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Title: ROLE OF NGO'S IN ADVOCACY OF HUMAN RIGHTS

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Abstract: This paper presents the work of NGOs in the area of human rights, as it has been manifested over the past 50 years, that is, since the end of the Second World War and the creation of the United Nations. Moreover, since there have been dramatic changes in the environment in which NGOs function over this period – changes which have had a serious impact on what NGOs can do and how they do it - particular attention will be paid to elucidating the role of NGOs in the late 1990s.

Keywords: human rights, United Nations, NGOs, governmental organizations, international and regional.

Introduction: In the United Nations a few decades ago, governments were virtually the sole players. Of course, NGOs helped found the United Nations and are mentioned in the Charter. Even before that, NGOs led the charge in the adoption of the Slavery Convention of 1926. And NGOs have a long and proud history of fighting against tyranny and providing humanitarian assistance to the victims of conflict and natural disaster.

But it is only since the Earth Summit in 1992 that civil society groups have really made their mark on global society. You have played a key role at world conferences on such vital issues as human rights, population, poverty and women’s rights. Thanks to you, the year 1997 was the year of the landmine - or should I say, the year of no more landmines? One thousand NGOs in 60 countries were linked together by a weapon that would ultimately prove more powerful than the landmine: e-mail and the Internet. And with that same weapon, and that same intensity, NGOs helped make 1998 the year of the International Criminal Court.

These remarks have particular resonance for human rights NGOs towards which governments and inter-governmental organizations frequently behave in a contradictory manner. On the one hand, they recognize the vital role NGOs play in the protection and enforcement of human rights and, therefore, the importance of establishing a strong partnership with them; yet, on the other hand, they denigrate and vilify NGOs precisely because "the *raison d'être* of many NGOs is to put pressure on governments and ‘hold their feet to the fire’"¹.

It may be useful to note at the outset that we are talking about a world in which we now have a highly developed international human rights law (both treaties and declarations, universal and regional) which outlaws genocide, torture, slavery, and other egregious violations; which recognizes that women's rights are human rights and prohibits discrimination and violence against women²; which prohibits religious intolerance and racial discrimination; which seeks to protect the rights of children, minorities, indigenous people, refugees, and migrant workers³. We now have, as presented in this volume, a multiplicity of fore, international and regional, in which to address human rights issues. We have a highly elaborated set of mechanisms (thematic and country-specific reporters and working groups), treaty-body oversight committees, the Technical Assistance Programme of the Office of the High Commissioner for Human Rights (OHCHR), and local human rights offices of the OHCHR in over 20 countries, which can be used to protect and promote human rights⁴.

Moreover, human rights are now being addressed not only in conventional fora, such as the UN Commission on Human Rights or its Sub-Commission on the Promotion and Protection of Human Rights, but also before the international financial institutions (the World Bank and the International Monetary Fund), in the context of trade negotiations at the World Trade Organization (WTO) and in the development activities of the United Nations Development Programme (UNDP). This follows logically from the recognition in Vienna that "the promotion and protection of human rights is a matter of priority for the international community"⁵ and the corollary, that human rights must be mainstreamed throughout the entire UN system⁶.

Most significantly, the human rights movement has become a universal movement, with human rights NGOs and people's organizations active - whether openly or underground - in every country in the world. Since the frontline of the human rights struggle is most frequently at the grassroots level, one should not underestimate this burgeoning energy. Moreover, modern communications technology has made it impossible to insulate societies from news and developments elsewhere in the world. Thus there are coalitions and/or networks of these organizations at the national, regional and international levels, which provide information, expertise and solidarity to those on the frontlines.

The roles or functions of NGOs in the promotion and protection of human rights: In the area of human rights promotion and protection, NGOs have performed - and continue to perform - a myriad of roles or functions. While there are



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Lala Hansraj Puthela College of Law Sirsa

a number of ways in which these can be analyzed⁷, I will treat them under the following eight headings:

- Agenda-setting;
- Legislation;
- Fact-finding and analysis;
- Witnessing, denunciation or the mobilization of shame;
- International solidarity and support to human rights defenders;
- Education;
- Expertise and policy analysis; and
- Keeping the political system open.

