)

Employees: 0

Members: Board of Trustees that are members of the International Executive Committee of Amnesty International

Volunteers:

Active supporters:

Registration: Charity, no. 294230, and Company, no. 2007475

Legal form: Company governed by articles of association

Territory: Great Britain and Northern Ireland (England and Wales according to the Charity Commission)

Amnesty International UK Section Limited⁶⁴

Established: 1962 (as a national Section of Amnesty International)

Registered: 1983 (as Amnesty International British Section Limited, name changed in 1995)

Income: £12,6 million (2008)

Employees: 121 (2008); 133 (2010)

Members: individuals as defined in the company's articles of association

Volunteers:

Active supporters: 225,605 (2010)

Registration: Company, no. 1735872

⁶¹ (Charity Commission, 2011b; Prisoners of Conscience Appeal Fund, 2009b, 2011)

⁶² Information retrieved from (Amnesty International Limited, 2008, 2010)

⁶³ Information accessed from the Charity Commissioner 19. Oct. 2011 and (Amnesty International Charity Limited, 2009)

⁶⁴ Information retrieved from (Amnesty International UK, 2010a:4,7; Amnesty International United Kingdom Section, 2009b; Parry, 1995). Members of Amnesty International UK are defined in an appendix to chapter five of this thesis.

Legal form: Company governed by articles of association and statute of Amnesty International
unincorporated
Territory: Great Britain and Northern Ireland

Amnesty International British Section Charitable Trust⁶⁵

Established: 1986, removed 1997 and funds transferred into Amnesty International UK Section
Charitable Trust (incorporated)
Registered: 1986
Income: not available
Employees: not available
Members: not available
Volunteers:
Active supporters:
Registration: Charity, no. 294279
Legal form: Trust governed by a Trust Deed
Territory: not available

Amnesty International UK Section Charitable Trust⁶⁶

Established: 1996
Registered: 1996
Income: £12,357,000 (2010)
Employees: 31 (2010)
Members: Trustees, persons who are the Board of Trustees of the Company as defined by the
articles of association (min. 3 persons but no maximum). Trustees are appointed by a governing
body of Amnesty International UK Section Limited.
Volunteers: 0
Active supporters:
Registration: Charity, no. 1051681
Legal form: Company governed by memorandum and articles of association
Territory: England and Wales, Northern Ireland, Scotland

Greenpeace

Greenpeace Foundation⁶⁷

Established: 1969 as Don't Make a Wave Committee (a spin-off from the Sierra Club)
Registered: 1972 as Greenpeace Foundation; reconstituted in 1979 as Greenpeace Canada
Income: \$(CAD) 1,211,167 (2009)
Employees: not available
Members: not available
Volunteers:
Active supporters: 90,000 (2009)
Registration: not available
Legal form: not available
Territory: not available

Greenpeace International⁶⁸

Established: 1979
Registered: 1979
Income: €56,263,000 (2011)

⁶⁵ Information retrieved from (Charity Commission, 2011d).

⁶⁶ Information retrieved from (Amnesty International UK Section Charitable Trust, 2008; Charity Commission, 2011e).

⁶⁷ Information retrieved from (Greenpeace Canada, 2009; Weyler, 2004, 2011b). A preliminary search on the official Canadian charity and business registries did not reveal Greenpeace as a registered entity. This is however, I stress, preliminary.

⁶⁸ Information retrieved from (Greenpeace International, 2005a, 2011b, 2011d)

Employees: 175
Members: as defined in Greenpeace Internationals' governing documents
Volunteers:
Active supporters (including all members and supporters of all Greenpeace offices): 2.8 million
Registration: registered as Stitching Greenpeace Council with Amsterdam Chamber of Commerce
Legal form: Constitution with memorandum and articles of association
Territory: (according to Dutch law)

Greenpeace Limited (subsidiary of Greenpeace UK Limited)⁶⁹

Established: 1977
Registered: 1977
Income: consolidated in Greenpeace UK Limited
Employees: consolidated
Members: consolidated
Volunteers:
Active supporters:
Registration: Company, no. 1314381
Legal form: Company governed by memorandum and articles of association
Territory:

Greenpeace UK Limited (parent to Greenpeace Limited)⁷⁰

Established: 1990
Registered: 1990
Income: £9,736,570 (2009)
Employees: 111
Members: limited to persons that are members of the company as defined in the articles of association (min.2, max.15 persons)
Volunteers:
Active supporters:
Registration: Company, no. 2463348
Legal form: Constitution with memorandum and articles of association
Territory: Great Britain and Northern Ireland

Greenpeace Environmental Trust⁷¹

Established: 1982
Registered: 1982
Income: £2,733,262 (2009)
Employees: 1
Members: limited to persons that are members of the Trust as defined in the articles of association
Volunteers: 3
Active supporters:
Registration: Charity, no. 284934 and Company no. 1636817
Legal form: Trust governed by memorandum and articles of association
Territory: Great Britain and Northern Ireland

⁶⁹ Information accessed from (Greenpeace Limited, 1979, 1991a)

⁷⁰ Information accessed from (Greenpeace UK Limited, 2010). The accounts are consolidated with Greenpeace Limited. Greenpeace UK Limited is only the parent company that owns 100 percent of shares in Greenpeace Limited (for reasons described in chapter six). Greenpeace UK Limited has no income or expenditure, all financial activity is through Greenpeace Limited. Financial accounts are identical. In 1992 it changed its name from Greenpeace UK to Greenpeace UK Limited with the use of Limited exemption. The members are the council and the directors of the company, not actual members.

⁷¹ Information accessed from the Charity Commissioner 19. Oct. 2011 and (Greenpeace Environmental Trust, 1982, 2009). It mainly funds Greenpeace Research Laboratories and Greenpeace UK, as well as educational projects of other Greenpeace offices worldwide.

Cafod

Cafod (Catholic Agency for Overseas Development)⁷²

Established: 1962

Registered: 1961 (as Family Fast Day Fund, removed 1968); 1982 as Catholic Fund for Overseas Development (name changed in 2000)

Income: £55,919,000 (2010, Charity Commission); £49,055,000 (2010, annual report)

Employees: 357 full time, 60 part time (2010)

Volunteers: 2000-2500

Active supporters:

Members: Trustees (not a membership NGO)

Registration: Charity, no. 285776; (Family Fast Day Fund: Charity, no. 200231)

Legal form: Trust governed by a Trust Deed (dated 1982)

Territory: England and Wales (operationally global, in 47 countries)

⁷² Information retrieved from (Cafod, 2010a; Charity Commission, 2011a, 2011c). I have not included the Catholic Church of England and Wales or the Holy See in my factsheet, as these are not NGOs.

Appendix chapter 3

Example of a letter of intent

Erla Thrandardottir,
Politics PhD Candidate
School of Social Sciences
University of Manchester
Arthur Lewis Building
Oxford Road, Manchester, M13 9PL
Mobile UK: xxxx xxx xxxx
Mobile Intl: + 44 xxx xxx xxxx
<http://www.socialsciences.manchester.ac.uk/disciplines/politics/postgraduate/research/Current/thrandardottir/>

Manchester, 14 June 2009

To Whom It May Concern:

My name is Erla Thrandardottir and I am a PhD candidate at the University of Manchester in Political Science. I am writing a thesis on the legitimacy of non-governmental organisations (NGOs), including Amnesty, Oxfam, Greenpeace, CAFOD and the Red Cross as my case studies.

I am looking to conduct some interviews and wanted to ask if you are available as an interviewee (or would you know somebody else at your organisation that might be?). The aim of the study is to gain better understanding of NGOs as legitimate actors in global governance.

I would greatly appreciate it if you would be able to help me. Should you be interested, I would be happy to share any further information on my research with you. My intention is to use the interviews as a source in my thesis and particular respondents will not be named without specific consent.

Thank you for your time and hope to hear from you soon.

Yours faithfully,
Erla Thrandardottir

List of interviews conducted

The interviews listed below were conducted with members (and ex-members) of various entities belonging to NGOs that were either in my case studies or directly or indirectly related to my research. This includes: twelve interviews with individuals from entities belonging to Amnesty International, Greenpeace and Cafod; five interviews conducted with members of Oxfam, and the Red Cross (these NGOs were initially on my list of case studies and the interviews are included here because they provided additional useful contextual information); two interviews conducted with individuals of related institutions; and one interview with an unrelated NGO member. Most of the interviews were conducted in the period between June and September 2009. In addition to the interviews there was a considerable amount of personal communication via email with individuals of all three of the case studies as well as other organisations. Also, not documented here is personal communication with individuals and incidental institutional interaction.

Interviews conducted

Organisation	Interview	Date
ex-Amnesty International	interview 1	02/06/2009
Amnesty International	interview 2	02/06/2009
Amnesty International	interview 3	09/12/2010
Cafod	interview 4	24/06/2009
Cafod	interview 5	30/06/2009
Caritas	interview 6	08/07/2009
Cafod	interview 7	13/07/2009
Cafod	interview 8	21/09/2009
Charity Commission	interview 9	17/12/2009
Greenpeace International	interview 10	01/06/2009
Greenpeace International	interview 11	22/07/2009
ex-Greenpeace International	interview 12	22/07/2009
Greenpeace Research Laboratories	interview 13	01/04/2010
Oxfam International	interview 14	02/06/2009
Oxfam International	interview 15	15/07/2009
Oxfam International	interview 16	27/07/2009
Anonymous	interview 17	02/06/2009
Anonymous	interview 18	02/06/2009
Anonymous	interview 19	02/06/2009
British Red Cross	interview 20	14/08/2009
British Red Cross	interview 21	17/09/2009

Personal Communication with organisations

Organisation	Total number of emails (sent & received)
International NGO Workshop	47
Cafod	67
Amnesty	11
Red Cross	31
Greenpeace	51
Oxfam	38

Appendix chapter 4

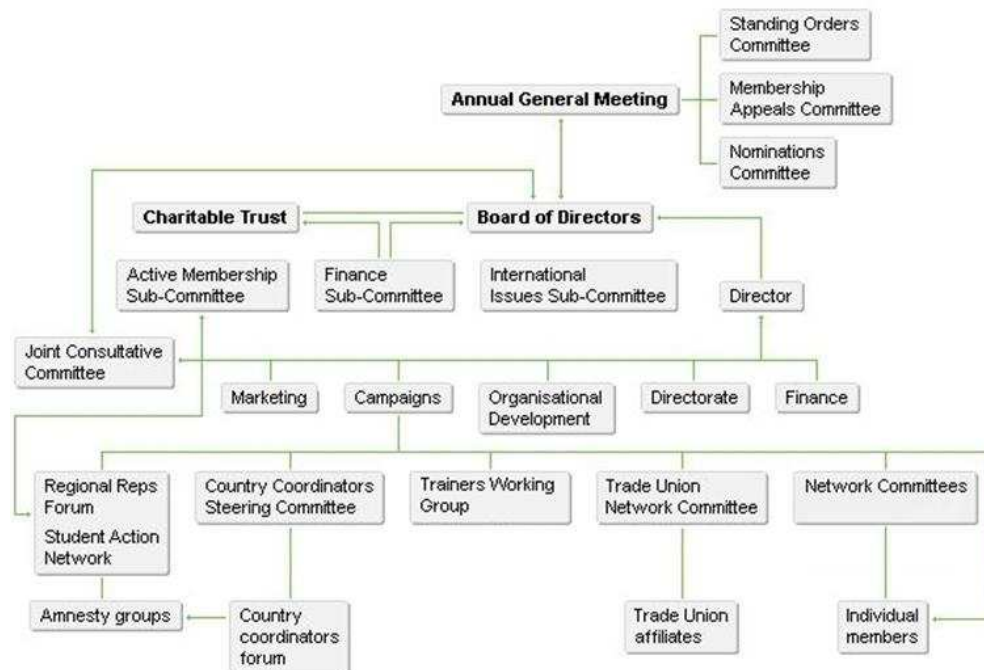
Legal forms of charity registration

Legal form	Governing document	Usual internal term for trustees
Charitable trust	Trust deed (or a will, or a Scheme created by the Charity Commission)	Trustees
Charitable association	Constitution	Committee
Charitable company (company limited by guarantee – CLG)	Memorandum and articles	Directors or board members
Charitable incorporated organisation (CIO)	Constitution	Trustees
Community benefit society (CBS or bencom – industrial and provident society established for the benefit of the community)	Rules	Committee
Charities established by Royal Charter (for example Scouts/Guides and certain professional bodies)	Charter	Council
Charities established by Act of Parliament (for example most Church of England bodies)	Act of Parliament (or regulations made under the Act)	Various terms

Adjusted and adapted from Morgan (Morgan and Directory of Social Change (Organization), 2008:9)

Appendix chapter 5

Amnesty International UK's organisational structure



Source: Amnesty International UK (2008b)

Amnesty International UK's member definition

The following Amnesty International UK membership typology is taken from the company's Articles of Association 2009 (Amnesty International United Kingdom Section, 2009a:8-12):

Individual member: "Individuals who are residents of Great Britain, Northern Ireland, the Channel Islands and the Isle of Man and British citizens who are resident abroad either temporarily or permanently provided that they are 14 or over, who are admitted as Individual Members by the Board" (ibid: art. 1.1.21).

Family members: "Families who are residents of Great Britain, Northern Ireland, the Channel Islands and the Isle of Man and British citizens who are resident abroad either temporarily or permanently provided that they are 14 or over, who are admitted as family members by the Board" (ibid: art. 1.1.19).

Affiliate members: "organisations based in the UK which are not political parties, solidarity groups or single interest county groups and which have been admitted as Affiliate Members by the Board" (ibid: art. 1.1.2).

Local group: "groups of individuals which are recognised by the Company as Local Groups" (ibid: art. 1.1.23).

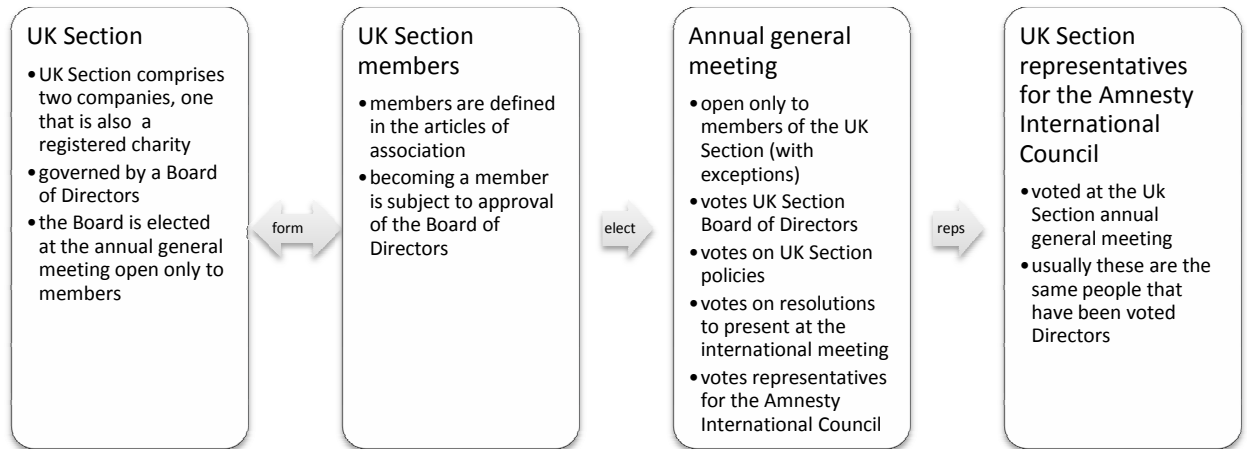
Student groups: "groups of students which are recognised by the Company as Student Groups and which are organised within universities, higher education and further education colleges" (ibid: art. 1.1.36).

Youth groups: "groups of young people which are recognised by the Company as Youth Groups and which are organised within schools, youth clubs or otherwise" (ibid: art. 1.1.39).

Associate member: "members who are determined by the Board to be Associate Members" (ibid: art. 1.1.7).

