

Impartiality Test: LGBT NGOs' Treatment in the ECOSOC NGO Committee

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I. *The Null-Hypothesis and the Methods*

The Economic and Social Council (ECOSOC) is said to be the most authoritative and effective access for NGOs to promote their causes in the United Nations; however, LGBT NGOs have kept questioning the impartiality of the “guardian” of this access, the NGO Committee.¹ The Committee is a standing body of the ECOSOC, consisting of 19 members elected on the basis of equitable geographical representation. It has the authority to accept, defer or reject applications of NGOs for consultative status, and then make recommendations to the ECOSOC. The ECOSOC Resolution 1996/31 had set up the objective requirements for granting consultative status to a qualified NGO, which are:

- 1) The NGO's mandate shall be relevant to the ECOSOC's work;
- 2) The NGO shall have a democratic constitution and institutional structure;
- 3) It shall not be financed by the government; and
- 4) It must have existed for at least 2 years.²

These requirements are quite basic, so the Committee has a margin of appreciation in determining whether or not to recommend a qualified NGO. It seems impossible to query the fairness of the NGO Committee by the mere fact that certain NGOs are rejected. Hence, my null-hypothesis is: the NGO Committee gives impartial recommendations on all types of NGOs.

This essay tries to carry out an empirical study on whether the NGO Committee really failed to give impartial recommendation to LGBT NGOs. Considering the detailed data of the early years are not available, this study is restricted to the applications that were considered by the Committee from 2000 to 2011 — in total 1,482 ones. I read through the reports and focused on the rejected NGOs, the alleged reasons why they are rejected, and the member states' votes, if any.

II. *The Preliminary Observation of the Committee's Decisions*

First of all, when looking at the acceptance rate of LGBT NGOs, we could find

1 See, ISHR, ECOSOC opens the UN to LGBT voices, but takes disciplinary action against three other NGOs, at <https://www.ishr.ch/1996/31/paras/9853-ecosoc-opens-the-un-to-lgbt-voices-but-takes-disciplinary-action>

out that only 1 out of 11 have been accepted,³ so the acceptance rate is 9.09%. As a contrast, the average acceptance rate of all NGOs is 98.04%, with 1453 being accepted out of 1482 ones. Conversely, among all the 29 NGOs that have been rejected, 10 of them are LGBT NGOs, amounting 34% (Figure 1). One might reasonably think, is it possible that these LGBT NGOs were rejected justifiably?

