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Decade of NGO Struggle

by Gay J. McDougall

NON-GOVERNMENTAL ORGANIZATIONS (NGOs) are on the frontline of the human rights struggle, fighting to promote human rights within the international arena, while leading similar efforts at the regional, national, and local, grass-roots levels. Through their work, NGOs frame policies and influence key government decisions. They give voice to causes that have been ignored, forgotten, or marginalized. They raise legal awareness within targeted communities, often providing basic legal representation in high-risk or neglected human rights cases. NGOs generate expert analysis on the ground and are integral to both the field and headquarters-level operations of virtually every human rights mission, often working alongside staff of the United Nations, the Organization for Security and Cooperation in Europe, the Organization of American States, the African Union, the Economic Community of West African States, and other international peacekeepers in dangerous conflict environments.

In addition to these many activities, human rights NGOs are perhaps best known for conducting human rights fact-finding missions, documenting human rights abuses, and sending early warning or urgent action appeals when no one seems to be paying attention to an emerging crisis. Even when they are not successful in shaming the world into preventing a human rights meltdown, NGOs almost always play a leading role in any transition or post-conflict reconstruction process, often by promoting legal accountability to address past abuses, facilitating exchanges between governments and post-conflict constituency groups, and building trust and community dialogue in the aftermath of war or collapse.

These various contributions of NGOs to the promotion and protection of human rights around the world, generally on shoestring budgets, have been remarkable. They must be celebrated and replicated as we move forward. But today, the human rights NGO movement also stands at a crossroads. Having achieved so very much at the international level, where human rights standards, courts, and complaint mechanisms grow stronger every year, NGOs must now ask why so little has changed in the lives of ordinary human beings. They must explain the stubborn persistence of human rights abuses within repressed, neglected, and often inaccessible communities in every corner and every country in the world. By celebrating the great success of the NGO movement over the past decade, this commemorative article also asks why the energy and success of the movement has not always trickled down to make a difference in the lives of ordinary people.

A VIEW FROM THE PAST

TO CONSIDER HOW HUMAN RIGHTS NGOs HAVE MATURED over the past decade, it is important first to understand the social, political, and institutional achievements that animated NGO activists back in 1994. Already by the late 1980s, NGOs were gathering confidence

and playing a leading role in shaping power struggles within once impenetrable political regimes. In 1989, mass movements brought down communist power structures in Poland, Germany, and Czechoslovakia. The solidarity movement in Poland and the Velvet Revolution in Czechoslovakia inspired a new generation of human rights activists in former communist states. Just months after the fall of the Berlin Wall and the birth of a dynamic protest movement in Prague, Nelson Mandela was released from prison, with an understanding that South Africa too would be forced to bend to its own internal democracy movement. Decades of organized mass resistance in South Africa led finally to the election of a democratic national government in August 1994.

Human rights activists of a decade ago watched as the world's dictators stumbled and the walls and prisons that dominated the landscape crumbled. The movement itself was invigorated by these events, drawing inspiration and courage from a global transformation that seemed inevitable by the time it finally came. Within such a dynamic context, there was great excitement over the growing power of civil society and the future role of human rights organizations. NGO leaders were remarkably successful in harnessing that momentum over much of the next decade, expanding many of the existing human rights standards and winning important victories at the international level.

Within this exhilarating context, the wars in the Balkans and the genocide in Rwanda cast a heavy shadow over the otherwise optimistic worldview of most NGOs. But many international NGOs simply attributed such horrific tragedies to crumbling political systems or the last gasps of antiquated power structures. Most of all, the NGOs cast blame on the international community itself for failing to heed years of warnings over impending genocides. If anything, then, many NGOs believed that such tragic episodes, accompanied as they were by soul searching and tepid apologies from governments for refusing to prevent or even stop the carnage, demonstrated at last that the international community could no longer afford to ignore the human rights NGO movement. Even these great human rights failures contributed to the prestige of some international NGOs.