Amnesty International's internal process of legitimization

National Section level – grassroots/members level



International level – policy level



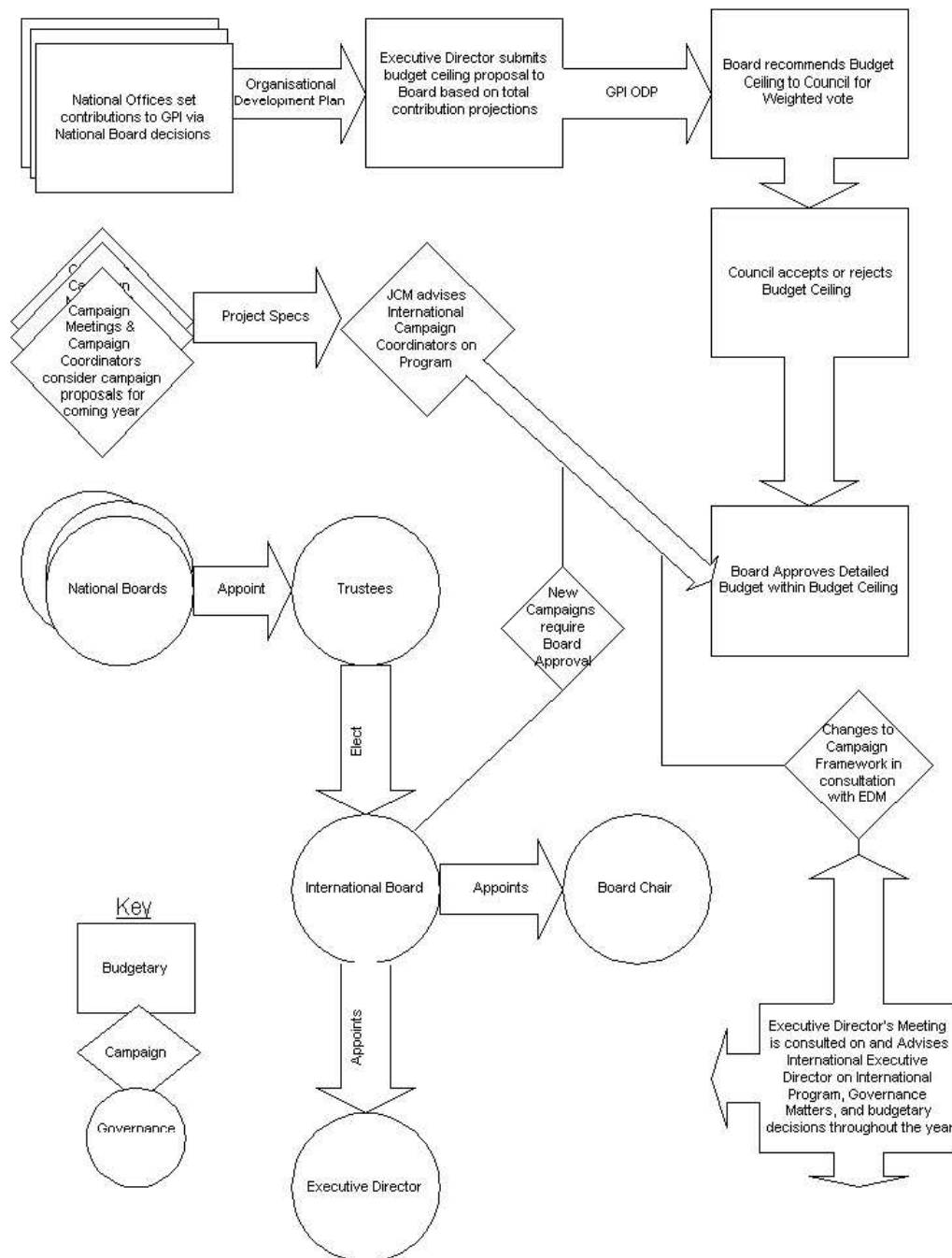
Global executive level – Amnesty International Secretariat



Source: author's own work

Appendix chapter 6

Greenpeace International's decision making structures



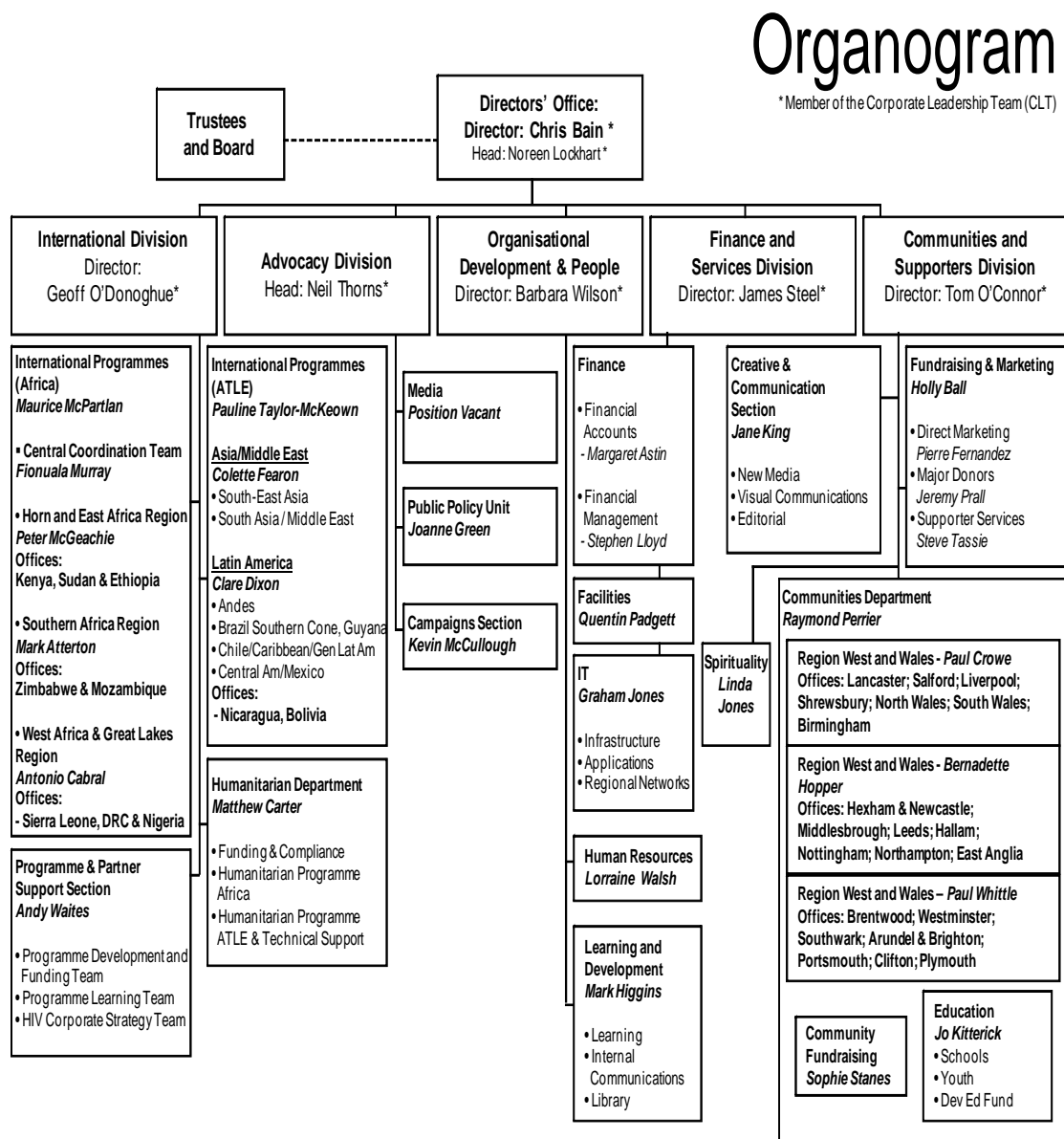
Source: Greenpeace Governance Handbook (2005a:53)

Source: Greenpeace UK (2010)



Appendix chapter 7

Cafod's organisational structure



Source: received by email from Cafod

Bibliographical addendum

The following list of websites contains some of my primary internet sources. The list is compiled with the precautionary note that websites do change rapidly and the reader may find that some of the links below may not work in the future. Nonetheless the compilation should give an idea of where I have accessed some of the documents used in this thesis (a digital footprint). I have tried to organise the links to make it more clear for the reader to follow where I have gathered my data, especially in cases where alternative databases have been used, such as for Greenpeace London. Note that this tabulation is intended to give a comprehensive and systematic signposting of where I have gathered data. The full bibliographical references used in the thesis are listed appropriately in the bibliography.

Chapter 2: NGO projects

Harvard NGO project

<http://www.hks.harvard.edu/hauser/>

This project is part of the HKS at Harvard and covers a range of nonprofit issues. The Hauser Center however focuses on humanitarian and development NGOs and has a series of working papers to that extent. It was part of a project with Civicus and a few large NGOs (including Greenpeace International and Amnesty International) about increasing the legitimacy and accountability measures of international NGOs that resulted in the international NGO Charter, found at:

<http://www.ingoaccountabilitycharter.org>, and the Global Reporting Initiative found at: <http://www.globalreporting.org>. The Hauser Center has collaborated with the Civicus: World Alliance for Citizen Participation that was pivotal in the creation of the global International NGO Charter. Details on the Civicus organisation can be found at: <http://www.civicus.org/about-us> and on its NGO legitimacy projects at: <http://lta.civicus.org/>.

Johns Hopkins NGO project

<http://www.ccss.jhu.edu/index.php?section=content&view=9&sub=3&tri=7>

This has been crucial in establishing the definition of nonprofit organisations and their extent as a sector. It has contributed to an international understanding of the extent of NGOs by mapping of NGOs in different countries. This has spurred many theories on networking and the global aspect of NGOs as a sector.

Stanford NGO project

<http://csi.gsb.stanford.edu/spen>

This project is centred on the evolution of nonprofits looking at their management and governance. It is part of a wider institute of social change that covers a wide range of research topics, the Center for Social Innovation, found at: <http://csi.gsb.stanford.edu/>.

Manchester NGO project

<http://www.sed.manchester.ac.uk/idpm/>

The Manchester project is part of a wider project on poverty and development issues at the Institute for Development Policy and Management (IDPM) at the University of

Manchester. It focuses on development NGOs and takes a more critical look at NGOs. For a research overview see: *Have NGOs 'Made a Difference?' From Manchester to Birmingham with an Elephant in the Room* (Edwards, 2008a)

Birmingham NGO project

<http://www.ngo.bham.ac.uk/>

This is a research project that looks at the contemporary history of NGOs and their role and influence in Britain since 1945. The project maintains an NGO database archive, found at: <http://www.dango.bham.ac.uk/>.

Chapter 4: Charity Commission and Companies House

Search engine Charity Commission

<http://www.charity-commission.gov.uk/>

Search engine Companies House (WebCheck)

<http://www.companieshouse.gov.uk/>

Chapter 5: Amnesty International

The data sources for this case study are based on the following. The history section is based on archival research and the analytical work conducted by Buchanan (2002, 2009). For background sources I used the Labour party website for information on Benenson in the 1950s (trade union relations and electoral results) and the Fabian Society Online Archive (held by LSE). The Fabian Society Online Archive includes letters and essays from the time periods of 1950 and 1960s at the time when Benenson is standing as Labour candidate and at the time of the Fabian Society publication of Benenson's essay *The Free Press* in 1961. The National Archives hold the letters of communication between the Foreign and Commonwealth Office and Amnesty International. Other archives that I used to triangulate the data were the Times digital newspaper archive. The index of the International Institute of Social History in Amsterdam that holds a comprehensive archive of Amnesty International and the IDC Publishers that hold a comprehensive index of the full Amnesty International UK archives (the actual archives are stored in various libraries in the UK). The Dango archive at Birmingham University was also consulted for a comprehensive list of Amnesty International and Amnesty International UK archives. These were mainly consulted to verify information with regards to names, dates, and links in other sources. I also consulted the works of Hopgood (2006), Power (2002) and DeGruchy (1997) for analytical support. In addition to the archives I used public documents from related organisations such as Justice, International Commission of Jurists (ICJ) and various Amnesty sections.

Regarding the mission and governance of Amnesty International UK and Amnesty International I relied on their published reports and governance documents available either from their own websites or from the Companies House Register. These include annual reports, memorandum and articles of association, handbooks, and newsletters and pamphlets. A few have also been received through personal communication. I obtained legal documents on Amnesty from the British and Irish Legal Information

Institute (Bailii) and Westlaw legal databases. Regarding legitimacy claims I have consulted reports from governmental bodies in the UK such as Select Committees, the Foreign Office, and intergovernmental bodies such as the UN Human Rights Commission. Finally, the data is supported and triangulated by interviews and notes from an observation at the international NGO Charter meeting in Barcelona (2009).

Amnesty International

<http://www.amnesty.org/>

<http://www.amnesty.org/en/who-we-are/accountability>

Amnesty International UK

<http://www.amnesty.org.uk/>

<http://www.amnesty.org.uk/content.asp?CategoryID=10877> (archived Annual General Meetings)

<http://www.amnesty.org.uk/content.asp?CategoryID=10174> (organisational structure)

Related to Amnesty International

Prisoners of Conscience Appeal Fund

<http://www.prisonersofconscience.org/default.aspx>

Justice

<http://www.justice.org.uk/>

International Commission of Jurists (ICJ)

<http://www.icj.org/>

Archives

The National Archives search engine

<http://www.nationalarchives.gov.uk/> (Foreign Office series reference FO 1110)

International Institute of Social History

<http://www.iisg.nl/index.php>

<http://www.iisg.nl/archives/en/files/a/10739035.php>

http://search.iisg.nl/search/search?action=transform&col=archives&xsl=archives-detail.xsl&lang=en&docid=10739035_EAD

IDC Publishers

<http://www.idc.nl/>

University of Warwick library archive

<http://www2.warwick.ac.uk/services/library/mrc/>

<http://dscalm.warwick.ac.uk/Dserve/dserve.exe?dsqIni=Dserve.ini&dsqApp=Archive&dsqCmd=NaviTree.tcl&dsqDb=Catalog&dsqItem=AMI/1/1/1&dsqField=RefNo#HERE>

Marylebone library archive

<http://www.westminster.gov.uk/services/libraries/findalibrary/marylebone/>

London School of Economics Fabian Society Online Archive
http://www2.lse.ac.uk/library/archive/online_resources/fabianarchive/home.aspx

Legal databases (the McGovern v A-G case)
<http://westlaw.co.uk/>
<http://oxcheps.new.ox.ac.uk/index.htm>
<http://www.bailii.org/>

Chapter 6: Greenpeace

The data sources for this case study are based on the following. The history section is based largely on the accounts from the autobiographies of the early members of Greenpeace. The history and origin of Greenpeace has been chronicled and annotated in a number of books by long-time members of the organisation (Hunter, 1979, 1980, 2004; Hunter and Weyler, 1978; McTaggart, 2002; McTaggart and Hunter, 1978; Weyler, 2004; Wilkinson and Schofield, 1994). Although rich in information these accounts often portray a personal, sympathetic and sometimes romantic view of the origin of Greenpeace and its mission as an NGO. (The same can also be said about many critics of Greenpeace, who have been subject to Greenpeace campaigns, and sometimes seem to have been motivated by the context of their own political interests (Dale, 2001; Gudmundsson, 1993; Klint, 1993; Spencer and Bollwerk, 1991), albeit a testimony to the impact Greenpeace was having on political and corporate agendas. Furthermore, as Greenpeace's emphasis on environmentalism grew so did the link with environmental sciences and literature and academic criticism, for instance on climate change (Lomborg, 2007, 2009)). To corroborate the storyline and particular events a wide variety of (alternative) sources has been used to verify the content. These include: Greenspirit (Patrick Moore), Greenpeace Foundation of Hawaii (Paul Spong), Sea Shepherd Conservation Society (Paul Watson), Quand Meme (David Tussman) and websites containing information about the publications of the Georgia Straight, Vancouver Sun, and Province. The data was further triangulated with the newspaper articles (Google News archive) and documents published by the UN to corroborate and verify dates, names, agendas and relevant links. For Greenpeace in the UK, I consulted the Radical History Network of North East London, McSpotlight, Peace News, War Resisters' International, Spunk Library, Commonwealth Archive and other incidental articles to verify information such as names, places and dates. For the analytical context of Greenpeace International's history Zelko's (2004a, 2004b, 2007) work and personal correspondence with Zelko (2010) has been used for support and triangulation.

The mission and governance section is mainly based on Greenpeace UK and Greenpeace International corporate documents. These were retrieved either from their websites, personal communication or the registries held by the Companies House and the Charities Commission. The documents collected include annual reports, memorandum and articles of association, handbooks, and newsletters and pamphlets. Regarding legitimacy claims I have consulted reports from various governmental bodies in the UK such as Select Committees and the House of Commons and institutions such as the UN (the International Panel for Climate Change). For the embedded case study I used an official transcript of the legal defence, Greenpeace campaign and policy documents, including witnesses' testimonies, government policy

documents and news articles. The documents collected for the Kingsnorth case were retrieved from the official verbatim reporters of the court case (Marten Walsh Cherer Ltd) and verified and triangulated with newspaper articles, as well as the relevant documents published by Greenpeace UK and Greenpeace International. These were further informed by and triangulated with interviews, phone calls, newspaper articles and my notes from an observation at the international NGO Charter meeting in Barcelona (2009), to verify the data.