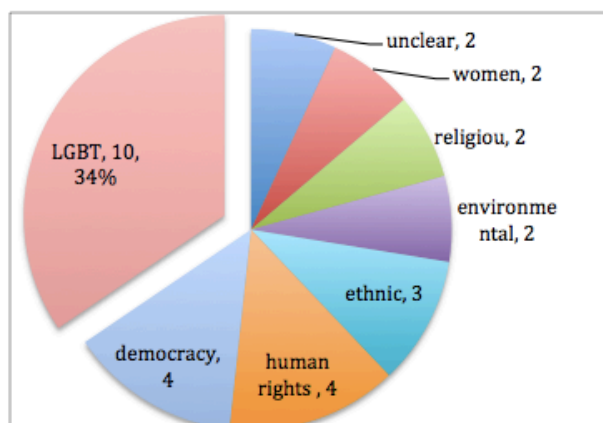


Figure 1 - The Natures of Rejected NGOs

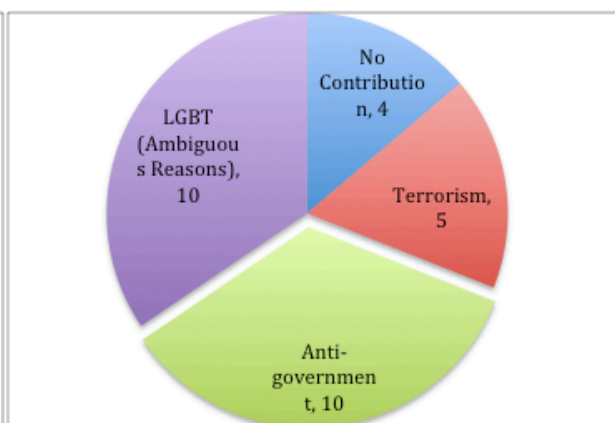


Figure 2 - The Alleged Reasons of Rejection

To answer this question, we could look into the reasons stated by the Committee (Figure 2). Among the 19 non-LGBT NGOs, some were rejected because of the suspected anti-government or terrorism activities, and some were considered to have no contributions to the activities of ECOSOC. These arguments are at least relevant to the criteria as mentioned above. However, although all these LGBT NGOs had met those criteria, they were still kept outside the door. In its reports, the Committee often used rather ambiguous wording, such as “the answers provided by the organization

³ The 11 LGBT NGOs that had applied for consultative status are:

- 1) Federación Estatal de Lesbianas, Gays, Transexuales y Bisexuales;
- 2) Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights;
- 3) Associação Brasileira de Gays, Lésbicas e Transgeneros;
- 4) Danish Association for Gays and Lesbians;
- 5) International Gay and Lesbian Human Rights Commission;
- 6) International Lesbian and Gay Association;
- 7) International Lesbian and Gay Association — Europe;
- 8) Lesbian and Gay Federation in Germany;
- 9) Federatie van Nederlandse Verenigingen tot Integratie Van Homoseksualiteit – COC Nederland;
- 10) Coalition of Activist Lesbians (Australia)
- 11) Coalition gaie et lesbienne du Québec.

Although 10 of them were initially rejected by the NGO Committee, all these NGOs have eventually gained the consultative status, owing to the opposite final decision made by the ECOSOC.

were not satisfactory”⁴. Moreover, some representatives of the member states even explicitly claimed that they “could not agree with the objectives of an organization that promoted a certain lifestyle”⁵. These statements have shed some doubts on the impartiality of the NGO Committee, and in particular, its member states.

III. The Influence of Individual States on LGBT NGOs’ Fate

I coded down the times for which states have accepted, rejected or abstained when voting on LGBT NGOs. In figure 3, on a scale from -1 to 1, -1 represents that the states had rejected to recommend the LGBT NGOs invariably; and 1 means the states have a 100% acceptance rate. The bars with stripes represent abstention from votes. The numbers in the bracket after the name of each state represent the total times it has considered LGBT NGOs’ applications.

