



Amnesty International members only

33rd International Council Meeting Circular 13: Civil Disobedience & Boycotts

AI Index: ORG 10/6181/2017
To: Sections and structures
ICM Session: Sessions 11 & 12, Human Rights workshop 2: Civil Disobedience & Boycotts
From: SD Law & Policy, IS, AI Italy, AI USA
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PURPOSE STATEMENT

The purpose of this note is to frame a discussion on civil disobedience and boycotts as campaign and activism strategies for Amnesty International, and also to consider them as specific policy questions. As a result of the discussion, there should be enhanced and shared understanding of the use of these tools by Amnesty, and some recommended directions for the further development of policy specificities in the area of civil disobedience, and implementation approaches and mechanisms – and, if considered necessary, policy modifications – in the area of boycotts.

DISTRIBUTION

- The paper is for section/structure delegates to the ICM.
- Delegates should talk to their section/structure management and board; law and policy focal points; advocacy leads; media officers; and campaigners.

Papers List



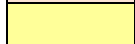
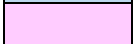



All ICM papers and background papers are available on the ICM website: password 2017_ICMRome (o = zero) [2017 ICM website](#)

Release date	Circular No.	Paper title (Circulars 1, 3 and 4 have been removed from this table, but are available on the ICM website)	Session	AI index number
Oct 2016	2	Call for internationally elected positions	N/A	ORG 50 4954 2016
June 2017	5	Section and structure voting entitlements	S26 & S27	ORG 10/6318/2017
June 2017	6	Second version resolutions, preliminary costings and draft agenda	Full ICM	ORG 10/6316/2017
June 2017	7	Governance Reform: The new Governance Model explained	Governance Reform working party	ORG 10 6247 2017
June 2017	8	Governance Reform: Frequently asked questions		ORG 10 6248 2017
June 2017	9	Development of a Policy on State Obligations on Elections	HR Pol working party	ORG 10/6310/2017
June 2017	10	Human Rights aspects of climate change		ORG 10/6302/2017
June 2017	11	Drugs and Human Rights		ORG 10/6311/2017
June 2017	12	Military Occupation as an Amnesty Policy Issue		ORG 10/6312/2017
June 2017	13	Civil disobedience and boycotts		ORG 10/6181/2017
July 2017	14	Update on implementation of 2015 ICM decisions and International Board and International Treasurer's Report		S6
July 2017	15	Secretary General's report to the ICM	S6	TBC
July 2017	16	State of the movement report	S16	TBC
July 2017	17	Final version draft agenda, preparing for the ICM	Full ICM	TBC
July 2017	18	Nominations to internationally elected positions	S7	TBC
Post ICM papers				
Aug 2017	N/A	2017 ICM Decisions Report	N/A	TBC
Sep 2017	N/A	Report of the 2017 ICM	N/A	TBC

Background papers

Release date	Paper title	Sessions	AI index number
June 2017	Discussion framework for Governance Reform Working Parties	Governance Reform working party	ORG 10/6313/2017

Session key

	ICM plenary session		HR Policy working party
	ICM plenary: HR context		Workshop
	Governance Reform working party		Organisational working party
			Regional meetings

Contents page

Executive summary	3
PART ONE	3
PART TWO	5
	2

Civil disobedience	6
Draft Policy Note on Civil Disobedience	6
POINTS AND QUESTIONS FOR DISCUSSION	7
BOYCOTTS	8
CURRENT POLICY ON BOYCOTTS	8
POINTS AND QUESTIONS FOR DISCUSSION	9
PRELIMINARY INPUT FROM BUSINESS AND HUMAN RIGHTS (IS)	9
CONCLUSION	10

Background papers

Paper title	AI index number
AI Italy's resolution to 2017 ICM on the use of boycott as a campaigning strategy	ORG 10 5759 2017
2001 ICM, Decision 11 "Amnesty International and the Economic Sector: AI's policy on company boycotts"	ORG 52/001/2001
Guidelines on Sanctions	POL 34/005/2005
1985 ICM, Decision 1 "Guidelines for consideration of persons imprisoned for civil disobedience"	ORG 52/001/1985
2003 ICM, Decision 33 "International Accountability"	ORG 52/003/2003

Executive summary

This is a proactive, forward-thinking, workshop discussion in which Amnesty International considers the two strategic tools of civil disobedience and boycotts, and their role in the achievement of human rights impact in the current global human rights context.