Greenpeace International

<http://www.greenpeace.org/international/en/>

<http://www.greenpeace.org/international/en/about/deep-green/>

Greenpeace UK

<http://www.greenpeace.org.uk/>

<http://www.greenpeace.org.uk/about/how-we-work/scientific-research>

Greenpeace Research Laboratories

<http://www.greenpeace.to/greenpeace/>

<http://biosciences.exeter.ac.uk/>

Greenpeace London (archives that contain information about the Greenpeace London group):

Radical History Network of North East London

<http://radicalhistorynetwork.blogspot.com/2009/10/london-greenpeace-history-of-ideas.html>

McSpotlight

<http://www.mcspotlight.org/index.shtml>

<http://www.mcspotlight.org/case/trial/verdict/index.html>

Peace News on Greenpeace London

<http://www.peacenews.info/specials/mcd.html>

WRI

<http://wri-irg.org/>

<http://wri-irg.org/news/2000/offrep00.htm>

Spunk Library

<http://www.spunk.org/>

http://www.spunk.org/library/index/index_m.html

Commonweal Archive

<http://www.brad.ac.uk/library/special/cwlarchives.php>

<http://www.brad.ac.uk/library/special/cwlBGP.php>

<http://www.brad.ac.uk/library/special/subjindex.php#Peace Studies>

<http://www.brad.ac.uk/library/special/documents/CwlBGPCLDApril2010.pdf>

Greenpeace Foundation relatives and spin-offs:

David Tussman (Greenpeace San Francisco)
<http://quandmeme.wordpress.com/greenpeace-2/>

Greenspirit (Patrick Moore Greenpeace Foundation)
<http://www.greenspirit.com/index.cfm>
http://www.greenspirit.com/key_issues/the_log.cfm?booknum=12

Georgia Straight (counterculture journalists of early Greenpeace)
<http://www.straight.com/>
http://www.rickmcgrath.com/georgia_straight/staffers.html

Greenpeace Foundation of Hawaii (Dr. Spong Greenpeace Foundation)
<http://www.greenpeacefoundation.org/about/gpMovement.cfm>
<http://www.greenpeacefoundation.org/about/spongwhales.html>

Sea Shepherd Conservation Society (Paul Watson)
<http://www.seashepherd.org/who-we-are/our-history.html>
<http://www.seashepherd.org/who-we-are/paul-watson-and-greenpeace.html>
<http://www.greenpeace.org/international/en/about/history/paul-watson/>

Chapter 7: Cafod

The data sources for this case study are based on the following. The history section on Cafod's was particularly challenging as there is no coherent account of its history available. Part of it is based on a pamphlet published in Cafod's newsletter in 1986-7 (The Pampered Poodles) but also on my own research. This included the Westminster Archive, personal communications, the Catholic women's organisations, and the Catholic media. For analytical support I used the available relevant material published by the anthropologist Lennox Honychurch and Caribbean co-operative credit union websites. I also relied on the New Advent Catholic online encyclopaedia for explanations on Catholic terminology. The mission and governance section is mainly based on the corporate documents of Cafod and the Catholic Church. These were retrieved either from their websites, from personal communication or the Charities Commission. The documents collected include annual reports, policy documents, corporate documents from the Bishops' Conference in England and Wales, Cafod's trust deed, newsletters and pamphlets. The sources I used from the Holy See include documents such as Encyclicals, Motu Proprio, Ad limina and in particular encyclicals from the Second Vatican Council and those that constituted Catholic social teaching. Regarding legitimacy claims I have consulted, in addition to Cafod's own material, reports from the Catholic media, Catholic journals and magazines, Catholic blogs, affiliated Caritas organisations, documents of the Department for International Development, interviews, direct observations and personal communication to triangulate and verify information.

Cafod
<http://www.cafod.org.uk/>

<http://www.cafod.org.uk/about-us/what-we-do/hiv-and-aids>
<http://www.cafod.org.uk/resources/policy/aid-and-governance/hiv>

Catholic Church in England and Wales

<http://www.Catholic-ew.org.uk/Catholic-Church>
<http://www.Catholic-ew.org.uk/Catholic-Church/Catholic-Bishops-Conference-of-England-and-Wales/Agencies-of-the-CBCEW>

The Holy See

<http://www.vaticanstate.va/EN/homepage.htm>
http://www.vatican.va/phome_en.htm
http://www.vatican.va/archive/ENG1104/_INDEX.HTM
http://www.vatican.va/roman_curia/
<http://www.caritas.org/index.html>

Catholic Social Teaching

<http://www.Catholic-socialteaching.org.uk/>
<http://www.osjspm.org/cst>
<http://www.thesocialagenda.org/>

Catholic conservative blogs

<http://www.rosary.freeuk.com/>
<http://www.unitedforlife.com/cafod.html>
<http://friendswithchrist.blogspot.com/2007/06/cafod-and-new-morality.html>
<http://marymagdalen.blogspot.com/2011/05/caratas-international.html>

Catholic media

<http://www.Catholicherald.co.uk/>
<http://www.Catholicnewsagency.com/>
<http://www.thetablet.co.uk/>
<http://www.totalCatholic.com/tc/>

Bibliography

- Aladics, F. R., 2007. *Cafod and the 'New' Morality*. Available from: <http://friendswithchrist.blogspot.com/2007/06/cafod-and-new-morality.html> [Accessed 19 July, 2011].
- Allen, R., 2008. *Greenpeace Activists Had Lawful Excuse for Criminal Damage*. Crime Bulletin (25). Simmons & Simmons: London.
- Amnesty Appeal '61, 1961-3. *World Conscience: An International Review to Bridge the Distance between Supporters of Amnesty '61*. National Archives: London.
- Amnesty International, 1965. *Amnesty International Movement for Freedom of Opinion and Religion: Annual Report June 1, 1964 - May 31, 1965*. National Archives: London.
- Amnesty International, 2001. *Amnesty International Campaigning Manual*. Amnesty International Publications: London.
- Amnesty International, 2002. *Amnesty International Handbook*. Amnesty International Publications: London.
- Amnesty International, 2009. *Statute of Amnesty International*. Available from: <http://www.amnesty.org/en/who-we-are/accountability/statute-of-amnesty-international> [Accessed 3 Oct, 2011].
- Amnesty International, 2010a. *Amnesty International 2010 Report to INGO Accountability Charter Using GRI NGO Level C Reporting Template*. Global Reporting Initiative: Amsterdam.
- Amnesty International, 2010b. *Amnesty International's Integrated Strategic Plan 2010 to 2016*. Amnesty International: London.
- Amnesty International, 2011a. *The History of Amnesty International*. Available from: <http://www.amnesty.org/en/who-we-are/history> [Accessed 21 September, 2011].
- Amnesty International, 2011b. *International Executive Committee*. Available from: <http://www.amnesty.org/en/who-we-are/our-people/international-executive-committee> [Accessed 16 September, 2011].
- Amnesty International, 2011c. *Secretary General*. Available from: <http://www.amnesty.org/en/who-we-are/our-people/secretary-general> [Accessed 8 Oct, 2011].
- Amnesty International, 2011d. *Who We Are*. Available from: <http://www.amnesty.org/en/who-we-are> [Accessed 3 October, 2011].
- Amnesty International (British Section) Limited, 1983a. *Articles of Association of Amnesty International (British Section) Limited*. Companies House (Corporates Registration Office): Cardiff.
- Amnesty International (British Section) Limited, 1983b. *Memorandum of Association of Amnesty International (British Section) Limited*. Companies House (Corporates Registration Office): Cardiff.
- Amnesty International (British Section) Limited, 1988. *Articles of Association of Amnesty International (British Section) Limited*. The Registrar of Companies: Cardiff.
- Amnesty International (British Section) Limited, 1989. *Memorandum of Association of Amnesty International (British Section) Limited*. Companies House: Cardiff.

- Amnesty International (UK Section) Charitable Trust, 2008. *Financial Statements for the Year Ended 31st March 2008*. Companies House: Cardiff.
- Amnesty International Charity Limited, 1986a. *Articles of Association of Amnesty International Charity Limited*. The Registrar of Companies: Cardiff.
- Amnesty International Charity Limited, 1986b. *Memorandum of Association of Amnesty International Charity Limited*. The Registrar of Companies: Cardiff.
- Amnesty International Charity Limited, 2009. *Report and Financial Statements for the Year Ended 31 March 2009*. Companies House: Cardiff.
- Amnesty International Limited, 1987. *New Memorandum of Association and Articles of Association of Amnesty International Limited*. Companies House: Cardiff.
- Amnesty International Limited, 1995. *Amnesty International Limited Annual Report for the Year Ended 31 December 1994*. Companies House: Cardiff.
- Amnesty International Limited, 2008. *Report and Financial Statements for the Year Ended 31 March 2008*. Companies House: Cardiff.
- Amnesty International Limited, 2010. *Articles of Association of Amnesty International Limited*. Companies House: Cardiff.
- Amnesty International Limited and Amnesty International Charity Limited, 2007. *Report and Financial Statements for the Year Ended 31 March 2007*. Amnesty International Limited: London.
- Amnesty International UK, 2008a [12th October, 2011]. *Education*. Available from: <http://www.amnesty.org.uk/content.asp?CategoryID=10679> [Accessed 13 Oct, 2011].
- Amnesty International UK, 2008b [19 April 2011]. *How We Are Structured and Governed: Organisational Chart*. Available from: <http://www.amnesty.org.uk/content.asp?CategoryID=10098> [Accessed 26 Oct, 2011].
- Amnesty International UK, 2008c [11th March, 2011]. *The Structure of Amnesty International UK*. Available from: <http://www.amnesty.org.uk/content.asp?CategoryID=11617#finance> [Accessed 5 Oct, 2011].
- Amnesty International UK, 2009. *Amnesty International UK National Conference and AGM 2009: Decisions*. Amnesty International UK: London.
- Amnesty International UK, 2010a. *Amnesty International UK: Annual Report 2009/10*. Amnesty International UK: London.
- Amnesty International UK, 2010b. *Previous National Conferences and Annual General Meetings*. Available from: <http://www.amnesty.org.uk/content.asp?CategoryID=10877> [Accessed 5 Oct, 2011].
- Amnesty International UK Section, 2010. *Amnesty International United Kingdom Section and Amnesty Freestyle Ltd Consolidated Financial Statements 2009-10*. Amnesty International UK Section: London.
- Amnesty International UK Section Charitable Trust, 1995. *Memorandum of Association of Amnesty International UK Section Charitable Trust*. Companies House: Cardiff.
- Amnesty International UK Section Charitable Trust, 2007. *Amnesty International (UK Section) - Charitable Trust (a Company Limited by Guarantee) Financial Statements Year Ended 31 March 2006*. Charity Commission: London.

- Amnesty International UK Section Charitable Trust, 2008. *Memorandum and Articles of Association of Amnesty International (UK Section) Charitable Trust*. Companies House: Cardiff.
- Amnesty International United Kingdom, 2010. *Report of the Boards on the Pro-Forma Combined Financial Statements for the Nine-Month Period Ended 31 December 2010*. Amnesty International United Kingdom: London.
- Amnesty International United Kingdom Section, 2004. *Certificate of Incorporation on Change of Name*. Companies House: Cardiff.
- Amnesty International United Kingdom Section, 2006. *Certificate of Passing of Special Resolution of Amnesty International United Kingdom Section ("the Company")*. Companies House: Cardiff.
- Amnesty International United Kingdom Section, 2007. *AIUK in 2010 Strategic Directions*. Amnesty international UK: London.
- Amnesty International United Kingdom Section, 2009a. *Memorandum and Articles of Association of Amnesty International United Kingdom Section*. The Registrar of Companies: Cardiff.
- Amnesty International United Kingdom Section, 2009b. *Memorandum and Articles of Association of Amnesty International United Kingdom Section*. The Registrar of Companies: Cardiff.
- Amnesty International United Kingdom Section and Amnesty Freestyle Ltd, 2008. *Consolidated Financial Statements for the Year Ended 31 March 2008*. Companies House: Cardiff.
- Amnesty International United Kingdom Section Charitable Trust, 2010. *Trustees' Report and Financial Statements 2009-10*. Amnesty International United Kingdom Section Charitable Trust: London.
- Amnesty International United Kingdom Section Limited, 1997. *Certificate of Passing of Special Resolution*. Companies House: Cardiff.
- Anheier, H. and Katz, H., 2009. Network Approaches to Global Civil Society. In: Anheier, ed. *Global Civil Society 2004/5*. Sage: London.
- Anheier, H. T., 2008. *The United Nations and Civil Society: A Symposium on the Cardoso Report*. Journal of Civil Society 4(2): pp. 149-151.
- Attack, I., 1999. *Four Criteria of Development NGO Legitimacy*. World Development, 27(5): pp. 855-864.
- Bachrach, P. and Morton, S. B., 1962. *Two Faces of Power*. The American Political Science Review, 56(4): pp. 947-952.
- Barclay, C. F. R., 1965. *Subject: The Document Lists Points Which May Arise During Mr Barclay's Lunch with Mr Benenson of Amnesty International*. PR146/8. National Archives: London.
- Barclay, C. F. R. and Young, B., 1965. *Subject: Requests Our Views on the Nature and Value of the Work Which the Prisoner of Conscience Fund Performs*. PR146/14. National Archives: London.
- Barker, R., 2001. *Legitimizing Identities: The Self-Presentation of Rulers and Subjects*. Cambridge University Press: Cambridge.
- Barker, R. S., 1990. *Political Legitimacy and the State*. Clarendon Press: Oxford.
- Barker, T. C., 1961. *Material and General Questions of Religious Persecution in the Soviet Union and Satellites*. PR146/11G. National Archives: London.
- Barman, E., 2007. *What Is the Bottom Line for Nonprofit Organizations? A History of Measurement in the British Voluntary Sector*. Voluntas, 18: pp. 101-115.

- Barragan, H. E. A. J. L., 2001. *To the XXVI Special Session of the General Assembly on HIV/Aids*. United Nations: New York.
- Barrientos, P., 2007. Vatican Grants Public Status to WUCWO. *CBCP Monitor: Protagonist of Truth, Promoter of Peace*. 25 June - 8 July, p. A3.
- Baumgarten, P. M., 1910. Holy See. In: Knight, ed. *The Catholic Encyclopedia*, Vol. 7. Robert Appleton Company: New York.
- Bebbington, A., 1997. *Crises and Transitions : Non-Governmental Organisations and Political Economic Change in the Andean Region*. Network Paper. Vol. 76. ODI Agricultural Research & Extension Network: London.
- Bebbington, A., 2005. *Donor-NGO Relations and Representations of Livelihood in Nongovernmental Aid Chains*. *World Development*, 33(6): pp. 937-950.
- Bebbington, A., 2008. *Social Dimensions of Rural Resource Sustainability*. School of Environment and Development University of Manchester. Available from: http://www.sed.manchester.ac.uk/research/andes/publications/conferences/social_dimensions.pdf [Accessed 7 April 2010].
- Bebbington, A., Hickey, S., and Mitlin, D., 2008a. *Can NGOs Make a Difference? : The Challenge of Development Alternatives*. Zed: London.
- Bebbington, A., Hickey, S., and Mitlin, D. C., eds., 2008b. *Can NGOs Make a Difference? The Challenge of Development Alternatives*. Zed Books: London.
- Beckett, M., 2006. *Human Rights Annual Report 2006*. Crown: London.
- Beetham, D., 1991. *The Legitimation of Power*. Issues in Political Theory. Palgrave Macmillan: Basingstoke.
- Beetham, D., 1993. *In Defense of Legitimacy*. *Political studies*, 41(3): pp. 488-491.
- Beetham, D. and Lord, C., 1998. *Legitimacy and the EU*. Political Dynamics of the EU Series. Longman: London.
- Benedict XVI and Seewald, P., 2010. *Light of the World: The Pope, the Church and the Signs of the Times*. Catholic Truth Society: Vauxhall.
- Benenson, P., 1961. The Forgotten Prisoners. *The Observer*. 28 May. Guardian Newspapers Limited: London.
- Benigni, U., 1908. Christian Democracy. In: Knight, ed. *The Catholic Encyclopedia*, Vol. 4. Robert Appleton Company: New York.
- Bennett, B., 1997. Bigelow, Albert Smith (1906-1993). In: Powers, et al., eds. *Protest, power, and change: an encyclopedia of nonviolent action from ACT-UP to Women's Suffrage*. Garland Publishing Inc. p. 44.
- Bex, 2007a [8 October 2007]. *Greenpeace Shuts Down Coal Fired Power Station*. Available from: <http://www.greenpeace.org.uk/blog/climate/greenpeace-shuts-down-coal-fired-power-station-20071008> [Accessed 10 September, 2011].
- Bex, 2007b [9 October 2007]. *Injunction and Arrests: Over to You, Gordon*. Available from: <http://www.greenpeace.org.uk/blog/climate/injunction-and-arrests-over-to-you-gordon-20071008> [Accessed 10 September, 2011].
- Bex, 2007c [30 April 2007]. *The New Coal Rush*. Available from: <http://www.greenpeace.org.uk/blog/climate/the-new-coal-rush> [Accessed 11 September, 2011].
- Bishops' Conference of England and Wales, 2010. *Choosing the Common Good*. Alive Publishing: Stoke on Trent.
- Blair, T., 1998. *The Third Way : New Politics for the New Century*. Fabian Pamphlet 588. Fabian Society: London.