Agenda Setting: Both historically and contemporaneously, NGOs have played a major role in getting items for action on to the international agenda⁸. As Kofi Annan acknowledged in his address to the NGO Forum on Global Issues quoted above, NGOs played a major role in getting slavery inscribed into the international agenda. Prominent among these were the two antecedents of the London-based NGO now called Anti-Slavery: the Anti-Slavery Society founded in 1838 and the Aborigines' Protection Society founded in 1837⁹. Likewise, protection of the wounded on the battlefield, which then led to the elaboration of the entire body of humanitarian law, was conceived of and shaped by the International Committee of the Red Cross and, subsequently, the Red Cross movement¹⁰. Furthermore, it was NGOs that got human rights inscribed into the United Nations Charter¹¹.

With the onset of the Cold War, the United Nations spent the first two decades of its existence focused almost exclusively on the drafting of international standards (the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political, the International Covenant on Social, Economic and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, etc.), while denying that it had authority to act on violations¹². It is now widely recognized that it was largely as a result of pressure from human rights NGOs that, in the late 1960s, States began very slowly moving from promotion of human rights, where the concentration was on the drafting of international instruments and standards, to the protection of human rights, with an emphasis on implementation and enforcement. In other words, NGOs were forcing a major change in the international agenda.

Drafting legislation - international treaties, declarations, programmers of action: In the 1994-1996 negotiations in the Open-ended Working Group established to revise ECOSOC resolution 1296 (XLIV)¹³ which regulated how NGOs relate to the United Nations, a number of governments, wanted to make quite clear the difference between government representatives and NGO representatives. Thus they were insistent on maintaining the principle that, while NGOs have the right to make statements and distribute communications according to set procedures, "they cannot participate in negotiations". According to these governments: "Decision-making is a right that belongs only to Member States" (ECOSOC resolution 1996/31, para. 50 - a revision of resolution 1296 (XLIV)). From a legalistic perspective, they may be correct¹⁴. In recent years, however, NGOs have played a major role in the drafting of both international treaties and/or declarations, as well as in the drafting of the declarations and programme of action that have emerged from the world conferences of the 1990s. The Canadian Government, in explaining its position on this resolution noted: "The provision in para. 50 refers only to direct intergovernmental negotiation. NGOs can and should contribute to negotiations, and this provision should in no way be interpreted as more restrictive than the privileges enjoyed by NGOs in recent UN meetings"¹⁵.

The latitude given to NGOs in the various world conferences varied considerably from one meeting to another: at the Vienna World Conference on Human Rights, NGOs could attend the plenary sessions but were not permitted to observe the drafting sessions; at the Beijing World Conference on Women, NGOs could observe both the plenary and the drafting sessions but were not permitted to attend the informal meetings, where hard issues were negotiated; in Istanbul, at Habitat II, NGOs could not only attend all the meetings, they were even permitted to intervene in the negotiations and table material during the drafting, although within specific guidelines. Their statements had to be short and to the point and they could not support or oppose governments. But they could, and did, draw attention to specific texts, recommending changes, suggesting additions or proposing deletions¹⁶. A similar attitude of openness prevailed with respect to the drafting of the Statute of the International Criminal Court, where NGOs were even permitted to address the plenary.

Fact-finding or information gathering, analysis and dissemination: Perhaps the most important function that NGOs perform in the protection and promotion of human rights is that of information gathering, evaluation and dissemination. While the fact-finding of inter-governmental organizations has increased quite dramatically over the past decade - with more than 30 thematic and geographic mechanisms of the Commission on Human Rights (Special Rapporteurs, Special



SPECIAL EDITION: INTERNATIONAL CONFERENCE

Lala Hansraj Puthela College of Law Sirsa

Representatives, Independent Experts, or Working Groups), with six treaty bodies that regularly review the reports of State Parties, and with field offices of the High Commissioner for Human Rights in more than 20 countries - it is nonetheless clear that the inter-governmental human rights machinery would grind to a halt were it not fed by the fact-finding of human rights NGOs.