Ten years ago, NGOs were also celebrating the remarkable success of the 1993 World Conference on Human Rights (World Conference). The World Conference brought together an unprecedented collection of human rights experts, government delegates, and NGO activists. The numbers speak for themselves. Some 7,000 participants, including more than 800 NGO representatives, traveled to Vienna to set global human rights objectives and review progress in achieving the original human rights goals of the United Nations. Remarkably, UN estimates suggest that more than two-thirds of the NGO leaders in Vienna were there representing small, grass-roots NGOs. And over 2,700 representatives from more than 1,500 organizations attended the NGO forum that preceded the World Conference. Perhaps the most important statistic is that more than 1,000 organizations without formal UN accreditation were invited to participate in the events, a gesture that opened up the process and lent great legitimacy to the effort. This meant that the conference was not just an elite gathering of international bureaucrats. For the first time, the stuffy halls of a formal UN meeting were filled with the energy and possibility that infused the NGO movement of the early 1990s.

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Although NGOs did not gain access to all of the deliberations at the World Conference, in overcoming some of the formal limits on their participation, they established a pattern of activism that is now familiar to every NGO working within the UN system. The big fight came over NGO access to the committee that was drafting the final declaration for the World Conference. Fortunately, some good friends—and even many NGO leaders—were serving as official government delegates, with access to the drafting committee sessions. They then served as liaisons to the much larger NGO caucus. This link allowed NGOs to lobby, hold press conferences, and coordinate their work, and these efforts had a strong impact on the discussions that were going on behind closed doors in the drafting committee. This pattern of relegating NGOs to the periphery of activity is common within the United Nations, but it is now just as common for NGOs to function with remarkable flexibility from an outer ring of influence.

One of the principal demands of NGOs at the World Conference was the establishment of a new UN position for a High Commissioner for Human Rights. UN leaders and many government representatives opposed the creation of a new human rights section within the existing UN system. The NGOs lobbied hard and held their ground, however, and the final declaration from the World Conference called on the General Assembly to consider the creation of this senior-level UN post. With ongoing NGO pressure, the position was created later that year and has served since then as an important focal point for coordinating UN human rights policies.

Prior to the 1993 World Conference on Human Rights, regional preparatory meetings were held to coordinate NGO participation at more manageable regional levels. These regional meetings had just as much of an impact on the shape of the current human rights movement as the actual conference in Vienna. For the first time, NGOs from diverse backgrounds came together to meet each other and discuss specific regional impediments to human rights protections. These networks of NGOs, along with their lists of demands, survived the more limited World Conference process. Many of these original networks have since solidified into effective regional groupings of NGOs.

Using the formal World Conference process, as well as the more informal regional preparatory process, NGOs were able to stake out a new role for themselves on the world stage, bringing international NGO activism to a new level of engagement. As such, the 1993 World Conference in Vienna was a triumph for NGOs. But their pervasive influence also sparked a backlash, which culminated with the passage in Vienna of a resolution cautioning NGOs and limiting some future NGO activity. The resolution stated that “the primary responsibility for standard-setting lies with States,” though the conference “also appreciated the contribution of NGOs to this process.” The resolution continued, “NGOs and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights and the protection of national law. These rights and freedoms may not be exercised contrary to the purposes and principles of the United Nations.” These few sentences carried a subtle but very clear warning from governments and international bureaucrats to the NGOs that had challenged the diplomatic guardians of international tradition and authority in Vienna. States in particular took notice of this NGO movement, and many were concerned.

DEMANDING A SEAT AT THE TABLE

THE WORLD CONFERENCE IN VIENNA provided fuel for an NGO movement that was already gaining strength, influence, and financial

support. Perhaps most important, in Vienna, human rights NGOs were able to define a newly invigorated role within the UN human rights framework. Vienna, in this sense, was the culmination of an NGO struggle that began nearly fifty years earlier in San Francisco. At the 1945 San Francisco conference, where the UN Charter was discussed and adopted, NGOs lobbied hard for the establishment of the UN Commission on Human Rights. They also fought for a formal voice in the emerging international framework. They were successful on both counts, and those victories of almost sixty years ago have had a lasting impact on the shape of the United Nations today.

NGOs have by now become a mainstay of the Commission on Human Rights, playing a leading role in standard setting, fact finding, and institution-building within the commission. Directly or indirectly, NGOs provide representatives and experts of the commission with the vast majority of all available information on general human rights conditions, trends in human rights practice, and individual human rights cases. They have accomplished this work with only the limited UN consulting status they acquired in 1945. NGOs, however, have doggedly seized the opportunities open to them within the United Nations to influence and shape the modern human rights framework, often setting the pace and agenda of UN work in the area of human rights.