- Blair, T. and Department of Trade and Industry, 2006. *The Energy Challenge: Energy Review Report 2006*. Cm 6887. HMSO: London.
- Blake, F. R., 2011. *Caritas International* Fr Ray Blake's Blog. Available from: <http://marymagdalen.blogspot.com/2011/05/caratas-international.html> [Accessed 19 July, 2011].
- Boli, J. and Thomas, G. M., eds., 1999. *Constructing World Culture: International Nongovernmental Organisations since 1875*. Stanford University Press: Stanford.
- British Overseas NGOs for Development, B., 2011. *Quality Standards, Codes and Initiatives* Available from: <http://www.bond.org.uk/pages/quality-standards-codes-and-initiatives-2.html> [Accessed 29 March, 2011].
- Broomfield, N., 2009. *A Time Comes: The Story of the Kingsnorth Six*. Documentary Film: 20 minutes. Christina Roberts.
- Brown, D. and Jagadanada, 2007. *Civil Society Legitimacy and Accountability: Issues and Challenges*. The Hauser Center for Nonprofit Organizations and The John F. Kennedy School of Government Harvard University.
- Brown, G., 2007a. *Speech on Climate Change (19 Nov 07)* Number10.gov.uk: The official site of the Prime Minister's Office. Available from: <http://webarchive.nationalarchives.gov.uk/+http://www.number10.gov.uk/Page13791> [Accessed 25 August, 2011].
- Brown, G., 2007b. *Speech to the National Council of Voluntary Organisations on Politics (3 Sept 07)*. Available from: <http://www.number10.gov.uk/Page13008> [Accessed 5 July, 2009].
- Brown, G. and Rudd, K., 2009. *Speech and Q&A at St Paul's Cathedral (31 March 2009)*. Available from: <http://www.number10.gov.uk/Page18858> [Accessed 5 July, 2009].
- Brown, K., et al., 2006. *Proposed Replacement Coal-Fired Units for Kingsnorth Power Station: Environmental Statement*. E.ON UK Power Technology: Nottingham.
- Brown, L. D., 2008. *Creating Credibility: Legitimacy and Accountability for Transnational Civil Society*. Kumarian Press: Sterling.
- Brown, L. D. and Timmer, V., 2006. *Civil Society Actors as Catalysts for Transnational Social Learning*. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, 17(1): pp. 1-16.
- Buchanan, T., 2002. 'The Truth Will Set You Free': *The Making of Amnesty International*. *Journal of Contemporary History*, 37(4): pp. 575-597.
- Buchanan, T., 2009. Human Rights Campaigns in Modern Britain. In: Crowson, Hilton, and McKay, eds. *NGOs in Contemporary Britain: Non-State Actors in Society and Politics since 1945*. Palgrave Macmillan. p. 113.
- Burnham, P., et al., eds., 2004. *Research Methods in Politics*. Political Analysis, ed. Peters, Pierre, and Stoker. Palgrave Macmillan: New York.
- Cabinet Office, 2010a. *The Compact Accountability and Transparency Guide: Helping to Build Stronger Partnerships between the Coalition Government and Civil Society Organisations*. Crown: London.
- Cabinet Office, 2010b. *The Compact: The Coalition Government and Civil Society Organisations Working Effectively in Partnership for the Benefit of Communities and Citizens in England*. Crown: London.
- Cafod, 2001a. *Cafod Partnership Programme Agreement*. Cafod: London.
- Cafod, 2001b. *HIV Prevention, Condoms and Catholic Ethics: Cafod Position on Condoms and HIV Prevention*. UK Web Archive: London.

- Cafod, 2003 [12 Aug 2009]. *Putting Faith into Action*. Available from: <http://www.cafod.org.uk/about-us/faith-into-action> [Accessed 8 July, 2011].
- Cafod, 2005a. *Cafod 2010 Building Communities for Change*. Cafod: London.
- Cafod, 2005b. *Statement on HIV Prevention & Condoms*. Available from: <http://www.cafod.org.uk/content/download/6389/53551/version/2/file/CAFOD+Statement-FINAL-> [Accessed 28 June, 2011].
- Cafod, 2006a [23/11/2010]. *Cafod's Response: Stance, Priorities and Ways of Working; Cafod, HIV and the Catholic Church; the Millennium Development Goals and HIV*. Available from: <http://www.cafod.org.uk/news/media-centre/hiv/cafod-response> [Accessed 22 July, 2011].
- Cafod, 2006b. *The Context: HIV and Aids Are Complex Issues, Presenting Many Interrelated Challenges for Cafod's Work. Here, We Explain a Number of These Challenges in More Detail*. Available from: <http://www.cafod.org.uk/news/media-centre/hiv/the-context> [Accessed 22 July, 2011].
- Cafod, 2006c. *Facing the Challenge: Cafod's Response to HIV and Aids*. Cafod: London.
- Cafod, 2008a [23 Nov 2010]. *HIV and Aids*. Available from: <http://www.cafod.org.uk/resources/policy/aid/hiv> [Accessed 15 July, 2011].
- Cafod, 2008b [29 September 2010]. *HIV and Health: Prayers and Faith: Prayers, Reflections and Theological Articles on the Theme of HIV and Aids*. Available from: <http://www.cafod.org.uk/worship/hiv-and-health> [Accessed 24 July, 2011].
- Cafod, 2009. *Cafod Report of the Trustees and Financial Statements for the Year Ended 31st March 2009*. Catholic Agency for Overseas Development: London.
- Cafod, 2010a. *Cafod's Profile: April 2010*. Cafod: London.
- Cafod, 2010b. *Report of the Trustees and Financial Statements for the Year Ended 31st March 2010*. Cafod: London.
- Caldeira, K., et al., 2006 [2005]. Ocean Storage. In: Metz, et al., eds. *IPCC Special Report on Carbon Dioxide Capture and Storage*. Cambridge University Press: Cambridge. pp. 277-319.
- Cameron, D., 2010. *Our Big Society Agenda*. Speeches. The Conservative Party: London.
- Camp for Climate Action, 2008. *48 Hours of Action against E.On*. Available from: <http://www.climatecamp.org.uk/actions/kingsnorth-2008/48-hours-of-action-against-e-on> [Accessed 28 August, 2011].
- Cardoso, F. H., 2004. *Strengthening of the United Nations System*. 58. A/58/817. United Nations.
- Caritas International, 2010. *Caritas Response to Pope on Condoms and HIV and Aids*. Available from: http://www.caritas.org/activities/hiv_aids/CaritasResponseToPopeOnCondomsAndHIVAndAIDS.html [Accessed 25 July, 2011].
- Caritas International, 2011. *A Catholic Response*. Available from: http://www.caritas.org/activities/hiv_aids/sinethemba_a_caritas_response_to_aids.html?cnt=463 [Accessed 15 July, 2011].

- Cashore, B., 2002. *Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (Nsmd) Governance Systems Gain Rule-Making Authority*. *Governance: An International Journal of Policy, Administration and Institutions*, 15(4): pp. 503-529.
- Catholic Bishops' Conference of England and Wales, 2001. *National Catholic Societies Criteria for Entry into the Catholic Directory of England and Wales*. Catholic Bishops' Conference of England and Wales: London.
- Catholic Bishops' Conference of England and Wales, 2004. *Cherishing Life*. The Catholic Truth Society and Colloquium (CaTEW) Ltd.: London.
- Catholic Bishops' Conference of England and Wales, 2005. *"Not Easy but Full of Meaning" Catholic Family Life in 2004: A Report of the Findings of Listening 2004: My Family My Church*. Redemptorist Publications: London.
- Catholic Bishops' Conference of England and Wales and Klos, M., 1999. *Life, Debt and Jubilee: A Statement on Poverty Elimination and Debt Remission Issued by the Catholic Bishops' Conference of England & Wales and the Catholic Bishops' Conference of Scotland*. Catholic Media Office in association with CAFOD and SCIAF: London.
- Catholic Bishops' Conference of England and Wales and Klos, M., 2003. *A Statement on Trade and Solidarity*. Catholic Bishops' Conference of England and Wales: London.
- Catholic Bishops' Conference of England and Wales and Cormac Cardinal Murphy O'Connor, 2004. *Cherishing Life*. Ltd.: London.
- Catholic Church in England and Wales, 2011a. *Agencies, Offices and Consultative Bodies of the CBCEW*. Available from: <http://www.catholic-ew.org.uk/Catholic-Church/Catholic-Bishops-Conference-of-England-and-Wales/Agencies-of-the-CBCEW> [Accessed 16 Jun, 2011].
- Catholic Church in England and Wales, 2011b. *Bishops*. Available from: <http://www.catholic-ew.org.uk/Catholic-Church/The-Church-in-England-and-Wales/Bishops> [Accessed 10 July, 2011].
- Catholic Church in England and Wales, 2011c. *Catholic Bishops' Conference of England and Wales*. Available from: <http://www.catholic-ew.org.uk/Catholic-Church/Catholic-Bishops-Conference-of-England-and-Wales> [Accessed 10 July, 2011].
- Catholic Church in England and Wales, 2011d. *Legislation and Public Policy*. Available from: <http://www.catholic-ew.org.uk/Catholic-Church/Legislation-and-Public-Policy> [Accessed 10 July, 2011].
- Catholic Church in England and Wales, 2011e. *Overseas Aid and Development (Cafod)*. Available from: <http://www.catholicchurch.org.uk/Catholic-Church/Affiliated-Sites/Overseas-Aid-and-Development-CAFOD> [Accessed 28 May, 2011].
- Catholic News Agency, 2005. Catholic Group Warns British Priests About Pro-Condom Policy of Catholic Charity. *CNA Catholic News Agency*. 8 February. CNA: London.
- Catholic Trust for England and Wales, 2009. *Annual Report and Financial Statements*. Catholic Bishops' Conference of England and Wales: London.
- Catholic Truth Society, 2010. *Pope and Condoms – Clarification from Cdf*. Available from: <http://cts-online.org.uk/news/?p=395> [Accessed 27 July, 2011].

- Catholic Women's League of England and Wales, 2009a. *Catholic Women's League of England and Wales: Report and Accounts 31 December 2009*. Charity Commission: London.
- Catholic Women's League of England and Wales, 2009b. *Relief & Refugee*. Available from: http://www.catholicwomensleague.org/relief_refugee.html [Accessed 27 May, 2011].
- Catholic Women's League of England and Wales, 2011. *Home*. Available from: <http://catholicwomensleague.org/> [Accessed 14 June, 2011].
- Catholics for a Free Choice, 2005. *Catholic Action Group (United Kingdom) Conservative Catholic Influence in Europe: An Investigative Series*. Available from: http://www.catholicsforchoice.org/topics/international/documents/2005_catholicactiongroupfactsheet.pdf [Accessed 20 July, 2011].
- Catholics for Choice, 2008. *About the Condoms4life Campaign*. Available from: <http://condoms4life.org/campaign/index.htm> [Accessed 18 July, 2011].
- Chambers, S. and Kopstein, J., 2008 [2006]. Civil Society and the State. In: Dryzek, Honig, and Phillips, eds. *The Oxford Handbook of Political Theory*. Oxford University Press: Oxford. pp. 363-381.
- Charities Act 2006. HMSO: London.
- Charity Commission, 2008a. *Charity Commission Governance Framework* Available from: http://www.charity-commission.gov.uk/About_us/About_the_Commission/govframe.aspx [Accessed 29 Mar, 2011].
- Charity Commission, 2008b. *Speaking Out: Guidance on Campaigning and Political Activity by Charities (CC9)* Charity requirements and guidance. Crown: London. Available from: <http://www.charity-commission.gov.uk/publications/cc9.aspx?> [Accessed 14 September 2011].
- Charity Commission, 2011a. *200231 - Family Fast Day Fund*. Crown: London.
- Charity Commission, 2011b. *213766 - the Prisoners of Conscience Appeal Fund*. Crown: London.
- Charity Commission, 2011c. *285776 - Catholic Agency for Overseas Development*. Crown: London.
- Charity Commission, 2011d. *294279 - Amnesty International British Section Charitable Trust*. Crown: London.
- Charity Commission, 2011e. *1051681 - Amnesty International UK Section Charitable Trust*. Crown: London.
- Charity Commission, 2011f. *Charity Commission 1853-1960*. The National Archives: Kew.
- Chesterman, M., 1999. *Foundations of Charity Law in the New Welfare State*. The Modern Law Review, 62(3): pp. 333-349.
- Christiano, T., 2004. *The Authority of Democracy**. Journal of Political Philosophy, 12(3): pp. 266-290.
- Christiansen, L. and Dowding, K., 1994. *Pluralism or State Autonomy? The Case of Amnesty International (British Section): The Insider/Outsider Group*. Political Studies, XLII: pp. 15-24.
- Clague, J., 2004. *Living Positively with Roman Catholic Teaching and Transmitting the Truth About HIV/Aids*. University of Glasgow. Cafod: Glasgow. Available from:

- http://www.cafod.org.uk/content/download/4200/38218/version/4/file/Julie_Clague_and_catholic_teaching.pdf [Accessed 24 July].
- Clark, A. M., 2001. *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*. Princeton University Press: Oxford.
- Clark, A. M., Friedman, E. J., and Hochstetler, K., 1998. *The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in UN World Conferences on the Environment, Human Rights, and Women*. *World Politics*, 51(1): pp. 1-35.
- Clark, I., 2007 [2005]. *Legitimacy in International Society*. Oxford University Press: Oxford.
- Clark, R. C., 2006. *Moral Systems in the Regulation of Nonprofits: How Value Commitments Matter*. Harvard University.
- Clemens, 2006. The Constitution of Citizens: Political Theories of Nonprofit Organizations. In: Powell and Steinberg, eds. *The Nonprofit Sector: A Research Handbook*. Yale University Press: London. pp. 207-220.
- Climate Change Bill [HL] 2007-08. National Archives: London.
- Collingwood, V., 2006. *Non-Governmental Organisations, Power and Legitimacy in International Society*. *Review of International Studies*, 32(03): pp. 439-454.
- Collingwood, V. and Logister, L., 2005. *State of the Art: Addressing the INGO 'Legitimacy Deficit'*. *Political Studies Review*, 3(2): pp. 175-192.
- Collingwood, V. and Logister, L., 2007. Perceptions of the Legitimacy of International NGOs. In: Vedder, ed. *NGO Involvement in International Governance and Policy: Sources of Legitimacy*, Vol. 72. Martinus Nijhoff Publ.: Leiden.
- Companies House, 1997. *Annual Return: Greenpeace Communications Limited*. Companies House: Cardiff.
- Companies House, 2010. *Current Appointments Report for Greenpeace Communications Limited*. Companies House: Cardiff.
- Companies House, 2011. *About Us*. Available from: <http://www.companieshouse.gov.uk/about/boardManagement.shtml> [Accessed 29 Mar, 2011].
- Conti, M. R. M. J., 2007. Closing Address. In: Wanders, ed. *Stigma or Solidarity? New Challenges for the Church Responses to HIV and Aids in Europe*. Caritas Europa: Kiev. p. 11.
- Dahl, R. A., 1957. *The Concept of Power*. *Behavioral Science*, 2(3): pp. 201-215.
- Dahl, R. A., 1961. *Who Governs?: Democracy and Power in an American City*. Yale University Press: London.
- Dale, S., 2001 [1996]. *Mcluhan's Children: The Greenpeace Message and the Media*. 3 ed. Between The Lines: Toronto.
- Darling, A. and Department of Trade and Industry, 2007. *Meeting the Energy Challenge: A White Paper on Energy*. CM 7124. HMSO: London.
- Das, S. K., 2007 [2000]. Holy See. In: Das, ed. *Encyclopaedic Dictionary of Public Administration*. Sarup & Sons: New Delhi.
- Davies, P. H. J., 2001. *Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services*. *Politics*, 21(1): pp. 73-80.
- Davies, P. L., 2008 [1954]. *Gower and Davies Principles of Modern Company Law*. 8 ed. Sweet & Maxwell: London.
- Deakin, N., 2005. *Voluntary Action: Meeting the Challenges of the 21st Century*. National Council for Voluntary Organisations: London.