Witnessing, denunciation or the mobilization of shame: In dealing with human rights violators, witnessing or denunciation is a major NGO strategy. There are a multitude of tactics that can and have been employed in different situations: issuing press releases and mounting press campaigns; publishing reports and disseminating these widely, especially to policy-makers; using the pulpit and the religious network for "witnessing"; holding demonstrations, rallies and sit-ins; organizing peoples' tribunals at which witnesses testify to the violations; denunciations through videos, films, popular music or theatre; testifying before governmental or inter-governmental bodies; using fax networks; and most recently, using electronic mail (especially ListServes) and the World Wide Web to disseminate the information globally. Informing all these tactics is the hope that by exposing the violations to the harsh glare of public opinion, one can achieve one of several ends: the government can be shamed into putting a halt to the violations; domestic opposition can be mobilized to destabilize a rights-violating regime; and/or international opposition can be generated leading to pressure and possibly open sanctions against the offending government.

International solidarity and support to human rights defenders: A strategy of international solidarity and humanitarian relief has been evolved to provide protection to victims and potential victims under repressive regimes, and especially to human rights defenders at risk on the frontlines of the human rights struggle. This has included a wide range of tactics. One is the "adoption" tactic of Amnesty International, which concerns Amnesty International groups adopting specific political prisoners and campaigning for their release, sometimes for years. A second is the "Urgent Action (UA) Networks", also introduced by Amnesty, and now widely used by many NGOs (including churches, trade unions and professional associations), which organize hundreds of people around the world who are poised to respond immediately (by e-mail or fax) to prevent torture, disappearance, the application of the death penalty and, most recently, violence against women. Some of the United Nations Special Rapporteurs take action on the basis of these UAs, immediately contacting the government to request information about the case. A third tactic is "accompaniment", developed by Peace Brigades International to deal with particularly dangerous situations. It involves providing a 24 hour-a-day "body guard" to human rights activists at risk in the form of a foreign companion armed only with a camera, who lives with and goes everywhere with the defender. Pioneered in El Salvador and Sri Lanka, the premise has been substantiated that the authorities (whether military, paramilitary or civilian) are less likely to kill or abduct an activist under the glare of such international scrutiny.

Human rights education: A sixth function, which has become particularly relevant to societies in transition from authoritarian or dictatorial to democratic rule but which is important for all societies, is human rights education. Individuals and communities cannot adequately protect their rights if they do not know them. Moreover, those in positions of authority - particularly the army, the police and prison officials, as well as government officials and parliamentarians - must learn that there are limits to their power and that they cannot abuse others by virtue of their position. Judges and lawyers need to be educated about human rights so that the justice system is firmly grounded in the rule of law.

While human rights education tends to be the primary responsibility of national NGOs, since they can best interpret international standards in the local context, in recent years, international and regional NGOs have also begun to play an important role in this area. Human Rights Internet was able to identify and describe nearly 100 programmes in human rights education, many offered by universities but also numerous NGO programmes. These include courses/programmes offered by the African Centre for Democracy and Human Rights Studies in The Gambia, the Arab Institute of Human Rights in Tunisia, the Inter-American Institute of Human Rights in Costa Rica, the South Asian Forum for Human Rights in Nepal, and the Diplomacy Training Program in Australia¹⁷. One human rights scholar and activist commented in a recent article, that:

Conclusion: In a number of respects, it is easier to deal with dictatorial governments than with democratic ones. Thus, the world of the 1960s, 1970s and 1980s was simpler than the world of the 1990s. At that time we had "good guys" and "bad guys" - Pinochet, Marcos, Idi Amin were indisputable villains with whom one could not work. Today, leaders are cast more in shades of grey than black and white. A human rights NGO must then ask whether it is compromising itself by working with, providing technical assistance or training to a regime that claims to want to improve its human rights record, but still has a long way to go in that regard. And, if it becomes financially beholden to such a government, its credibility and legitimacy will be at risk. Human rights NGOs, thus, face threats from two directions, from being embraced too closely or from being demonized by governments. They must be able to resist the inducements and temptations of power, while securing adequate resources to carry out the functions outlined above: placing new issues on the international agenda,