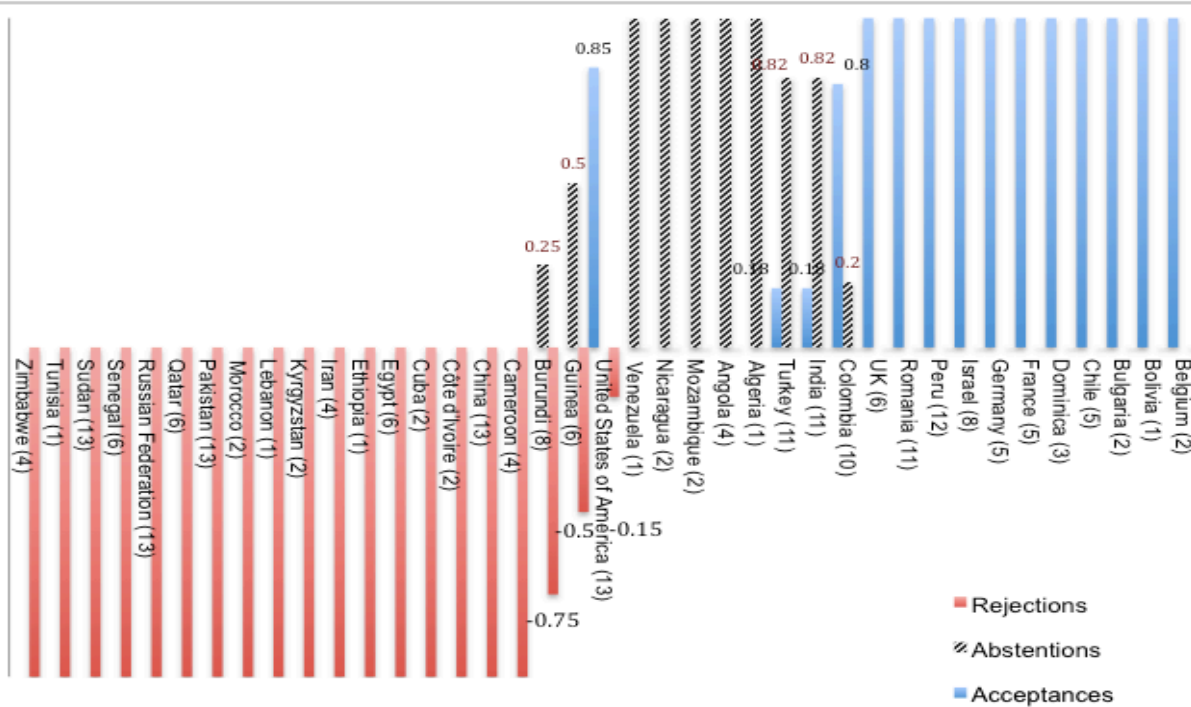


Figure 3. The Voting Patterns of States in the NGO Committee

Among the 39 states that had been a member of the NGO Committee, 17 voted against LGBT NGOs all the time.⁶ Contrarily, 11 states always voted in favor of LGBT NGOs.⁷ In the middle are states abstaining at times.⁸ Noticeably, Russia,

4 See, Report of the Committee on Non-Governmental Organizations on its regular 2006 session, New York, 19-27 January 2006, UN Doc. E/2006/32 (Part I), para 37. See also, Report of the Committee on Non-Governmental Organizations on its regular 2009 session, New York, 19-28 January and 2 February 2009, UN Doc. E/2009/32 (Part I) para 16, at <http://csonet.org/?menu=93>.

5 Report of the Committee on Non-Governmental Organizations on its regular 2009 session, New York, 19-28 January and 2 February 2009, UN Doc. E/2009/32 (Part I), para 16.

6 They are: Cameroon, China, Côte d'Ivoire, Cuba, Egypt, Ethiopia, the Islamic Republic of Iran, Kyrgyzstan, Lebanon, Morocco, Pakistan, Qatar, Russian Federation, Senegal, Sudan, Tunisia, and Zimbabwe.

7 They are: Belgium, Bolivia, Bulgaria, Chile, Dominica, France, Germany, Israel, Peru, Romania, and the

China, Pakistan and Sudan had 100% rejection rate against LGBT NGOs for all the 13 times they participated; UK, Romania, Peru and Israel are eminent examples of 100% acceptance rate; while India and Turkey, among 5 others, abstained most of the time.

It seems that most states have some ingrained attitudes towards LGBT NGOs. One might begin to doubt that a state's votes in the NGO Committee are very much determined by its internal situations, instead of the needs of the ECOSOC. I will then look into both the legal and social factors within a state: the level of protection of LGBTs in national legislation and the public opinions on the LGBTs.

As for the legislation, based on studies carried out by Professor Kees Waaldijk⁹ and by the International Lesbian Gay Association (ILGA)¹⁰, there are 10 different levels of legal recognition of LGBT rights, which are given values from -2 to 3 (See Annex 1). With regard to the public opinions, the Pew Research Centre had conducted a public survey on whether homosexuality is justifiable, with the level of acceptance ranging from 1 to 10.¹¹ I took the mean value of the public opinions, which is shown in Annex 2, together with the rates of favorable votes of each state.

Firstly, as is shown in Figure 4, there is a certain degree of positive correlation between the rates of acceptance votes and the legislation. However, there are six outliers: Peru, Dominica, Chile, Bulgaria, Bolivia, and Colombia. These states have a rather low level of legislation, but they all have a quite high acceptance rate of LGBT NGOs in the NGO Committee. Therefore, domestic legislation on homosexuality might not be a strong stimulus of the states' votes.