- Denzin, N. K. and Lincoln, Y. S., eds., 2005. *The Sage Handbook of Qualitative Research*. 3 ed. Sage: London.
- Dexter, L. A., 1970. *Elite and Specialized Interviewing*. Handbooks for Research in Political Behaviour, ed. Robinson. Northwestern University Press: Evanston.
- DFID, 2008. *Partnership Programme Arrangement (PPA) between Dfid and Cafod 2008-2011*. Department for International Development: London.
- Dixon, L., 2008. Environment Protesters Cleared of Power Station Criminal Damage. *Timesonline*. 10 September. Times Online.
- Dominica Cooperative Societies League Limited, 2011. *Credit Union History*. Available from: <http://www.dcsll.org/about-the-dcsll/credit-union-history> [Accessed 24 Nov, 2011].
- Drucker, P. F., 1992 [1990]. *Managing the Non-Profit Organization: Practices and Principles*. 1st ed. Butterworth-Heinemann Ltd: London.
- Duddington, J., 2011 [2007]. *Equity and Trusts*. 3 ed. Law Express. Pearson Education: London.
- Durrant, C. and Constandse, C., 1996. *Stichting Greenpeace Council: Articles of Association*. Greenpeace International: Amsterdam.
- Ebrahim, A., 2006. *Placing the Normative Logics of Accountability in "Thick" Perspective*. The Hauser Center for Nonprofit Organizations and The John F. Kennedy School of Government Harvard University.
- Ecumenical Advocacy Alliance, 2011. *About Us: Who We Are*. Available from: <http://www.e-alliance.ch/en/s/about-us/> [Accessed 24 July, 2011].
- Eden, S., Donaldson, A., and Walker, G., 2006. *Green Groups and Grey Areas: Scientific Boundary-Work, Nongovernmental Organisations, and Environmental Knowledge*. *Environment & Planning A*, 38(6): pp. 1061-1076.
- Edwards, M., 1999. *NGO Performance - What Breeds Success? New Evidence from South Asia*. *World Development*, 27(2): pp. 361-374.
- Edwards, M., 2006. Foreword. In: Jordan and Tuijl, eds. *NGO Accountability: Politics, Principles and Innovations*. Earthscan: London.
- Edwards, M., 2008a. Have NGOs 'Made a Difference?' From Manchester to Birmingham with an Elephant in the Room. In: Bebbington, Hickey, and Mitlin, eds. *Can NGOs Make a Difference? : The Challenge of Development Alternatives*. Zed: London.
- Edwards, M., 2008b. *Philanthrocapitalism: After the Goldrush*. Available from: http://www.opendemocracy.net/article/globalisation/visions_reflections/philanthrocapitalism_after_the_goldrush [Accessed 22 April 2008].
- Edwards, M. and Hulme, D., 1996a. *Too Close for Comfort? The Impact of Official Aid on Nongovernmental Organisations*. *World Development*, 24(6): pp. 961-973.
- Edwards, M. and Hulme, D., eds., 1996b. *Beyond the Magic Bullet: NGO Performance and Accountability in the Post-Cold War World*. Kumarian Press.
- Edwards, M., Hulme, D., and Save the Children Fund (Great Britain), 1992. *Making a Difference : NGOs and Development in a Changing World*. Earthscan: London.
- Edwards, M., Hulme, D., and Save the Children Fund (Great Britain), 1995. *Non-Governmental Organisations : Performance and Accountability : Beyond the Magic Bullet*. Earthscan: London.
- Eliot, J. E., 1983. *Certificate of Incorporation of a Private Limited Company No. 1735872*. Companies House: Cardiff.

- Energy Bill 2007-08. National Archives: London.
- Environmental Investigation Agency, 2004. *EIA Chairman Receives New Year's Honour*. Available from: <http://www.eia-international.org/cgi/news/news.cgi?t=template&a=177> [Accessed 29 April, 2010].
- Eon, 2011. *Kingsnorth*. Available from: <http://eon-uk.com/generation/kingsnorth.aspx> [Accessed 9 August, 2011].
- Erwood, S., 2009. *The Greenpeace Science Unit*. The Quarterly, 2009(1): pp. 12-17.
- Estlund, D. M., 2008. *Democratic Authority: A Philosophical Framework*. Princeton University Press: Princeton.
- Evers, A. and Laville, J.-L., eds., 2004. *The Third Sector in Europe*. Globalization and Welfare. Edward Elgar Publishing: Cheltenham.
- EWCA Civ 1144, [1999]. *Steel and Morris V McDonald's Corporation and McDonald's Restaurants Ltd*. EWCA Civ 1144. British and Irish Legal Information Institute: London.
- Eyerman, R. and Jamison, A., 1989. *Environmental Knowledge as an Organizational Weapon: The Case of Greenpeace*. Social Science Information, 28(1): pp. 99-119.
- Fallon, R. H. J., 2005. *Legitimacy and the Constitution*. Harvard Law Review 118(6).
- Filochowski, J., 1999. "HIV: An Emerging Issue for Cafod". In: Lee, ed. *"Silent Emergency: HIV/Aids in Conflicts and Disasters"*. Cafod: London.
- Finigan, R. T., 2006. *Aids, Condoms and the Catholic Church*. Available from: <http://www.rosary.freeuk.com/downloads/aidstalk.pdf> [Accessed 21 July, 2011].
- Food and Agriculture Organization of the United Nations, 1959. *Thirty-Second Session, 29-30 October 1959*. 32. Food and Agriculture Organization of the United Nations: Rome.
- Foreign and Commonwealth Office, 2010a. *Advisory Group on Human Rights*. Available from: <http://www.fco.gov.uk/en/global-issues/human-rights/around-the-world/advisory-group/> [Accessed 2 Feb, 2011].
- Foreign and Commonwealth Office, 2010b. *Foreign Secretary Chairs First Meeting of Human Rights Advisory Group*. Available from: <http://www.fco.gov.uk/en/news/latest-news/?view=News&id=215608682> [Accessed 30 Sept, 2011].
- Foreign and Commonwealth Office, 2011. *Human Rights: Democracy*. Available from: <http://www.fco.gov.uk/en/global-issues/human-rights/democracy/> [Accessed 11 Nov, 2011].
- Frumkin, P., 2002. *On Being Nonprofit: A Conceptual Policy Primer*. Harvard University Press: Cambridge.
- Frumkin, P., 2005 [2002]. *On Being Nonprofit: A Conceptual Policy Primer*. Harvard University Press: Cambridge.
- Fuller, J., 2006. *Meeting of Catholic Organisations Engaged in the Response to HIV and Aids*. International Labour Organisation, 4, Route des Morillons, CH-1211 Geneva 22 SWITZERLAND: Caritas International. Available from: <http://www.caritas.org/includes/pdf/GVAFinalRep.pdf>.
- Fuller, J. D. and Keenan, J. F., 2000. Introduction: At the End of the First Generation of HIV Prevention. In: Keenan, et al., eds. *Catholic Ethicists on HIV/Aids Prevention*. Continuum: London. pp. 21-38.

- Gary, M., 2008a. *Kingsnorth*. Type to Martin Land, 12 and 16 January. Available from: <http://www.greenpeace.org.uk/files/pdfs/climate/FOI-1.pdf> [Accessed 28 May 2010].
- Gary, M., 2008b. *Kingsnorth Coal Fired Station*. Type to Martin Land, Doug Waters, and others, 18 January. Available from: <http://www.greenpeace.org.uk/files/pdfs/climate/FOI5.pdf> [Accessed 28 May 2010].
- Gasparri, P. C. and Mussolini, B., 1929. *Inter Sanctam Sedem Et Italiae Regnum Conventiones: Initae Die 11 Februarii 1929*. The Holy See: Vatican.
- George, A. L. and Bennett, A., 2005. *Case Studies and Theory Development in the Social Sciences*. Bcsia Studies in International Security, ed. Security. MIT Press: London.
- Giddens, A., 1997. *The Third Way: The Renewal of Social Democracy*. Polity Press: Cambridge.
- Global Reporting Initiative, 2011. *NGO*. Available from: <http://www.globalreporting.org/ReportingFramework/SectorSupplements/NGO/> [Accessed 29 March, 2011].
- Godfrey, W. C., 1961. *Pastoral Letter of Cardinal Godfrey Archbishop of Westminster for Lent 1961*. Westminster Diocesan Archive: London.
- Goldsmith, Z., 2008. *Statement of Witness Zac Goldsmith*. Available from: <http://www.greenpeace.org.uk/files/pdfs/climate/goldsmith.pdf> [Accessed 25 August, 2011].
- Götz, N., 2008. *Reframing NGOs: The Identity of an International Relations Non-Starter*. European Journal of International Relations, 14(2): pp. 231–258.
- Gray, F., 2005. Traditionalists Attack Cafod. *The Catholic Herald*. 25 February. Exact Editions: London.
- Green, L., 1989. *Law, Legitimacy, and Consent*. Southern California Law Review, 62(3&4).
- Greenpeace Canada, 2009. *Annual Review*. Greenpeace Canada: Toronto.
- Greenpeace Communications Limited, 1994. *Greenpeace Communications Limited: Director's Report and Financial Statements*. Companies House: Cardiff.
- Greenpeace Environmental Trust, 1982. *Memorandum and Articles of Association*. Companies House: Cardiff.
- Greenpeace Environmental Trust, 1993. *Memorandum of Association*. Companies House: Cardiff.
- Greenpeace Environmental Trust, 2009. *Annual Report and Financial Statements for the Year Ended 31 December 2009*. Companies House: Cardiff.
- Greenpeace Foundation and White, S., 2010. *Movement Ideals Vs Corporate Profiles: Real Differences in Priorities & Positions*. Available from: <http://www.greenpeacefoundation.org/about/gpMovement.cfm> [Accessed 16 August, 2011].
- Greenpeace International, 2005a. *Greenpeace Governance Handbook [as Last Amended at the 2005 AGM]: For Board Members and Trustees*. International. Greenpeace International: Amsterdam.
- Greenpeace International, 2005b. SGC Articles of Association (Bylaws). In: Greenpeace International, ed. *Greenpeace Governance Handbook [as Last Amended at the 2005 AGM]: For Board Members and Trustees*. Greenpeace International: Amsterdam. pp. 4-11.

- Greenpeace International, 2005c. Stichting Greenpeace Council National Office Agreement and Guidelines: (Rules Governing the Relationship between National Offices and SGC). In: Greenpeace International, ed. *Greenpeace Governance Handbook [as Last Amended at the 2005 AGM]: For Board Members and Trustees*. Greenpeace International: Amsterdam. pp. 35-42.
- Greenpeace International, 2005d. Stichting Greenpeace Council: Rules of Procedure. In: Greenpeace International, ed. *Greenpeace Governance Handbook [as Last Amended at the 2005 AGM]: For Board Members and Trustees*. Greenpeace International: Amsterdam. pp. 12-34.
- Greenpeace International, 2006. *Our Core Values*. Available from: <http://www.greenpeace.org/international/en/about/our-core-values/> [Accessed 6 May, 2010].
- Greenpeace International, 2007. *Greenpeace Science Unit*. Available from: <http://www.greenpeace.org/international/about/greenpeace-science-unit-2> [Accessed 10 March, 2010].
- Greenpeace International, 2011a. *About Greenpeace*. Available from: <http://www.greenpeace.org/international/en/about/> [Accessed 8 August, 2011].
- Greenpeace International, 2011b. *About Greenpeace*. Available from: <http://www.greenpeace.org/international/en/about/> [Accessed 20 Oct, 2011].
- Greenpeace International, 2011c. *The Energy [R]Evolution*. Available from: <http://www.greenpeace.org/international/en/campaigns/climate-change/energyrevolution/> [Accessed 11 September, 2011].
- Greenpeace International, 2011d [11 April 2011]. *Governance Structure*. Available from: <http://www.greenpeace.org/international/en/about/how-is-greenpeace-structured/governance-structure/> [Accessed 20 Oct, 2011].
- Greenpeace Limited, 1979. *Greenpeace Limited: Report and Accounts for the Year Ended 31st March 1978*. Companies House: Cardiff.
- Greenpeace Limited, 1991a. *Articles of Association*. Companies House: Cardiff.
- Greenpeace Limited, 1991b. *Memorandum of Association*. Companies House: Cardiff.
- Greenpeace Limited, 1991c. *Special Resolutions*. Companies House: Cardiff.
- Greenpeace Research Laboratories, 2010. *Home*. Available from: <http://www.greenpeace.to/> [Accessed 8 September, 2011].
- Greenpeace Research Laboratories, 2011a [30 January 2011]. *People*. Available from: http://www.greenpeace.to/greenpeace/?page_id=27 [Accessed 9 September, 2011].
- Greenpeace Research Laboratories, 2011b [30 January]. *Teaching*. Available from: http://www.greenpeace.to/greenpeace/?page_id=23 [Accessed 8 September, 2011].
- Greenpeace UK, 19 November 2007. *Gordon Brown's Low-Carbon Nation Speech: Greenpeace Reaction*. Available from: <http://www.greenpeace.org.uk/media/press-releases/gordon-browns-low-carbon-nation-speech-greenpeace-reaction-20071119> [Accessed 31 May, 2010].
- Greenpeace UK, 2005. *Decentralising Power: An Energy Revolution for the 21st Century*. Greenpeace UK: London.

- Greenpeace UK, 2009a. *The Greenpeace Case against Coal-Fired Power Generation: And the Case for Real Solutions to Climate Change and Energy Insecurity*. Greenpeace UK.
- Greenpeace UK, 2009b. *Greenpeace Impact Report 2009*. Greenpeace UK: London.
- Greenpeace UK, 2010. *Organogram*.
- Greenpeace UK, 2011a. *Investigations*. Available from: <http://www.greenpeace.org.uk/about/how-we-work/scientific-research> [Accessed 9 September, 2011].
- Greenpeace UK, 2011b. *Positive Change through Action*. Available from: <http://www.greenpeace.org.uk/forms/positive-change-through-action> [Accessed 8 August, 2011].
- Greenpeace UK and WADE, 2006. *Decentralising UK Energy: Cleaner, Cheaper, More Secure Energy for the 21st Century Application of the Wade Economic Model to the UK*. Greenpeace UK: London.
- Greenpeace UK Limited, 1991a. *Articles of Association*. Companies House: Cardiff.
- Greenpeace UK Limited, 1991b. *Memorandum of Association*. Companies House: Cardiff.
- Greenpeace UK Limited, 2010. *Report and Financial Statements for the Year Ended 31st December 2010*. Companies House: Cardiff.
- Greenpeace USA, 2010. *Paul Watson, Sea Shepherd and Greenpeace: Some Facts*. Available from: <http://www.greenpeace.org/usa/en/news-and-blogs/news/paul-watson-sea-shepherd-and/> [Accessed 16 August, 2011].
- Gruchy, P. R. d., 1997. *Study of Amnesty International: A Worldwide Movement to Defend Human Rights*. MA. University of Waterloo: Waterloo Ontario.
- Gudmundsson, M., 1993. *Survival in the High North*. Documentary Film: 43 minutes.
- Guimaraes, A. S., 1999. *In the Murky Waters of Vatican II*. 2 ed. Eli, Eli, Lamma Sabachthani? Vol. 1. Tan Books and Publishers: Rockford.
- Hague, W., 2010. *Foreign Secretary: Britain's Values in a Networked World: The Third of Four Speeches on the Coalition Government's Foreign Policy*. National Archive: London.
- Hague, W., 2011. *Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report*. Crown: London.
- Hall, I., 2011. UKPAC at the Foothills with a Mountain to Climb. *Public Affairs News*. 8 March. Dod's Parliamentary Communications: London.
- Hall, P. D., 2006. A Historical Overview of Philanthropy, Voluntary Associations, and Nonprofit Organizations in the United States, 1600-2000. In: Powell and Steinberg, eds. *The Nonprofit Sector: A Research Handbook*. Yale University Press: London. pp. 32-65.
- Halpin, D., 2009. NGOs and Democratisation: Assessing Variation in the Internal Democratic Practices of NGOs. In: Crowson, Hilton, and McKay, eds. *NGOs in Contemporary Britain: Non-State Actors in Society and Politics since 1945*. Palgrave Macmillan: Basingstoke.
- Hansen, J. E., 2007. *Dear Prime Minister*. Available from: http://www.columbia.edu/~jeh1/mailings/2007/20071219_DearPrimeMinister.pdf [Accessed 25 August, 2011].
- Hansen, J. E., 2008. *In Defence of Kingsnorth Six*. Available from: http://www.columbia.edu/~jeh1/mailings/2008/20080910_Kingsnorth.pdf [Accessed 25 August, 2011].