SPECIAL EDITION: INTERNATIONAL CONFERENCE

Lala Hansraj Puthela College of Law Sirsa

participating in standard-setting, engaging in fact-finding and analysis, denouncing violations, offering international solidarity to those on the frontlines, educating about human rights, making available their expertise to the international community, and keeping the political system open. This is no small challenge.

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1. Ibid.
2. This was first recognized in the Vienna Declaration and Programme of Action, June 1993, paragraph 18, and elaborated in the Beijing Platform for Action, *inter alia*, paras 210-23 and 112-130.
3. See *A Compilation of International Instruments*, Vol. I, Parts I & II, 1993 and Vol. II, Regional Instruments, 1997. New York and Geneva, United Nations.
4. See Human Rights Internet (HRI), *For the Record: The UN Human Rights System* for the years 1997 and 1998, in hardcopy (6 vols. each year), on CD-ROM, or on the Web <<http://www.hri.ca/fortherecord.shtml>>. Vol. 1, "Thematic Approaches" describes the various United Nations mechanisms.
5. The first paragraph of the Vienna Declaration on Human Rights, 1993.
6. In 1998, the UNDP published a policy paper "Integrating human rights with sustainable human development" which sets out UNDP guidelines in this area.
7. There is now extensive literature on the role or function of NGOs in the area of human rights. One recent and interesting study was published by the Carter Center under the title *Human Rights, The United Nations and Non-governmental Organizations. A Report of the International Human Rights Council*. Atlanta, GA, 1997 (hereinafter, *Carter Centre Report*), which is a collection of articles written by Council members. A major study that has recently appeared is William Korey, *NGOs and the Universal Declaration of Human Rights. "A Curious Grapevine"*. New York, St. Martin's Press, 1998. Two important articles that appeared in the 1990s are: Michael H. Posner and Candy Whitome, "The status of human rights NGOs", in *Columbia Human Rights Law Review*, Vol. 25, 1994, pp. 269-290; and Felice D. Gaer, "Reality check: human rights non-governmental organizations confront governments at the United Nations", paper presented to a Conference on "Non-governmental organizations, the United Nations, and global governance", Academic Council on the United Nations System, April 1995 (unpublished), 19p. For earlier examinations, see David Weissbrodt, "The contribution of international non-governmental organizations to the protection of human rights" in *Human Rights in International Law: Legal and Policy Issues*, Theodor Meron (ed.) Oxford, Clarendon Press, 1984, pp. 403-438; and Felix Ermacora, "Non-governmental organizations as promoters of human rights", in Franz Mascher and Herbert Petzold (eds.) *Protecting Human Rights: The European Dimension*. Cologne, Carl Heymanns Verlag KG, 1988, pp.180 et seq.
8. NGOs also work to place items on to national agendas in the countries in which they are based, though this will not be discussed here.
9. See Peter Archer, "Action by unofficial organizations on human rights" in Evan Luard, *Protection of Human Rights*. London, Thames and Hudson, 1967, pp. 160-182 at pp. 162-164; and Korey, *op.cit.*, Chapter 5.
10. David pp. Forsythe, *Humanitarian Politics: The International Committee of the Red Cross*. Baltimore/London, The Johns Hopkins University Press, 1977, Chapters 1 and 2.



SPECIAL EDITION: INTERNATIONAL CONFERENCE

Lala Hansraj Puthela College of Law Sirsa

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 15. "Resolution 1296 revised ...", *op.cit.*, p. 11.
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 17. Human Rights Internet, *HRI Reporter, Special Issue on Human Rights Education*, Vol. 16, N° 2, January 1999, Ottawa, Canada. This is being updated regularly on the Internet at <<http://www.hri.ca/>>.