In contrast, the correlation between the votes and public opinions is more robust than the previous one, with only two outliers, Romania and Peru. Moreover, the R squared (0.67) indicates that the factor of public opinions explains 67% of the reasons why states voted so. Thus, the acceptance rate of states' votes in the NGO Committee is more closely linked to the public opinions towards LGBTs than the domestic legislation.

United Kingdom.

8They are: Colombia, India, Turkey, Algeria, Angola, Mozambique, Nicaragua, Venezuela, United States of America, Guinea and Burundi.

9 K. Waaldijk, Legal recognition of homosexual orientation in the countries of the world, February 2009; www.emmeijers.nl/waaldijk, last accessed 16th March 2012.

10 E. Bruce-Jones and L. P. Itaborahy, State-sponsored Homophobia. A world survey of laws criminalizing same-sex sexual acts between consenting adults, an ILGA report, May 2011, available at http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf, last accessed 15th March 2012.

11 Pew Research Centre, www.pewglobal.org/files/pdf/258.pdf, last accessed 16th March 2012.

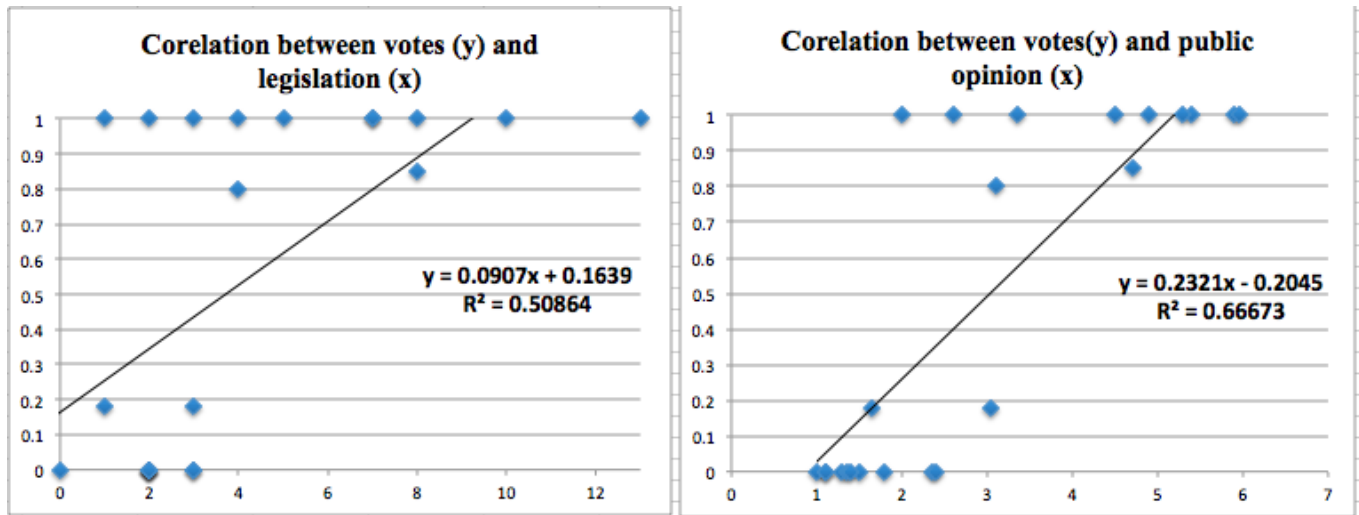


Figure 4 – The Correlations between the votes of states and their legislation
 The Correlations between the votes of states and their public opinions

IV. Conclusion

After assessing the voting behavior of the states in relation to their legislation and to the public opinions on LGBT issues, we can conclude that the null-hypothesis is proved to be incorrect. The results presented above show, firstly, that the LGBT NGOs have a strikingly low acceptance rate, compared to the average one. Secondly, the fate of these NGOs is not only determined by the rules and criteria of the ECOSOC; instead, the member states' legal and social situations are playing a more decisive role in the United Nations. Unexpectedly, it is discovered that the relationship between the public opinions and the acceptance rate of LGBT NGOs in the ECOSOC NGO Committee is quite strong. When the voting behavior of the states is more influenced by other factors than the eligibility of the NGOs, the impartiality of the Committee as a whole is challenged.