- Hansen, J. E., 2011. *James E. Hansen*. Available from:
http://www.giss.nasa.gov/staff/cv/cv_hansen_201106.pdf [Accessed 11 September, 2011].
- Hassler, D. M., 1991. *Isaac Asimov*. Starmont Reader's Guide, ed. Schlobin. Vol. 40. Wildside Press.
- Head, F. D. S., Allen, D. G., and Lockhart, S. A., 1965. *Circular Letter (Re Amnesty International's Annual Report 1964-5)*. PR146/27. National Archives: London.
- Hester, E., 2004. *A Very English Schism?* Catholic World News: News Feature. Available from:
<http://www.catholicculture.org/news/features/index.cfm?recnum=34012> [Accessed 18 July, 2011].
- Hilton, M., et al., 2010. *Civic Participation and Social Responsibility*. Briefing Paper to the Strategy Unit of the Cabinet Office. University of Birmingham: Birmingham. Available from:
<http://www.ngo.bham.ac.uk/Civic%20Participation.pdf> [Accessed 18 Nov 2011].
- Hirpinus, 2002. *Si Si No No* Society of St Pius X: District of Asia. Available from:
http://www.sspxasia.com/Documents/SiSiNoNo/2002_May/The_Self-Destruction_of_the_Ecumenical_Papacy.htm [Accessed 24 Nov., 2011].
- Hitchen, A., Fitzalan-Howard, M. F., and Worlock, D. J. H., 2009 [1982]. *Re: Catholic Agency for Overseas Development: Conformed Copy of Trust Deed*. Catholic Church of England and Wales: London.
- Holliday, I., 2000. *Is the British State Hollowing Out?* The Political Quarterly, 71(2): pp. 167-176.
- Holy See, 1998. *Apostolic Constitution: Pastor Bonus*. Available from:
http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_19880628_pastor-bonus-index_en.html [Accessed 25 June, 2011].
- Holy See, 2010. *Note on the Banalization of Sexuality: Regarding Certain Interpretations of "Light of the World"*. Congregation for the Doctrine of the Faith: Doctrinal Documents. OR 22.12.2010. Vatican: Vatican.
- Holy See, 2011a. *Congregation for the Doctrine of the Faith*. Available from:
http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html [Accessed 25 June, 2011].
- Holy See, 2011b. *Documents of the II Vatican Council*. Available from:
http://www.vatican.va/archive/hist_councils/ii_vatican_council/ [Accessed 14 July, 2011].
- Holy See, 2011c. *Pontifical Council for Justice and Peace*. Available from:
http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_pro_20011004_en.html [Accessed 25 June, 2011].
- Holy See, 2011d. *The Roman Curia*. Available from:
http://www.vatican.va/roman_curia/index.htm [Accessed 25 June, 2011].
- Holy See, 2011e. *The Secretariat of State*. Available from:
http://www.vatican.va/roman_curia/secretariat_state/documents/rc_seg-st_12101998_profile_en.html [Accessed 25 June, 2011].
- Holy See Press Office, 2010 [29 Sept]. *Synod of Bishops*. Available from:
http://www.vatican.va/news_services/press/documentazione/documents/sinodo/sinodo_documentazione-generale_en.html [Accessed 4 July, 2011].

- Honychurch, L., 1995. *The Dominica Story: A History of the Island*. Macmillan.
- Honychurch, L., 2003. *Heritage Dictionary: Roman Catholic Church* Available from: <http://www.newsdominica.com/heritage/heritage.cfm?Id=199> [Accessed 24 Nov., 2011].
- Honychurch, L., 2011. *Roman Catholic Church*. Available from: <http://www.lennoxhonychurch.com/heritage.cfm?Id=199> [Accessed 24 Nov., 2011].
- Hopgood, S., 2006. *Keepers of the Flame: Understanding Amnesty International*. Cornell University Press: London.
- Hoye, M. D. F., 1987. *The Many Faces of Aids: A Gospel Response*. In: United States Catholic Conference. Washington, D.C.: Publishing and Promotion Services United States Catholic Conference. Available from: <http://bishoponly.usccb.org/sdwp/international/mfa87.shtml> [Accessed 24 Nov 2011].
- Huberman, A. M. and Miles, M. B., eds., 2002. *The Qualitative Researcher's Companion*. Sage: London.
- Hulme, D. and Edwards, M., 1997. *NGOs, States and Donors : Too Close for Comfort?* International Political Economy Series. Macmillan: Basingstoke.
- Human Rights for All (Administrator), 2010. *Statement by Gita Sahgal on Leaving Amnesty International*. Available from: <http://www.human-rights-for-all.org/spip.php?article54> [Accessed 25 Nov., 2011].
- Hume, C. B., 1996. *The Common Good and the Catholic Church's Social Teaching: A Statement by the Catholic Bishops' Conference of England and Wales*. Bishops Conference of England and Wales: London.
- Hunter, R., 1979. *Warriors of the Rainbow : A Chronicle of the Greenpeace Movement*. 1st ed. Holt, Rinehart and Winston: New York.
- Hunter, R., 1980. *The Greenpeace Chronicle*. 1st British ed ed. London: Pan Books.
- Hunter, R., 2004. *The Greenpeace to Amchitka : An Environmental Odyssey*. Arsenal Pulp Press: Vancouver, B.C.
- Hunter, R. and Weyler, R., 1978. *To Save a Whale : The Voyages of Greenpeace*. Chronicle Books: San Francisco.
- IANGOWorkshop. Notes from the 2009 IANGO Workshop, Barcelona, Spain 31 May - 2 June 2009: Key Decisions and Action Steps. 2009, These notes have been compiled by CIVICUS with the help of Kel Currah, Grace Williams and Dave Brown.
- INGO Accountability Charter, 2005. *INGO Accountability Charter*. Available from: <http://www.ingoaccountabilitycharter.org/cmsfiles/ingo-accountability-charter-eng.pdf> [Accessed 13 February 2009].
- International Jesuit Network for Development, ed., 2007. *The Development of Peoples: Challenges for Today and Tomorrow: Essays to Mark the Fortieth Anniversary of Populorum Progressio*. The Columba Press: Dublin.
- Interview 2, 2009. *Private Interview Conducted by the Author*.
- Interview 5, 2009. *Private Interview Conducted by the Author*.
- Interview 6, 2009. *Private Interview Conducted by the Author*.
- Interview 7, 2009. *Private Interview Conducted by the Author*.
- Interview 8, 2009. *Private Interview Conducted by the Author*.
- Interview 9, 2009. *Private Interview Conducted by the Author*.
- Interview 10, 2009. *Private Interview Conducted by the Author*.
- Interview 11, 2009. *Private Interview Conducted by the Author*.

- Interview 12, 2009. *Private Interview Conducted by the Author*.
- Interview 13, 2010. *Private Interview Conducted by the Author*.
- Interview 14, 2009. *Private Interview Conducted by the Author*.
- Interview 15, 2009. *Private Interview Conducted by the Author*.
- Interview 16, 2009. *Private Interview Conducted by the Author*.
- Interview 20, 2009. *Private Interview Conducted by the Author*.
- Interview 21, 2009. *Private Interview Conducted by the Author*.
- Jarvik, L., 2007. *NGOs: A 'New Class' in International Relations*. *Orbis*, 51(2): pp. 217-238.
- Johnson, C., ed., 2004. *Legitimacy Processes in Organizations*. Research in the Sociology of Organizations, ed. Lounsbury. Vol. 22. Elsevier Ltd: London.
- Johnston, P. and Santillo, D., 2003. *Carbon Capture and Sequestration: Potential Environmental Impacts*. Energy Research Centre of the Netherlands (ECN).
- Jones, G., 1969. *History of the Law of Charity: 1532-1827*. Cambridge Studies in English Legal History, ed. Bailey. Cambridge at the University Press: London.
- Jones, R., 2011. Is David Cameron's 'Big Society' Just Repeating the Same Mistakes? *The Guardian*. Guardian News and Media Limited: London.
- Jordan, L. and Tuijl, P. v., 2006. Rights and Responsibilities in the Political Landscape of NGO Accountability: Introduction and Overview. In: Jordan and Tuijl, eds. *NGO Accountability: Politics, Principles and Innovations*. Earthscan: London.
- Jordan, W. K., 1959. *Philanthropy in England 1480-1660: A Study of the Changing Pattern of English Social Aspirations*. Ruskin House: George Allen & Unwin Ltd: London.
- Jossc, 2008. *Kingsnorth Coal Campaigners Plead 'Not Guilty'*. Available from: <http://www.greenpeace.org.uk/blog/climate/kingsnorth-coal-campaigners-plead-not-guilty-20080314> [Accessed 10 September, 2011].
- Joyce, G., 1908. *The Church Catholic Encyclopedia*. Available from: <http://www.newadvent.org/cathen/03744a.htm> [Accessed 30 July, 2011].
- Kamhi, A., 2006. *The Russian NGO Law: Potential Conflicts with International, National, and Foreign Legislation*. *International Center for Not-for-Profit Law*, 9(1): pp. 34-57.
- Kamminga, M. T., 2007. What Makes an NGO 'Legitimate' in the Eyes of States? In: Vedder, ed. *NGO Involvement in International Governance and Policy: Sources of Legitimacy*. Martin Nijhoff Publishers: Leiden. pp. 175-195.
- Kane, T., 2008. *The United Nations Secretary General's Response to the Cardoso Report: What Has Been Achieved?* *Journal of Civil Society*, 4(2): pp. 165-169.
- Keck, M. E. and Sikkink, K., 1999. *Transnational Advocacy Networks in International and Regional Politics*. *International Social Science Journal*, 51(1): p. 89.
- Keenan, J. F., et al., 2000. *Catholic Ethicists on HIV/Aids Prevention*. Continuum: London.
- Kelly, M., 2004. *Cafod HIV&Aids Workplace Policy Guidelines*. Cafod: London.
- Kelly, R. E., 2005. *'A Lot More Than the NGOs Seem to Think': The Impact of Non-Governmental Organizations on the Bretton Woods Institutions*. Political Science. PhD. The Ohio State University: Columbus.
- Kendall, J., 2000. *The Mainstreaming of the Third Sector into Public Policy in England in the Late 1990s: Whys and Wherefores*. Civil Society Working

- Paper 2. London School of Economics: London. Available from:
<http://eprints.lse.ac.uk/29028/1/cswp2.pdf>.
- Kendall, J. and Knapp, M., 1996. *The Voluntary Sector in the United Kingdom*. Johns Hopkins Nonprofit Sector Series, ed. Salamon and Anheier. Manchester University Press: Manchester.
- Keohane, R., O. and Nye, J., S., Jr., 1998. *Power and Interdependence in the Information Age*. Foreign Affairs, 77(5): p. 81.
- Keohane, R. O., 2002. Global Governance and Democratic Accountability. *Global Governance and Public Accountability*. London School of Economics: London. p. 36.
- Kissling, C., 2006. *The Relevance of International Personality of NGOs for the Legitimacy of International Organizations*. In: Paper presented at the annual meeting of the International Studies Association, Town & Country Resort and Convention Center. San Diego, California, USA. Available from:
http://www.allacademic.com/meta/p100100_index.html.
- Kissling, C., 2008. The Evolution of CSOs' Legal Status in International Governance and Its Relevance for the Legitimacy of International Organizations. In: Steffek, Kissling, and Nanz, eds. *Civil Society Participation in European and Global Governance: A Cure for the Democratic Deficit?* Palgrave Macmillan: Basingstoke. pp. 30-52.
- Klint, M., 1993. *The Rainbow Man (Danish Title: Manden I Regnbuen)*. TV documentary: Nordisk Film.
- Korey, W., 1999. *Human Rights Ngos: The Power of Persuasion*. Ethics & International Affairs, 13(1): pp. 151-174.
- Korten, D. C., 1990. *Getting to the 21st Century – Voluntary Action and the Global Agenda*. Kumarian Press: West Hartford.
- Kumar, A., et al., eds., 2009. *Global Civil Society 2009: Poverty and Activism*. Yearbook, ed. Anheier. Sage: London?
- Land, M., 2007. *Without Prejudice -Debrief Meeting with Medway Council Post Planning Meeting*. Type to Mohammed Gary, 26 November. Available from:
<http://www.greenpeace.org.uk/files/pdfs/climate/FOI-2.pdf> [Accessed 28 May 2010].
- Land, M., 2008. *Kingsnorth Unit 5 & 6 - Form B and Update Meeting*. Type to Mohammed Gary, 8, 9, 11, and 16 January. Available from:
<http://www.greenpeace.org.uk/files/pdfs/climate/FOI4.pdf> [Accessed 28 May 2010].
- Larsen, E., 1979 [1978]. *A Flame in Barbed Wire: The Story of Amnesty International*. W W Norton & Company: New York.
- Layder, D., 1998. *Sociological Practice: Linking Theory and Social Research*. Sage.
- Lee, S., ed., 2002. *"The Silent Emergency: HIV/Aids in Conflicts and Disasters": Report of the Seminar, London, June 1999 Held by the UK NGO Aids Consortium*. UK Consortium on AIDS & International Development (formerly UK NGO AIDS Consortium): London. p. 31.
- Leonard, H. B., 2006. *Should Mission Statements Be Promises? (and Should They Have to Be?)*. The Hauser Center for Nonprofit Organizations. The Hauser Center for Nonprofit Organizations.
- Lester M. Salamon (director). *Center for Civil Society Studies at the Johns Hopkins Institute for Policy Studies*. Available from:

- <http://ccss.jhu.edu/?section=content&view=9&sub=3&tri=7> [Accessed 16 nov., 2011].
- Lewis, M., 1995. *Certificate of Incorporation of a Private Limited Company: Company No. 3139939*. Companies House: Cardiff.
- Lindblom, A.-K., 2005. *Non-Governmental Organisations in International Law*. Cambridge University Press: Cambridge.
- Linklater, A., 1998. *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*. Polity Press: Cambridge.
- Lister, S., 2003. *NGO Legitimacy: Technical Issue or Social Construct?* Critique of Anthropology, 23(2): pp. 175-192.
- Lomborg, B., 2007. *Cool It! : The Skeptical Environmentalist's Guide to Global Warming*. Cyan: London.
- Lomborg, B., 2009. *Global Crises, Global Solutions*. 2nd ed. Cambridge University Press: Cambridge.
- Lukes, S., 2005 [1974]. *Power: A Radical View*. 2 ed. Palgrave Macmillan for the British Sociological Association: Basingstoke.
- Macdonald, K., 2003 [2001]. Using Documents. In: Gilbert, ed. *Researching Social Life*. Sage: London.
- Macdonald, T., 2008. *What's So Special About States? Liberal Legitimacy in a Globalising World*. Political Studies, 56(3): pp. 544-565.
- Mansbridge, J., 2003. *Rethinking Representation*. American Political Science Review, 97(04): pp. 515-528.
- Mansbridge, J., et al., 2010. *The Place of Self-Interest and the Role of Power in Deliberative Democracy**. Journal of Political Philosophy, 18(1): pp. 64-100.
- Maragia, B., 2002. *Almost There: Another Way of Conceptualizing and Explaining NGOs' Quest for Legitimacy in Global Politics*. Non-State Actors and International Law, 2: pp. 301-332.
- Martens, K., 2002. *Mission Impossible? Defining Nongovernmental Organisations*. Voluntas: International Journal of Voluntary and Nonprofit Organizations, 13(3): pp. 271-285.
- Martens, K., 2004. *An Appraisal of Amnesty International's Work at the United Nations: Established Areas of Activities and Shifting Priorities since the 1990s*. Human Rights Quarterly, 26(4): pp. 1050-1070.
- Martens, K., 2005. *NGOs and the United Nations: Institutionalization, Professionalization and Adaptation*. Palgrave Macmillan: Basingstoke.
- Mason, C., 2004. *Letters to All Roman Catholic Bishops: Re: Cafod & the Catechism of the Catholic Church*. Available from: <http://www.unitedforlife.com/lbcafodshivpolicyandccc.html> [Accessed 18 July, 2011].
- Mathews, J. T., 1997. *Power Shift*. Foreign Affairs, 76(1): pp. 50-67.
- McCarthy, R., 2008. *Charities and Campaigning*. Private Client Business. Sweet & Maxwell. Available from: <http://westlaw.co.uk> [Accessed 22 Sept 2011].
- McDonagh, E., 1994. *Theology in a Time of Aids*. UK Web Archive: London. Available from: <http://www.cafod.org.uk/var/storage/original/application/phpb27ZGZ.pdf> [Accessed 19 July 2011].
- McKay, J. and Hilton, M., 2009. Introduction. In: Crowson, Hilton, and McKay, eds. *NGOs in Contemporary Britain: Non-State Actors in Society and Politics since 1945*. Palgrave Macmillan: Basingstoke.