Part One discusses the two as strategies, and Part Two examines them as specific policy issues, respectively. Amnesty International has a policy on boycotts and divestments; it does not have a policy on civil disobedience when exercised by Amnesty supporters, activists, staff, volunteers, or other affiliates.

Part One of the discussion should enable participants to gain a shared understanding of the place of civil disobedience and boycotts in the activism and campaigning repertoire of Amnesty International, and it should offer an opportunity for joint reflection on the possibilities, limitations and dilemmas of civil disobedience and boycotts in Amnesty's own activism and in its advocacy.

The outcome for Part Two should be a refinement of the draft policy on civil disobedience. With regard to boycotts, the outcome should be a reflection on whether we need to revamp its implementation, and to modify any of its elements – and in both cases to provide headline ideas of what such changes might entail.

PART ONE

As *policy questions*, civil disobedience and boycotts both raise complex – and, of course, different – policy dilemmas. As *strategies and tactics* available to a campaigning organization such as Amnesty International, they both uniquely speak to the challenge of what our self-understanding is as a Movement, in the context of our ambitions under Goal 5 of the *2016-19 Strategic Plan*: who are we

and how do we organize and mobilize, resist and campaign?

In the context of a significant increase in the politics of demonization, how do we respond to extreme acts carried out and policies put out in the name of States, where these are not only contrary to international human rights law, international humanitarian law, and refugee law¹, but also induce a strong sense among human rights defenders to respond to the dictates of conscience? What if some national laws or acts of State officials are unconscionable and Amnesty members, activists, and staff feel the need to defy them as a matter of conscience? Or to boycott or advocate the boycott of goods or services associated with particular companies or politicians responsible for such laws or actions?

In the case of boycotts, Amnesty has an existing policy, under the 2001 ICM Decision 11 (ORG 52/001/2001) on Amnesty International and the Economic Sector. In the case of civil disobedience, Decision 33 on International Accountability, of the 2003 ICM (ORG 52/003/2003) stipulates that the International Movement, including the International Executive Committee (now the International Board), the Secretary General, and Sections and structures of Amnesty International, shall be held accountable for “their compliance with the laws of the country in which they operate, so long as those laws do not contradict international human rights standards.”

Further, we have some guidance on ‘civil disobedience’ set out in ICM Decision 1 of 1985 (ORG 52/001/1985), but developed obliquely as it was meant for a different purpose: to consider whether and when Amnesty would characterise a person who engages in civil disobedience as a Prisoner of Conscience. We do not have a specific policy on civil disobedience itself. And more specifically, we do not have a policy on Amnesty’s² own engagement with civil disobedience.

In addition to the specific policy issues that boycotts and civil disobedience respectively raise, they both bring to the fore important challenges for Amnesty’s recalibration of its strategies in a dramatically changing human rights context. The present moment is significantly different for human rights, as compared to the reality of even a decade ago. While the present context of human rights can be described in various ways, four markers stand out for the purposes of Amnesty’s thinking about the limits and possibilities of civil disobedience and boycotts as campaigning and activist tools and strategies:

- The defunding of key norm-setting multilateral institutions, and the demonization not only of particular groups of people but also the international law standards and mechanisms that are meant to protect them, both shrink the options available for human rights protection. The emergence of demonization politics has provided a context in which, for instance, the US Government has moved in three years from a responsiveness³ – albeit an inconsistent and incomplete one – to international law institutions to a drastic position under which it defunds major international law normative institutions such as the United Nations Population Fund.
- The management by some political leaders of media and public relations in ‘post-truth’ mode, a mode in which nothing matters, nothing sticks, and nothing is remembered. This

¹ Sometimes collectively referred to as ‘international law’ in this note

² In this note, the reference to Amnesty in terms of its own engagement with civil disobedience includes staff, members, activists, supporters, donors, volunteers, and other affiliations. As the Movement develops its thinking on specific civil disobedience policy issues that arise with respect to these different categories, appropriate distinctions could be made as a further refinement of the proposed policy included as part of this note.

