

The Role of NGOs in the protection of human rights

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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. Jamróży 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, Tysiac 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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