The Role of NGOs in the protection of human rights

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Poznań, 4 September 2008
Course on International Protection of Human Rights
What is NGO?

- NGO is a non-governmental organization
- NGOs create so called „open society”
- Different types of NGOs:
  - International and national
  - Main-stream or focused on selected issues
  - Grass roots’ organizations
  - Different scope of activities
- Some NGOs are concentrated on protection of human rights
- Most NGOs – independent from government
Examples of NGOs

• International
  – Amnesty International
  – Human Rights Watch
  – Interights
  – International Committee of Red Cross
  – Public Interest Law Institute
  – Green Peace
  – International Lesbian and Gay Association (ILGA)
  – Article 19
  – Reporters without Borders

• National
  – American Civil Liberties Union
  – National Association for Advancement of Colored People (NAACP)
  – Liberty (UK)
  – Helsinki Foundation for Human Rights (Poland)
  – Campaign Against Homophobia (Poland)
  – Article 42 (Georgia)
  – Memorial (Russia)
Activities and methods

• Depending on mission and scope of operation NGOs use different methods in order to protect human rights
• NGOs understand sometimes differently the notion of „human rights” (possibility of abuse)
• Most important features of NGOs dealing with human rights
  – Credibility
  – Public trust and confidence
  – Responsiveness
  – Independence
  – Dynamism
• Why: NGOs may only have impact:
  – they do not make political decisions
  – NGOs are responsible before the society and their sponsors
  – NGOs are transmitter of views of the society to the government
Four basic methods

• Monitoring
• Advocacy
• Strategic litigation
• Education
Monitoring

• NGOs – role of watchdog – controlling the government and other institutions

• Monitoring:
  – Selected issue
  – Day to day monitoring (e.g. freedom of speech)
  – Controlling compliance with certain standards (e.g. controlling prisons in certain area)
  – Preparation of reports on compliance with human rights on the basis of monitoring

• Very often monitoring may result in intervention
Purposes of monitoring

- to help people (monitoring + intervention)
- to have independent data and be a reliable source for media
- to compel the government to change the law or practice
- to compel business to change practices
- to show violations to international community (e.g. cluster ammunition in conflict in Georgia)
- to prepare reports to international bodies (e.g. European Union, Council of Europe, United Nations organs)

*Shadow reports* – *alternative reports prepared by NGOs in response to the official governmental reports submitted to international organs*
Barriers to monitoring

• Sometimes need of cooperation with government (e.g. controlling prisons)
• Serious monitoring requires human resources, time and money
• You cannot expect results immediately – it is rather long-term investment
• Monitoring in conflict zones (or concerning certain issues) may be risky
• In order to be influential, sometimes NGOs may need a special status at a certain international organization (which is usually difficult to obtain for smaller organizations), e.g.
  – consultative status at Council of Europe
  – membership in the Civil Society Platform of FRA
Advocacy

• Advocacy means arguing on behalf of a certain issue, idea or person
  – Changing the attitude of government
  – Showing the problem
  – Convincing the society

• Advocacy usually is implemented by NGOs, but may be implemented by group of individuals

• Advocacy means fighting for sth, but without an intent to be elected for public position
Example of advocacy – Cluster Munition Coalition

The Cluster Munition Coalition (CMC) is an international coalition working to protect civilians from the effects of cluster munitions.

The CMC has a membership of around 300 civil society organisations from more than 80 countries.

The CMC supports the initiative known as the ‘Oslo Process’ to prohibit cluster munitions and assist affected communities.

• Methods:
  – Signing letters and petitions
  – Building international coalitions
  – Informing the public opinion on the problem
  – Convincing famous persons to support activities
  – Public events and protests
  – Organization of conferences and other events
  – Engaging people into actions
International and national advocacy

• International advocacy – typical topics
  – Abolishing death penalty
  – Release of political prisoners
  – Counteracting HIV/AIDS
  – Abuse of human rights by corporations
  – Anti-terrorism legislation and human rights
  – Domestic violence

• National advocacy, examples:
  – Availability of contraceptives and access to abortion
  – Ratification of an international convention by a given country
  – Establishing ombudsman or equality body
  – Transportation for disabled children to schools in local area

EFFECTIVE ADVOCACY MAY NEED MONITORING
Strategic litigation

• The objective of strategic litigation is to make significant changes in law or legal practice through litigation of the carefully selected cases

• Famous examples of strategic litigation:
  – *Brown v. Board of Education of Topeka* (segregation in schools)
  – *D.H. and others v. Czech Republic* (discrimination of Roma children in schools)
  – *Bączkowski and others v. Poland* (ban of assembly organized by LGBT groups)
Advantages of strategic litigation

• **effect of scale** (with one case you may resolve the whole problem)

• **different additional functions** (raising awareness, education on rights, involvement of civil society)

• it will not replace legislative reforms but may speed them up

• elimination of unjust loopholes in the legal system

• best education for human rights lawyers

• domestic courts are usually **not prepared** for purely legal, professional argumentation
Steps in strategic litigation

- Identification of a problem
- Selection of a good case
- Start of proceedings
- Representation of victim in court proceedings
- Informing the public opinion on the strategic character of the case
- Winning the case
- Monitoring of an enforcement of judgment by the government

*Reality is much more complicated than the above model*
Strategic litigation – courts and international organs

• European Court of Human Rights
  – Possibility to submit third-party intervention (e.g. Jamroży v. Poland case)

• UN Committees (esp. Human Rights Committee)

• European Court of Justice (esp. discrimination cases)

• Constitutional courts
  – Standing for NGOs as amicus curiae in Poland

• Supreme Court

• Ordinary and administrative courts

• Effective instruments:
  – constitutional complaint
  – action for damages
Europe – important role of ECHR

• most fundamental: remedy for victims
• diplomatic responsibility (enforcement mechanism)
• BUT LATER ON (after couple of years)
  • impact on domestic practices (e.g. Polish courts, Supreme Court in Mandugequi case)
  • reliance on ECHR standards in jurisprudence (e.g. in free speech cases)
  • ECHR – impact on changes in law (e.g. Broniowski v. Poland, Tysiak v. Poland)
• dialogue between Constitutional Court and ECHR
• cases and standards: seeds to grow later
Examples of strategic cases

• *Opuz v. Turkey* – domestic violence and ECHR standards
• Overpopulation in Polish prisons – set of strategic cases aimed to resolve a problem
• CIA rendition program and access to public information
• Non-appointment of 9 judges by the President of Poland and threat to judicial independence
• „rookie” judges and right to court
Education

• Education on human rights is an important element of NGOs’ activities

• You can educate on: human rights’ standards or skills how to advance human rights (for other NGOs or activists)

• Human rights’ education may be subject of manipulation (e.g. “Compass” handbook, situation in Russia)

• Education has only indirect and long-term impact on human rights’ protection
Thank you for attention

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