³ As in the November 2014 signalling by acting US legal advisor Mary McLeod of a shift in Washington DC’s position on the applicability of the Anti-torture Convention, when she told the Committee Against Torture that the prohibition of cruel, inhuman and degrading treatment and punishment did not only apply inside US territory, but also to areas under US authority, such as Guantanamo, as well as on aircraft and ships.

diminishes the impact of Amnesty's traditional tools of investigation and exposure of human rights abuses.

- The deployment of populist rhetoric in ways that portray human rights organisations as ivory towers of elites, removed from the mass of 'middle class' and poor people that are toiling for and concerned about their Economic Social and Cultural Rights (ESCR). This raises the question of whether, as it seeks to address root causes of human rights abuses, Amnesty International should take positions that expose the hypocrisy of rights-trumping political leaders.
- The increase in restrictions on and threats to human rights defenders, in particular through State acts or laws that criminalize, stigmatize, impede, obstruct, or restrict their activities contrary to international human rights law⁴. This raises the question of whether Amnesty's existing campaigning tools and approaches are adequate for the moment that we are in.

In the above context, this workshop is discussing civil disobedience and boycotts at two levels:

- (a) considering them together as strategies and campaigning approaches, initially framing the discussion beyond policy and locating the conversation in the zone of strategy, thus helping us to ask the question: In the context of the times we are in, are these two tools critical or perhaps even inevitable for us, and if so, how do their present formulations as policy, to the extent that we have policy positions on them or related to them, match up to our assessment of the changing global human rights context? Should we, say in the case of boycotts, be considering them as a strategy for campaigning where appropriate, and in the context of the existing policy on boycotts against companies, within the remaining phase of the strategic goals 2016-2019? How then might our policy framing adapt to these strategic imperatives?
- (b) considering them, in part two of the discussion, as individual policy areas, and discussing the policy specifics of boycotts and civil disobedience respectively. Here the broad questions are: in the case of civil disobedience, what should be the outlines of a policy proposal for Amnesty's own civil disobedience, that is, should civil disobedience be an activist option available to staff, members, activists, and other Amnesty affiliates, and if so, under what circumstances?; and, in the case of boycotts, what implementation mechanisms would optimize the objectives of the policy? And is there need for policy revision, and if so, in what broad directions?

PART TWO

In this part, civil disobedience and boycotts are discussed as individual policy areas. In the case of civil disobedience, a proposed policy is presented, followed by some discussion points and questions. In the case of boycotts, the 2001 decision is outlined, followed by some discussion points and questions.

⁴ Mandate of the Special Rapporteur on the situation of human rights defenders, Human Rights Council Thirty-fourth session (27 February–24 March 2017), document A/HRC/34/L.5

CIVIL DISOBEDIENCE⁵

DRAFT POLICY NOTE ON CIVIL DISOBEDIENCE

This note is in an early draft form and requires further input from and discussion within the IS and the Movement and fuller analysis of strategic, legal and human resources considerations and implications before it can be relied upon to authorise any organisation/facilitation by Amnesty International of civil disobedience by staff, members, supporters or others. Systematic consideration would be required before definitive guidance could be set out on this issue. Feedback from Sections would be helpful in carrying out such consideration, including on scenarios in which they might consider carrying out civil disobedience.

This note addresses any organisation/facilitation by Amnesty International of civil disobedience by staff, members, supporters and others. This note does not cover civil disobedience by staff or Board members carried out in their personal capacity, without any direction from or involvement by Amnesty International, which is a separate issue.⁶ Civil disobedience, for the purposes of this note means non-violent infringement of a country's law carried out for reasons of conscience.

This policy note does not relate to how Amnesty characterises civil disobedience by others. That issue, and in particular, whether and when Amnesty would characterise a person who engages in civil disobedience as a Prisoner of Conscience, is addressed in Decision 1 of the 1985 ICM.