This empirical test has shown that due to diverse values of the member states and the deficiency of the procedures, the NGO Committee of the ECOSOC might have politicalized the accreditation process. The problem of limited access is, therefore, the first bottleneck that LGBT NGOs encountered at the UN level. This study provides a reasonable basis supporting further theoretical and practical study on the impartiality of the NGO Committee.

Annex 1 — Legislation Index

Legislation/ States	Are homose xual acts legal?	Equal age of consent	Hate crimes aggravat ing circumst	Prohibitio n of incitement to hatred based on	Prohibitio n of discrimina tion in employe	Recognit ion of informal cohabita tion	Partne rships	Marriage	Adoption	Gender recognitio n after gender reassign	Legislat ion score (Σ legisl ation)
	-2/-1/1	0/1	0/1	0/1	0/1	0/1	0/2	0/3	0/1	0/1	
Algeria	no										-1
Angola	no										-1
Burundi	no										-1
Cameroon	no										-1
Dominica	no										-1
Egypt	no										-1
Ethiopia	no										-1
Guinea	no										-1
Iran	Death										-2
Lebanon	no										-1
Morocco	no										-1
Pakistan	no										-1
Qatar	no										-1
Senegal	no										-1
Sudan	Death										-2
Tunisia	no										-1
Zimbabwe	no										-1
Chile	yes										1
India	yes										1
China	yes	yes									2
Côte d'Ivoire	yes	yes									2
Cuba	yes	yes									2
Kyrgyzstan	yes	yes									2
Peru	yes	yes									2
Russia	yes	yes									2
Mozambique	no				yes						-1
Bulgaria	yes	yes			yes						3
Venezuela	yes	yes			yes						3
Nicaragua	yes	yes	yes		yes						4
Colombia	yes	yes	yes			yes					4
Bolivia	yes		yes	yes	yes						4
Turkey	yes	yes							yes		3
Israel	yes	yes			yes	yes		yes			5
Germany	yes	yes			yes	yes	yes		yes		7
Romania	yes	yes	yes	yes	yes	yes			yes		7
US	yes	yes	yes		yes	yes	yes		yes		8
France	yes	yes	yes	yes	yes	yes	yes				8
UK	yes	yes	yes	yes	yes	yes	yes		yes	yes	10
Belgium	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	13

- yes – the state has legislation in favor of LGBTs (1 point each, but 2 points for registered partner legislation and 3 points for marriage);
- blank cell –no legislation in the respective field (0 point);
- no – the state has legislation criminalizing homosexual acts (-1 point);

- death – the state has death penalty (-2 points).

NB: in India and the US, the laws are not the same in different parts, but for the convenience of the study, the laws of the majority parts are taken.

Annex 2 — Public Opinion, Legislation Index and Acceptance Rate

States	public opinion	legislation	acceptance rate
Algeria	1.3	-1	0
Angola		-1	0
Belgium	5.4	13	1
Bolivia		4	1
Bulgaria	3.35	3	1
Burundi		-1	0
Cameroon		-1	0
Chile	4.5	1	1
China	1.35	2	0
Colombia	3.1	4	0.8
Côte d'Ivoire		2	0
Cuba		2	0
Dominica		-1	1
Egypt	1	-1	0
Ethiopia	1.5	-1	0
France	5.9	8	1
Germany	5.95	7	1
Guinea		-1	0
India	3.05	1	0.18
Iran	1.4	-2	0
Israel	4.9	5	1
Kyrgyzstan	1.8	2	0
Lebanon		-1	0
Marocco		-1	0
Mozambique		0	0
Nicaragua		3	0
Pakistan	1.1	-1	0
Peru	2.6	2	1
Qatar		-1	0
Romania	2	7	1
Russia	2.35	2	0
Senegal		-1	0
Sudan		-2	0
Tunisia		-1	0
Turkey	1.65	3	0.18
UK	5.3	10	1
United States	4.7	8	0.85
Venezuela	2.4	3	0
Zimbabwe	1.1	-1	0