- McSpotlight, 1990. *We All Live in Bhopal*. Available from:
http://www.mcspotlight.org/people/biogs/london_grnpeace2.html
 [Accessed 5 March, 2010].
- McSpotlight, 1997. *London Greenpeace: A History of Peace, Protest and Campaigning*. Available from:
http://www.mcspotlight.org/people/biogs/london_grnpeace.html
 [Accessed 5 March, 2010].
- McTaggart, D., 2002. *Shadow Warrior: The Autobiography of Greenpeace International Founder David McTaggart* Orion.
- McTaggart, D. F. and Hunter, R., 1978. *Greenpeace III : Journey into the Bomb*. Collins: London.
- Meaden, G., 2008a. *Statement of Witness Dr Geoff Meaden*. Available from:
<http://www.greenpeace.org.uk/files/pdfs/climate/meaden1.pdf> [Accessed 25 August, 2011].
- Meaden, G., 2008b. *Supplementary Statement of Witness Dr Geoff Meaden*. Available from: <http://www.greenpeace.org.uk/files/pdfs/climate/meaden2.pdf> [Accessed 25 August, 2011].
- Meakin, R., 2008. *The Law of Charitable Status: Maintenance and Removal*. Law Practitioner Series. Cambridge University Press: New York.
- Medway Council, 2006. *Planning Applications for 21 November 2007*. Medway Green Party: Chatham.
- Miliband, D., 2008. *Annual Report on Human Rights 2008*. Crown: London.
- Miliband, D., 2010. *Annual Report on Human Rights 2009*. Crown: London.
- Miller, C. A., 2007. *Democratization, International Knowledge Institutions, and Global Governance*. Governance: An International Journal of Policy, Administration and Institutions, 20(2): pp. 325-357.
- Moffat, G., 2001. *Charity, Politics and the Human Rights Act 1998: Chasing a Red Herring?* The International Journal of Not-for-Profit Law, 4(1).
- Monday Developments, 2010. *A Conversation With... Tony Blair Former British Prime Minister and Patron of the Africa Governance Initiative*. Interaction: Monday Developments Magazine, 28(9). Tony Blair Africa Governance Initiative. Available from:
http://www.interaction.org/sites/default/files/MD_Sept_10_small.pdf
 [Accessed 9 January 2012].
- Moore, D., 1979. *Dear Greenpeacers*. Type to Greenpeace USA members, 31 July. Available from:
http://quandmeme.files.wordpress.com/2010/02/scan_doc0002.pdf
 [Accessed 5 May 2010].
- Moran, M., 2007 [2003]. *The British Regulatory State: High Modernism and Hyper-Innovation*. Oxford University Press: Oxford.
- Moran, M., 2008. *Representing the Corporate Elite in Britain: Capitalist Solidarity and Capitalist Legitimacy*. The Sociological Review, 56: pp. 64-79.
- Morgan and Barclay, C. F. R., 1961. *Encloses Information a Mr. Benenson's "Appeal for Amnesty" Which Mr. Morgan Has Received*. PR146/3. National Archives: London.
- Morgan, G. G. and Directory of Social Change (Organization), 2008. *The Charity Treasurer's Handbook : An Introduction to Voluntary Sector Finance and Accounting*. 2 ed. Starter Guide. Directory of Social Change: London.

- Morgan, J., 2008. *Statement of Witness Jennifer Morgan*. Available from: <http://www.greenpeace.org.uk/files/pdfs/climate/morgan.pdf> [Accessed 25 August, 2011].
- Morris, D., 1999. *Plenary: What Is "Public Benefit" under Common Law and Civil Law Approaches?*. The International Journal of Not-for-Profit Law, 2(1).
- Nathan, H. L., 1952. *Committee of Enquiry into the Law and Practice Relating to Charitable Trusts (Nathan Committee): Evidence and Final Report*. The National Archives: Kew.
- National Board of Catholic Women, 2011. *What Do Committees Do?* Available from: <http://www.nbcw.org/Committees.html> [Accessed 16 Jun, 2011].
- National Board of Catholic Women's Organisations, 2011. *Welcome to the National Board of Catholic Women*. Available from: <http://www.nbcw.org/Welcome.html> [Accessed 14 June, 2011].
- Newton, C. C. S., 1984. *The Sterling Crisis of 1947 and the British Response to the Marshall Plan*. The Economic History Review, 37(3). Economic History Society. Available from: <http://links.jstor.org/sici?sici=0013-0117%28198408%292%3A37%3A3%3C391%3ATSCO1A%3E2.0.CO%3B2-N> [Accessed 15 July 2011].
- O'Kane, R. H. T., 1993. *Against Legitimacy*. Political Studies, 41(3): pp. 471-487.
- O'Neill, J., 2001. *Representing People, Representing Nature, Representing the World*. Environment & Planning C: Government and Policy, 19: pp. 483-500.
- OECD, 2011. *The Marshall Plan: 60th Anniversary*. Available from: http://www.oecd.org/image/0,3453,en_21571361_38695295_38721586_1_1_1_1,00.html [Accessed 15 July, 2011].
- Office of the Third Sector, 2008 [1998]. *Compact on Relations between Government and the Voluntary and Community Sector in England*. Cm 4100. Crown: London.
- Office of the Third Sector, 2009. *Real Help for Communities: Volunteers, Charities and Social Enterprises*. URN 09/Z1. Crown: London.
- Ogolla, C. S., 2006. *Cafod East Africa: HIV and Aids Programme Review: Final Report*. Cafod: London.
- Oliveira, P. C. d., 2006 [1943]. *In Defense of Catholic Action*. 2006 ed, ed. The American Society for the Defense of Tradition. The American Society for the Defense of Tradition, Family, Property—TFP: Spring Grove.
- Orchard, E. *The Pampered Poodles: The Origin of Family Fast Day*. 1986-7, The Catholic Fund for Overseas Development: London.
- Oxford Centre for Higher Education Policy Studies, 13 October 2011 *Welcome to Oxcheps*. Available from: <http://oxcheps.new.ox.ac.uk/index.htm> [Accessed 13 Oct, 2011].
- Padjowski, C., 2010. *Thank You So Much for Requesting a Dvd Copy of Bright Green Picture's Film - a Time Comes*. Type to author.
- Parry, L., 1995. *Certificate of Incorporation on Change of Name Company No. 1735872*. Companies House: Cardiff.
- Parry, M., 2000. *Aids Needs a 'Rethink': Official Urges Educators to Challenge Behaviour*. The Universe. 16 April.
- Paterson, G., 2003. *Church Leadership & HIV/Aids: The New Commitment. Discussion Paper 001*. Ecumenical Advocacy Alliance: Geneva.
- PBPower Energy Services Division, 2006. *Powering London into the 21st Century*. Mayor of London and Greenpeace UK: London.

- Pead, R., 2005. *Contributing to Cafod Is a Sin!* Christian Order, January.
- Pearce, F., 1996. Greenpeace: Storm-Tossed on the High Seas. In: Bergesen and Parmann, eds. *Green Globe Yearbook 1996*. Oxford University Press: Oxford. p. 368.
- Pepinster, C., 2006. Aids and the Lesser Evil. *The Tablet*. 29 April. The Tablet Publishing Company: London.
- Personal notes by author, 2009. *International Advocacy Non-Governmental Organisations Workshop 2009: Personal Notes*. 31 May - 2 June.
- Peruzzotti, E., 2006. Civil Society, Representation and Accountability: Restarting Current Debates on the Representativeness and Accountability of Civic Associations. In: Lisa and Tuijl, eds. *NGO Accountability: Politics, Principles and Innovations*. Earthscan: London.
- Phills, J. A. J., 2005. *Integrating Mission and Strategy for Nonprofit Organizations*. Oxford University Press: New York.
- Planning Bill 2007-08. National Archives: London.
- Pope John Paul II, 1981. *Familiaris Consortio*. Libreria Editrice Vaticana: Vatican.
- Pope John Paul II, 1983. *Code of Canon Law*. The Holy See. Libreria Editrice Vaticana: Vatican.
- Pope John Paul II, 1987. *Sollicitudo Rei Socialis*. 1987.12.30. Holy See: Vatican.
- Pope John Paul II, 2004a. *Address of John Paul II to the Bishops of the Provinces of Portland in Oregon, Seattle and Anchorage on Their "Ad Limina" Visit*. Holy See: Vatican.
- Pope John Paul II, 2004b. *Canonical Legal Status*. Holy See. Caritas Internationalis: Castel Gandolfo.
- Pope Paul VI, 1965. *Gaudium Et Spes*. Available from: http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html [Accessed 2 August, 2011].
- Pope Paul VI, 1967. *Populorum Progressio*. Available from: http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html [Accessed 2 August, 2011].
- Pope Paul VI, 1968. *Humanae Vitae* Encyclical Letter. Available from: http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html [Accessed 25 June, 2011].
- Pope Pius X, 1905. *Il Fermo Proposito: Encyclical of Pope Pius X on Catholic Action in Italy to the Bishops of Italy* Encyclicals. Available from: http://www.vatican.va/holy_father/pius_x/encyclicals/documents/hf_p-x_enc_11061905_il-fermo-proposito_en.html [Accessed 1 August, 2011].
- Powell, W. W. and DiMaggio, P. J., eds., 1991. *The New Institutionalism in Organizational Analysis*. The University of Chicago Press: London.
- Powell, W. W., Gammal, D. L., and Simard, C., 2005. Close Encounters: The Circulation and Reception of Managerial Practices in the San Francisco Bay Area Nonprofit Community. In: Czarniawska and Sevón, eds. *Global Ideas: How Ideas, Objects and Practices Travel in the Global Economy*. Liber & Copenhagen Business School Press. pp. 233-257.
- Powell, W. W. and Steinberg, R., eds., 2006. *The Nonprofit Sector: A Research Handbook*. Second ed. Yale University Press: London.
- Power, J., 2002 [2001]. *Like Water on Stone: The Story of Amnesty International*. Penguin Books: London.

- Power, J., 2010. *Amnesty Off the Piste* Available from: http://www.transnational.org/Columns_Power/2010/8.AmnestyOff.html [Accessed 17 July, 2010].
- Poyry Energy (Oxford), 2008. *Implications of the UK Meeting Its 2020 Renewable Energy Target: A Report to WWF-UK and Greenpeace UK*. Poyry Energy Consulting: Oxford.
- President and Fellows of Harvard College, 2008-2011. *The Hauser Center for Nonprofit Organizations at Harvard University*. Available from: <http://www.hks.harvard.edu/hauser/> [Accessed 16 Nov., 2011].
- Prime Minister's Office, 2007. *Prime Minister Calls for Global Action on Climate Change*. Prime Minister's Office [Her Majesty's Stationery Office]: London.
- Prisoners of Conscience Appeal Fund, 1962-2003. *Trust Deed (Original)*. Prisoners of Conscience Appeal Fund: London.
- Prisoners of Conscience Appeal Fund, 2007. *Prisoners of Conscience Annual Report 2007*. Prisoners of Conscience Appeal Fund: London.
- Prisoners of Conscience Appeal Fund, 2009a. *Prisoners of Conscience Annual Report 2009: Change Lives*. Prisoners of Conscience Appeal Fund: London.
- Prisoners of Conscience Appeal Fund, 2009b. *Prisoners of Conscience Appeal Fund: Trustees Report and Accounts for the Year Ended 31 December 2009*. Charity Commission: London.
- Prisoners of Conscience Appeal Fund, 2011. *About PoC*. Available from: http://www.prisonersofconscience.org/about_poc/default.aspx [Accessed 21 September, 2011].
- Public Administration Select Committee, 2009a. *Lobbying: Access and Influence in Whitehall*. First Report of Session 2008-09. HC 36-II. House of Commons: London.
- Public Administration Select Committee, 2009b. *Lobbying: Access and Influence in Whitehall*. First Report of Session 2008-09. HC 36-I. House of Commons: London.
- Public Administration Select Committee, 2009c. *Lobbying: Developments since the Committee's First Report of Session 2008-09*. Fifth Report of Session 2009-10. HC 108. House of Commons: London.
- Putnam, R. D., 2000. *Bowling Alone: The Collapse and Revival of American Community*. Simon & Schuster: London.
- Ratzinger, J. C., 1988a [8 June 2005]. *On "the Many Faces of Aids"*. Available from: <http://www.catholic.org/featured/headline.php?ID=2249> [Accessed 13 July, 2011].
- Ratzinger, J. C., 1988b [2007]. *On "the Many Faces of Aids"* Catholic Library. Available from: http://www.newadvent.org/library/docs_df88ai.htm [Accessed 13 July, 2011].
- Rawsthorne, R. R. J., 2002. *Letter To: Mr Chris Mason*. Type to Chris Mason, 3 July. Available from: <http://www.unitedforlife.com/PDF/Bishop%20Rawsthorne%203%20July%202002.PDF>.
- Reimann, K. D., 2006. *A View from the Top: International Politics, Norms and the Worldwide Growth of NGOs*. International Studies Quarterly, 50(1): pp. 45-68.
- Reus-Smit, C., 2005. Constructivism. In: Burchill, et al., eds. *Theories of International Relations*. Plaggrave Macmillan: Basingstoke.

- Rhodes, R. A. W., 1994. *The Hollowing out of the State: The Changing Nature of the Public Service in Britain*. The Political Quarterly, 65(2): pp. 138-151.
- Robbins, K. C., 2006. The Nonprofit Sector in Historical Perspective: Traditions of Philanthropy in the West. In: Powell and Steinberg, eds. *The Nonprofit Sector: A Research Handbook*. Yale University Press: London.
- Roberts, H., 1998. *Witness: The Origins of Justice*. Paragon Review, (6).
- Rochon, E., et al., 2008. *False Hope: Why Carbon Capture and Storage Won't Save the Climate*. Greenpeace International.
- Rose, W., 2008. Evidence of William Rose. *Regina - V - Timothy Hewke, Kevin Drake, Ben Stewart, William Rose, Emily Hall, Huw Williams*. Marten Walsh Cherer Ltd: Maidstone. p. 13.
- Rosenblum, N. L., 2000 [1998]. *Membership and Morals: The Personal Uses of Pluralism in America*. Princeton University Press: Chichester.
- Rowland, T., 2005 [2003]. *Culture and the Thomist Tradition: After Vatican II*. Radical Orthodoxy Series, ed. Milbank, Pickstock, and Ward. Routledge: London.
- Rowland, T., 2010. *Restoring the Primacy of Christ in the New Evangelisation*. Faith: promoting a new synthesis of faith and reason, 42(5): pp. 6-8.
- Salamon, L. M. and Anheier, H. K., 1992a. *In Search of the Non-Profit Sector II: The Problem of Classification*. Voluntas: International Journal of Voluntary and Nonprofit Organizations, 3(3): pp. 267-309.
- Salamon, L. M. and Anheier, H. K., 1992b. *In Search of the Non-Profit Sector. I: The Question of Definitions*. Voluntas: International Journal of Voluntary and Nonprofit Organizations, 3(2): pp. 125-151.
- Salamon, L. M. and Anheier, H. K., 1993. *Measuring the Non-Profit Sector Cross-Nationally: A Comparative Methodology*. Voluntas: International Journal of Voluntary and Nonprofit Organizations, 4(4): pp. 530-554.
- Salamon, L. M. and Anheier, H. K., 1996. *The Nonprofit Sector: A New Global Force*. Working Papers of the The Johns Hopkins Comparative Nonprofit Sector Project. The Johns Hopkins University Institute for Policy Studies: Baltimore.
- Salamon, L. M. and Anheier, H. K., 1997. *Defining the Nonprofit Sector: A Cross-National Analysis*. Johns Hopkins Comparative Nonprofit Sector Project. Manchester University Press: Manchester.
- Sands, P., 2008. *Rethinking Environmental Rights - Climate Change, Conservation and the European Court of Justice*. Environmental Law & Management.
- Saperstein, D., 2003. *Public Accountability and Faith-Based Organizations: A Problem Best Avoided*. Harvard Law Review, 116(5): p. 1353.
- Sasser, E. N., et al., 2006. *Direct Targeting as an NGO Political Strategy: Examining Private Authority Regimes in the Forestry Sector*. Business and Politics, 8(3).
- Sauven, J., 2009. Green Heroes and Villians... *New Statesman*. 18 November.
- Scholte, J. A., 2001. *Civil Society and Democracy in Global Governance*. CSGR Working Paper No. 65/01. University of Warwick.
- Schuppert, G. F., ed., 2006. *Global Governance and the Role of Non-State Actors*. Nomos: Baden-Baden.
- Seabrooke, J., 2001. Why Clare Short Is Wrong. *Guardian*. 24 July. Guardian News and Media: London.