The most significant, and over-riding rule, is that, in accordance with Decision 33 International Accountability, of the 2003 ICM, the Amnesty international movement, including the International Executive Committee (the International Board), the Secretary General, and sections and structures of Amnesty International, shall be held accountable for "their compliance with the laws of the country in which they operate, so long as those laws do not contradict international human rights standards."

Thus, Amnesty could only infringe national laws that in themselves are contrary to international human rights law and standards (IHRL), or are interpreted or applied by the authorities to restrict human rights to an extent beyond what is permissible under IHRL. (It would be reasonable to take the view that IHRL, for the purposes of Decision 33 includes areas of law such as international humanitarian law and refugee law). This includes restrictions which are excessive in that they do not meet the test of having a legal basis, being demonstrably necessary and proportionate for one of the specified legitimate purposes in international human rights law. Examples of relevant laws that infringe IHRL include:

- Requirements to seek authorisation for protests or other assemblies (as opposed to simply being required to give notification),
- Manifestly excessive or unreasonable restrictions on public assembly,
- Excessive restrictions on foreign funding to local civil society groups for human rights activities.

Furthermore, Amnesty must never act in a way that involves violence.⁷

⁵ In the AI context, civil disobedience may encompass a range of acts of conscience, some of which may break specific laws such as an assembly and procession convened contrary to restrictive national public order and security legislation

⁶ For example, in the case of the International Board, by its own Code of Conduct.

⁷ Some of the complex practical challenges that arise with respect to the problem of violence include situations where a

Before any part of the Amnesty movement engages in civil disobedience, a process must be followed to consider whether to undertake acts of civil disobedience. This process must, at a minimum, include the following:

1. Confirmation that the law in question, or the manner in which it is interpreted or applied by the government, is contrary to international human rights law.
2. The action must be taken for a defined purpose which is tightly circumscribed by Amnesty's human rights mission and strategic goals.
3. Civil disobedience appears to be the most feasible means to achieve the required human rights impact. This includes a consideration that alternatives have been exhausted, including seeking legal and political remedies for human rights violations. Amnesty advocates strongly for such remedies, and if it does not itself make use of them, it may be seen to be acting in bad faith.
4. Preparation of a written risk assessment, which should include security, legal, financial and reputational risks listed in points 5, 6 and 7 below.
5. Full consideration of our duty of care to staff, supporters and other potential affected persons not to put them at risk of threats to their personal safety or of criminal or other penalties, bearing in mind, in particular, the risk of a criminal record and the future impact on an individual's ability to secure employment.
6. Consideration of risks to the organisation, including legal, financial (for example liability to lawsuit by affected persons), and whether the costs of these would be acceptable to the organisation. This consideration should include whether the proposed activity will invalidate existing insurance cover, whether alternative insurance cover can be obtained, and if not, what the risk to the organisation would be, including liability for acts of or harm to third parties,
7. Consideration of reputational risks to the organisation, including the indirect risk that the action might pose to other parts of the organisation in other countries or contexts. This should include consideration of potential risks which may not be immediately obvious, including whether acts of civil disobedience undertaken now in a particular country might have a future negative impact on Amnesty's scope for action in another country or countries, possibly in an unrelated area of activity.
8. Prior approval at the highest level of the relevant AI entity. This means sign-off by at least the Director of the relevant entity, or, in the case of the International Secretariat, the Secretary General. Approval by the relevant Board may be required. Where acts of civil disobedience by a particular Amnesty national entity (Section, structure or national office) would have repercussions in other countries, it would require sign-off from the Secretary General.

POINTS AND QUESTIONS FOR DISCUSSION

- A. Are there risks in *not* taking the option of civil disobedience when it appears compelling to do so?
- B. Should there be particular human rights abuses, violations, laws, actions or policies by States that warrant a resort to civil disobedience, or should that be determined on a case by case basis under the Strategic Plan? Should the overall principle, regarding subject matter applicability, be that civil disobedience is potentially reserved for acts or laws that violate international law or should it be that the acts or laws should be such as violate international

person acts in self-defence, or is impacted by the violence of fellow travellers, say when during a large public protest violence is caused by somebody else.

law but also shock the conscience of human rights defenders, and if so, how is that to be determined – what are the most obvious examples of scenarios where the principle would apply?

- C. Should Amnesty take an interest in all possible civil disobedience action by Amnesty affiliated persons, even if such persons undertake their civil disobedience action 'in their personal capacity'? Given that in some jurisdictions, even if, say, a staff member were to go off "*on a frolic of their own*" Amnesty may still be vicariously liable for their actions, [e.g. in the UK in where recent Supreme Court judgments have reinforced this principle [Cox v Ministry of Justice \[2016\] UKSC 10](#); and the Christian Brothers case [Various Claimants v Catholic Child Welfare Society \[2012\] UKSC 56](#)] should Amnesty seek to govern 'personal' civil disobedience conduct on the part of those affiliated with it, or specifically for its staff?
- D. How should Amnesty interpret its duty of care to its employees, members, activists, supporters, or volunteers, when civil disobedience is on the table? e.g. if there were significant risks in a particular case of criminal measures (e.g. detention) and/or risks to security/safety, should Amnesty insist on directing, say, a staff member not to proceed with a proposed action? Would our legal duty of care to staff to provide a safe system of working override informed staff consent and require us to take all reasonable steps to ensure staff safety and security? And could we contemplate situations where we risk losing control, or contend with personal initiatives that could jeopardize AI's work? If so, how would we deal with such situations?
- E. One of the scenarios contemplated under the Prisoner of Conscience decision of 1985 is about cases where "a person is imprisoned on charges of his or her having broken an ordinary, universally applicable law (such as trespass, defacing property, obstructing roads, etc) which is not in conflict with international human rights standards, and where the person did so not because he or she was forced to choose between compliance and non-compliance but nonetheless for reasons of conscience" chose to break the law. How should we regard this scenario in the context of Amnesty's own civil disobedience?

BOYCOTTS⁸

CURRENT POLICY ON BOYCOTTS

The current policy on Boycotts says in material part, that –

In selected cases AI may initiate/support boycotts of companies in a broad coalition of NGOs or disinvestment and asks the IEC to study the issue of disinvestment of companies in given countries

⁸ In the AI context, boycotts may encompass advocacy calls and other activities directed against the purchasing and consumption of, and trading in, the goods and/or services of an economic actor, e.g., advocating for consumers not to buy a company's products because of the exploitation of child labour in the supply chains for such products. Beyond boycotts, related policy issues that arise include Bans and Sanctions (where States rather than consumers would be the intervening actors), and Divestments, where we would target an investor not a consumer (e.g., with respect to divestments, we would consider whether there may be scenarios where we would agree to join calls for divestment e.g. fossil fuels? Or, join a call to divest from a specific 'bad apple' company, like Union Carbide Corporation (UCC) because of Bhopal and subsequently taking all steps to evade criminal justice?)

and to present the results of this study to the ICM in 2003. This should be done only under the following conditions:

1. The aim of the boycott should be to bring about a change in corporate behaviour of a company involved in HR abuses covered by the oppositional mandate of AI;
2. AI would not launch a boycott on its own, but could take the initiative for a boycott supported by a broad coalition of NGOs, or support a boycott launched by NGOs/consumers;
3. AI would only initiate/support a boycott if Amnesty's own research concludes that a company is involved in HR abuses;
4. Initiating/supporting a boycott would be undertaken after sustained effort on the part of AI. That means that every reasonable effort has been made vis-à-vis the specific company but has not led to a change in the company's behaviour;
5. Initiating/supporting/ending a boycott is only possible on the authority of the Secretary General.

POINTS AND QUESTIONS FOR DISCUSSION

- A. In the way the policy is formulated, does it leave any room for risks that would result from *not* calling for boycotts when they seem warranted?
- B. Should Amnesty consider boycotts of companies on substantive grounds that go beyond the current policy framework, say in situations where such boycotts would put pressure for human rights reform on, or be a means of resistance against egregious actions by, political leaders that own (equity in) companies even if the companies themselves have not engaged in human rights violations that for which boycott or divestment advocacy would be appropriate?
- C. Could there be any scenario where, informationally, calling for a boycott would be based on anything other than Amnesty's own research?
- D. Could there be any scenario where Amnesty would have to initiate a boycott not already supported or initiated by a broad coalition of NGOs?
- E. What should be the implementing mechanisms for the present policy? Within that context, what should be Amnesty's own latitude and responsibility – as an institution and also in terms of its staff, activists, supporters, etc – in implementing a boycott or divestment that it has itself advocated?