- Singh, S., Darroch, J. E., and Bankole, A., 2003. *A, B and C in Uganda: The Roles of Abstinence, Monogamy and Condom Use in HIV Decline*. Alan Guttmacher Institute: New York.
- Skocpol, T., 2003. *Diminished Democracy: From Membership to Management in American Civic Life*. The Julian J. Rothbaum Distinguished Lecture Series. University of Oklahoma Press: Norman: Norman.
- Slade, J., 1981. *McGovern and Others V. Attorney-General and Another*. Ch. 321. Chancery Division.
- Slaughter, A.-M., 2004. *A New World Order*. Princeton University Press: Princeton.
- Slim, H., 2002. *By What Authority? The Legitimacy and Accountability of Non-Governmental Organisations*. International Meeting on Global Trends and Human Rights. September 2001: Impacts on Human Rights Work. The International Council on Human Rights Policy: Geneva.
- Smith, A., 2002. *HIV/Aids and Emergencies: Analysis and Recommendations for Practice*. Humanitarian Practice Network (HPN). Overseas Development Institute: London.
- Smith, A., 2004a. Where Cafod Stands. *The Tablet*. 25 September. The Tablet Publishing Company: London.
- Smith, A. M., et al., 2004. *HIV Prevention from the Perspective of a Faith-Based Development Agency*. In: International AIDS Conference. Bangkok: Cafod. Available from:
http://www.cafod.org.uk/content/download/4173/37942/version/2/file/IAC_04_HSS_HIV_Prevention_paper [Accessed 28 June 2011].
- Smith, M. R. P., 2004b. *Letter To: Chris Mason Esq.* Type to Chris Mason, 4 October. Available from:
<http://www.unitedforlife.com/PDF/Bishop%20Smith%204%20Oct%202004.PDF> [Accessed 18 July 2011].
- Smith, S. R. and Gronbjerg, K. A., 2006. Scope and Theory of Government-Nonprofit Relations. In: Powell and Steinberg, eds. *The Nonprofit Sector: A Research Handbook*. Yale University Press: London.
- Sogge, D., ed., 1996. *Compassion and Calculation: The Business of Private Foreign Aid*. Pluto Press: London.
- Spencer, L. and Bollwerk, J., 1991. *The Not So Peaceful World of Greenpeace. (Cover Story)*. *Forbes*, 148(11): pp. 174-180.
- Spong, P., 2010. *Save the Whales - Save the Earth*. Available from:
<http://www.greenpeacefoundation.org/about/spongwhales.html> [Accessed 29 April, 2010].
- Stanford Graduate School of Business, 2009. *Center for Social Innovation: Stanford Project on the Evolution of Nonprofits (Spen)*. Available from:
<http://csi.gsb.stanford.edu/spen> [Accessed 16 Nov., 2011].
- Stares, S., 2009. Global Poverty Statistics and Civil Society. In: Kumar, et al., eds. *Global Civil Society Yearbook 2009: Poverty and Activism*, Vol. 5. SAGE Publications Ltd. p. 376.
- Steffek, J., 2003. *The Legitimation of International Governance: A Discourse Approach*. *European Journal of International Relations*, 9(2): pp. 249-275.
- Steffek, J., Kissling, C., and Nanz, P., eds., 2008. *Civil Society Participation in European and Global Governance: A Cure for the Democratic Deficit? Transformations of the State*, ed. Hurrelmann, et al. Palgrave Macmillan: Basingstoke.

- Stern, N. and Peters, S., 2007. *Stern Review Report on the Economics of Climate Change*. HM Government: London.
- Stewart, B., 2008. Evidence of Ben Stewart. *Regina - V - Timothy Hewke, Kevin Drake, Ben Stewart, William Rose, Emily Hall, Huw Williams*. Marten Walsh Cherer Ltd: Maidstone. p. 50.
- Stone, C., 1996 [1972]. *Should Trees Have Standing? And Other Essays on Law, Morals, and the Environment*. Oxford University Press.
- Straw, J., 1998. *Compact: Getting It Right Together: Compact on Relations between Government and the Voluntary and Community Sector in England*. National Archives: Kew.
- Straw, J., 2003. *Human Rights Annual Report 2003*. Crown: London.
- Straw, J., 2004. *Human Rights Annual Report 2004*. Crown: London.
- Straw, J., 2005. *Human Rights Annual Report 2005*. Crown: London.
- Summersgill, M. A., 2004. *Cardinal Clarifies Position on Aids Prevention*. Available from: http://www.rcdow.org.uk/cardinal/default.asp?content_ref=165 [Accessed 26 July, 2011].
- Taveiro, E. d. M., 2006 [1963]. Passing the Test of Time. In: The American Society for the Defense of Tradition, ed. *In Defense of Catholic Action*. The American Society for the Defense of Tradition, Family, Property—TFP: Spring Grove.
- Tenth Meeting of the UK Coal Forum, 2008 [2009]. BERR Conference Centre, 1 Victoria Street, London SW1H 0ET: Department for Business, Enterprise and Regulatory Reform (BERR) [National Archives]. Available from: <http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file49640.pdf> [Accessed 9 August 2011].
- The Economist, 2008. *Who Runs the World?: Wrestling for Influence*. The Economist.
- The Ottawa Citizen, 1975[August 27 1975]. Greenpeace Group Petitions Trudeau to Ban Whaling *The Ottawa Citizen*. August 26. The Ottawa Citizen: Ottawa.
- The Radical History Network of North East London, 2009. *London Greenpeace - a History of Ideas, Protests and Campaigning [1971-2005]*. Available from: <http://radicalhistorynetwork.blogspot.com/2009/10/london-greenpeace-history-of-ideas.html> [Accessed 6 March, 2010].
- The Times, 1963. Police Take M.P.'s' Names. *The Times*. The Times: London.
- Thompson, A. S., 2008. *Beyond Expression: Amnesty International's Decision to Oppose Capital Punishment, 1973*. *Journal of Human Rights*, 7: pp. 327-340.
- Thomson, 2010. *Phone Call*. Type to author, 20 April.
- Townsend, M., 2010. Gita Sahgal's Dispute with Amnesty International Puts Human Rights Group in the Dock: The Champion of Womens' Rights Has Accused It of Losing Its Moral Compass over Its Association with Moazzam Begg. *The Guardian: The Observer*. Guardian News and Media Limited: London.
- TRADITIO Traditional Roman Catholic Network, 2010 [07/01/10]. *What Is the Authority of Vatican II?* Available from: <http://www.traditio.com/tradlib/faq08.txt> [Accessed 15 July, 2011].
- The Transfer of Functions (Third Sector, Communities and Equality) Order 2006*. SI 2006/2951. HMSO: London.
- Trujillo, A. C. L., 2003. *Family Values Versus Safe Sex*. Available from: http://www.vatican.va/roman_curia/pontifical_councils/family/document s/rc_pc_family_doc_20031201_family-values-safe-sex-trujillo_en.html#ChurchCriticism [Accessed 21 July, 2011].

- Trujillo, A. C. L. and Sgreccia, M. R. E., 1995. *The Truth and Meaning of Human Sexuality: Guidelines for Education within the Family*. Available from: http://www.vatican.va/roman_curia/pontifical_councils/family/document/s/rc_pc_family_doc_08121995_human-sexuality_en.html [Accessed 21 July, 2011].
- Tussman, D., 2007. *Greenpeace*. Available from: <http://quandmeme.wordpress.com/greenpeace-2/> [Accessed 5 May, 2010].
- Uffici di Presidenza S.C.V., 2011a. *Origins and Nature*. Available from: http://www.vaticanstate.va/EN/State_and_Government/General_informations/Origins_and_Nature.htm [Accessed 15 July, 2011].
- Uffici di Presidenza S.C.V., 2011b. *State and Government*. Available from: http://www.vaticanstate.va/EN/State_and_Government/ [Accessed 15 July, 2011].
- UK Public Affairs Council, 2011. Available from: http://www.publicaffairscouncil.org.uk/index.php/terms_of_reference/ [Accessed 18 Oct, 2011].
- United Nations Environment Programme, 1972. *Declaration of the United Nations Conference on the Human Environment*. In: Conference on the Human Environment. Stockholm: United Nations Environment Programme. Available from: <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503&l=en> [Accessed 5 May 2010].
- Vakil, A., 1997. *Confronting the Classification Problem: Toward a Taxonomy of NGOs*. World Development, 25(12): pp. 2057-2070.
- Vedder, A., 2007a. Questioning the Legitimacy of Non-Governmental Organizations. In: Vedder, ed. *NGO Involvement in International Governance and Policy: Sources of Legitimacy*, Vol. 72. Martinus Nijhoff Publ.: Leiden. pp. 1-20.
- Vedder, A., 2007b. Towards a Defensible Conceptualization of the Legitimacy of NGOs. In: Vedder, ed. *NGO Involvement in International Governance and Policy: Sources of Legitimacy*, Vol. 72. Martinus Nijhoff Leiden. pp. 197-212.
- Vedder, A., ed., 2007c. *NGO Involvement in International Governance and Policy: Sources of Legitimacy*. Nijhoff Law Specials. Vol. 72. Martinus Nijhoff Publishers: Leiden.
- Vidal, J., 2008. Not Guilty: The Greenpeace Activists Who Used Climate Change as a Legal Defence. *Guardian.co.uk*. 11 September. Guardian News and Media
- Walsh, M. and Davies, B., eds., 1984. *Proclaiming Justice and Peace: Documents from John XXIII to John Paul II*. CAFOD Collins - Collins Liturgical Publications: London.
- Warren, M. E., 2001. *Democracy and Association*. Princeton University Press: Oxford.
- Watkins, F. and Watson, S., 2005. *Evaluation of the Dfid/Cafod PPA*. The Performance Assessment Resource Centre: Edinburgh.
- Watson, P., 2010a. *Captain Paul Watson Founder of Sea Shepherd Conservation Society: Co-Founding Director Greenpeace Foundation*. Available from: <http://www.seashepherd.org/who-we-are/captain-watsons-biography.html> [Accessed 16 August, 2011].
- Watson, P., 2010b. *Greenpeace Attempts to Make Captain Paul Watson "Disappear": Greenpeace Changes It's History to Deny Captain Paul Watson as Co-Founder*.

- Available from: <http://www.seashepherd.org/who-we-are/paul-watson-and-greenpeace.html> [Accessed 16 August, 2011].
- Weigel, 2003. *Second Vatican Council, 40 Years Later: Gaudium Et Spes*. Available from: <http://www.zenit.org/article-7029?l=english>.
- Weisbrod, B. A., ed., 1998. *To Profit or Not to Profit : The Commercial Transformation of the Nonprofit Sector* Cambridge University Press: Cambridge.
- Westlaw UK, 2010. *Welcome to the Westlaw UK*. Available from: <http://westlaw.co.uk/> [Accessed 13 Oct, 2011].
- Weyler, R., 2004. *Greenpeace an Insider's Account : How a Group of Journalists, Ecologists, and Visionaries Changed the World*. Rodale: London.
- Weyler, R., 2009a. *Deep Green: The Greenpeace Manifesto*. Available from: <http://www.greenpeace.org/international/about/deep-green/deep-green-special-1/> [Accessed 5 May, 2010].
- Weyler, R., 2009b. *Greenpeace History: Chronology, the Founding of Greenpeace*. Available from: <http://rexweyler.com/greenpeace/greenpeace-history/chronology/> [Accessed 28 April, 2010].
- Weyler, R., 2010 [8 Feb 2010]. *Deep Green: The 1970 Concert That Launched Greenpeace*. Available from: <http://www.greenpeace.org/international/en/about/deep-green/deep-green-jan-2010/> [Accessed 24 Oct, 2011].
- Weyler, R., 2011a. *Greenpeace History: List of Characters from Greenpeace*. Available from: <http://rexweyler.com/greenpeace/greenpeace-history/characters/> [Accessed 24 Oct, 2011].
- Weyler, R., 2011b. *Waves of Compassion: The Founding of Greenpeace. Where Are They Now?* UTNE Reader. Ogden Publications: Minneapolis. Available from: <http://www.utne.com/archives/WavesofCompassion.aspx> [Accessed 5 September 2011].
- Whitaker, Q., 2008. The Kingsnorth 6 Case and Its Impact for Environmental Law. *Quarterly Newsletter of the Environmental Law Foundation*. Autumn/Winter. Environmental Law Foundation: London.
- Wilde, M. J., 2007. *Vatican II: A Sociological Analysis of Religious Change: No. 2*. Princeton University Press: Woodstock.
- Wilkinson, P. and Schofield, J., 1994. *Warrior : One Man's Environmental Crusade*. Lutterworth: Cambridge.
- Wilkinson, R., 2005. Managing Global Civil Society: The WTO's Engagement with NGOs. In: Germain and Kenny, eds. *The Idea of Global Civil Society: Politics and Ethics in a Globalising Era*. Routledge: London. pp. 156-174.
- Wilkinson, R. and Hughes, S., eds., 2002 *Global Governance: Critical Perspectives*. Taylor & Francis: London.
- Willetts, P., 2000. *From "Consultative Arrangements" to "Partnership": The Changing Status of NGOs in Diplomacy at the UN*. *Global Governance*, 6(2): pp. 191-212.
- Willetts, P., 2006. *The Cardoso Report on the UN and Civil Society: Functionalism, Global Corporatism, or Global Democracy?* *Global Governance*, 12(3): p. 305.
- Willetts, P., 2011. *Non-Governmental Organisations in World Politics: The Construction of Global Governance*. Routledge Global Institutions, ed. Weiss and Wilkinson. Routledge: Abingdon.

- Williams, E. H., 1964. *Some Aspects of Criminal Appeals**. The Howard Journal of Criminal Justice, 11(3): pp. 220-227.
- Williams, H., 2008. Evidence of Huw Williams. *Regina - V - Timothy Hewke, Kevin Drake, Ben Stewart, William Rose, Emily Hall, Huw Williams*. Marten Walsh Cherer Ltd: Maidstone. p. 26.
- Williams, R., 2005. Catholic Action Group (Cag) Attempted Malignment by Pro-Abortion Lobby Group. *PR Newswire*. PR Newswire Europe Ltd. : London.
- Wiseberg, L. S., 1992. *Amnesty International International Conference on "Disappearances" and Political Killings 4-6 September 1992 Noordwijkerhout, the Netherlands*. Amnesty International: Noordwijkerhout.
- Wolkind, M., 2009. How We Won Acquittal of Kingsnorth Six: The Case against the Kingsnorth Protesters Was a Landmark Moment in the Climate Change Debate, Says Their Lawyer. *Guardian*. 31 May. Guardian News and Media Limited: London.
- Woods, A., 2000. *Facts About European NGOs Active in International Development*. OECD Development Centre Studies.
- World Council of Churches, 2001. *Increased Partnership between Faith-Based Organisations, Governments and Inter-Governmental Organisations: Statement by Faith-Based Organisations Facilitated by the World Council of Churches for the UN Special General Assembly on HIV/Aids, June 25 - 27, 2001*. World Council of Churches: New York.
- World Union of Catholic Women's Organisations, 2009. *History of WUCWO*. Available from: <http://www.wucwo.org/en/Main/Section-10/Section-1039/History%20of%20WUCWO/> [Accessed 14 June, 2011].
- World Union of Catholic Women's Organisations, 2009. *Home*. Available from: <http://www.wucwo.org/en/Main/Section-1033/Home/> [Accessed 18 January, 2012].
- Yin, R. K., 2003. *Case Study Research: Design and Methods*. 3 ed. Applied Social Research Methods Series, ed. Bickman and Rog. Sage: London.
- Zelditch, J. M., 2004. Institutional Effects on the Stability of Organizational Authority. In: Johnson, ed. *Legitimacy Processes in Organizations*, Vol. 22. Elsevier: London.
- Zelko, F., 2004a. *"Make It a Green Peace": The History of an International Environmental Organisation*. German Historical Institute Washington DC Bulletin, (34): pp. pp. 127-135.
- Zelko, F., 2004b. *Making Greenpeace: The Development of Direct Action Environmentalism in British Columbia*. BC Studies, 142/143(Summer/Autumn): pp. 197-240.
- Zelko, F., 2007. Greenpeace and the Development of International Environmental Activism in the 1970s. In: Lehmkuhl and Wellenreuther, eds. *Historians and Nature: Comparative Approaches to Environmental History*. Berg: Oxford. pp. 296-319.
- Zelko, F., 2010. *Emails to Author*.