PRELIMINARY INPUT FROM BUSINESS AND HUMAN RIGHTS (IS)

The workshop is a useful opportunity to reflect on the experience of BHR to date, in relation to the use of boycotts in relation to other strategies. Here are some brief preliminary inputs on how BHR has worked on issues around which boycotts may have been considered, in particular highlighting some of the dilemmas that arise in this area.

- A boycott may increase publicity around an issue in the short-term but it would require an enormous amount of effort and buy-in (particularly given the 2001 policy position that we boycott as part of a coalition of NGOs). It is not clear that a boycott would have had more

impact than the strategies we used in any of the cases we've worked on (even Niger Delta, which is probably the case that lends itself best to this).

- Would it hit company profits? This would be unlikely given the size of the companies implicated, unless you get a very large amount of consumers involved – which again requires enormous effort, buy-in and coordination.
- The main approach of the team to date has been that we inform consumers about the issues and call for accountability and transparency (as done for palm oil). That ultimately lets consumers decide whether they want to buy a product or not, more than us telling them what to do. It recognises them as informed, adult consumers.
- Additionally, in many of the cases we work on, we have picked the issue that we're focusing on, or we decide to focus on a particular area or country. We therefore don't capture other industries, other companies in the same industry or companies operating in other areas or countries that may also be implicated in serious human rights abuses. And so, various companies may be implicated in the human rights abuses we identify – especially with our supply chains work. As we consider future approaches, let's keep in mind this question of even-handedness, and the seeming arbitrariness of advocating for a boycott for one company or one industry purely on the basis that we just happened to have done research on them.
- A boycott may not always have a "positive impact on victims' lives". Certainly calling for a boycott of palm oil could have a negative impact on livelihoods at palm oil plantations. If our goal is to have impact on the ground and improve labour conditions for workers on plantations, calling for a boycott may not get this result. Our plan is to use Wilmar's buyers and palm oil customers, to push for abuses to end and to secure remedies for abuses.
- Sometimes calling for a boycott may not be feasible. For example, in relation to our Indonesian palm oil research which documents labour abuses, the fact that our key target, Wilmar, trades about 45% of global palm oil and that almost half of consumer products have palm oil, and many products are not clearly labelled, calling for a boycott would be practically ineffective. Again, the strategy here has been to leave it up to the customer to make an informed choice.
- Hitting corporate profits and financiers – this is an important leverage point. AI has used strategies that engage ethical shareholders to put pressure on companies they invest in. If we extend this out and consider banks, we can use our research to get them to ask key questions about their clients' investments. They may put criteria in place for the company to meet. If the company fails to meet these criteria, it is the financiers' decision to respond as they deem appropriate.
- We have also supported legal action in some cases, e.g. for Shell in Bodo, where we have supported legal action for villagers – a strategy which has been successful and resulted in a financial settlement.
- Another part of the logic for us not having relied on consumer boycotts in our advocacy and campaign work over the years has been that we believe States have the obligation to regulate corporations, and this responsibility should not be outsourced to consumers through consumer action such as boycotts.

CONCLUSION

This discussion is a proactive, forward-thinking moment for the Movement on two strategic tools for activism and human rights impact. The two, civil disobedience and boycotts, raise specific policy issues unique to each of them, but they also jointly lend themselves well to a strategic vision about how Amnesty engages with a human rights context that has changed in many important ways. From

the discussion, possible ways forward will include enhanced clarity about the place of civil disobedience and boycotts in the activism and campaigning repertoire of Amnesty International; a heightened and shared understanding of the possibilities, limitations and dilemmas of civil disobedience and boycotts in Amnesty's own activism and in its advocacy; refinement of the draft policy on civil disobedience; and a reflection on past and current practice in relation to the policy on boycotts, and whether, and if so, how, we might revamp the implementation or any elements of the policy.