Here again the numbers are instructive. In 1948, only 41 NGOs maintained consultative status with the Economic and Social Council (ECOSOC). By 2004, that number stood at approximately 2,350 NGOs with consultative status. The increase certainly reflects the modern explosion of the NGO sector, but it also hints at the increasing importance and expanding role of NGOs within the United Nations. Today, NGOs regularly lead campaigns to commission new expert groups, studies, or officials to respond to categories of human rights abuses that have been neglected. Some of the many recent successes have included efforts by NGOs to establish UN expert positions on violence against women, enforced or involuntary disappearances, and the situation of human rights defenders.

NGOs have also taken this struggle for a seat at the table to regional human rights bodies. They now play a crucial role in shaping the impressive work of the European human rights system, working closely with the Council of Europe and the institutions of the European Union. And since 1995, NGOs have worked with the Permanent Council of the Organization of American States (OAS) to secure more formal recognition within the OAS system. As of July 2003, 67 NGOs have been registered through a new accreditation system with the OAS, allowing them to participate in General Assembly sessions, meetings of the Inter-American Council for Integral Development, and in specialized conferences. In granting civil society organizations this new consultative status, the OAS noted that it has become “a better, stronger, and more flexible institution.”

SUCCESS ON THE WORLD STAGE

THE SUCCESS OF THE WORLD CONFERENCE on Human Rights led many NGOs to direct their efforts to an ongoing series of UN-sponsored human rights and social development conferences in Cairo (Population and Development), Copenhagen (Social Development), Beijing (Women’s Rights), Istanbul (Human Settlements), and Durban (Racism). NGOs became a guiding force within most of these conferences, although the growing backlash from states that refused to cede political space to non-state actors also became more apparent over the course of the decade. In Beijing in particular, during the Fourth World Conference on Women’s Rights in 1995, these conflicts began to boil to the surface, but NGOs once again came away from

Beijing with many of the commitments they lobbied so hard to achieve.

At the World Conference in Vienna in 1993, women represented nearly half of all the participants, and women's rights groups emerged as probably the best organized and most forceful NGO coalition. Through the efforts of these women's groups, the international community was forced to recognize the human rights implications of violence against women. Indeed, as a result of NGO lobbying at the World Conference, the final Vienna Declaration and Programme of Action emphasized that women's rights are integral to universal human rights.

In Beijing, more than 40,000 women gathered in September 1995 to demand equality and respect. The final Beijing Declaration and Platform for Action, a self-described "agenda for women's empowerment," represents a far-reaching outline of the human rights of women and girls, and the obligations of governments to promote and protect those rights. It also provides a more comprehensive articulation of the platform that was advanced earlier by women's groups at the World Conference in Vienna, setting out in concise terms that women's rights are indeed human rights. Once again, through an extensive preparatory phase leading up to Beijing, thousands and perhaps hundreds of thousands of activists helped shape that process. Indeed, the process was so participatory, incorporating unprecedented contributions from so many grassroots activists, that the Beijing Platform now has a solid constituency behind it, and the progress of states in achieving the promise of Beijing is still charted with deliberate consistency by NGOs worldwide.

Two years after Beijing, many states, including the United States, were shocked to witness the culmination of another remarkable grassroots movement to expand human rights protections through a new international treaty to ban landmines. In 1997, in Ottawa, Canada, a surprising number of states gathered to sign the Convention on the Prohibition of the Development, Production, Stockpiling, Transfer, and Use of Anti-Personnel Mines and on Their Destruction. This treaty was never considered to have much chance of success, and it would not have been possible without the efforts of a remarkable grassroots NGO movement. NGO work on the treaty began in 1992, when a group of NGOs came together to found the International Campaign to Ban Landmines (ICBL). Just five years later, this advocacy coalition received the Nobel Peace Prize for its persistent efforts, and the treaty itself was signed by 122 states. After announcing its choice, the Norwegian Nobel Committee recognized that the ICBL had changed the landmine ban from "a vision to a feasible reality." More than 141 countries have now signed and ratified the treaty, and the ICBL itself is still a growing coalition of over 1,000 NGOs from more than 50 countries.

Out of all these victories, perhaps the most stunning success of the NGO movement over the past decade was the even more ambitious drive by NGOs to create a new International Criminal Court (ICC). Building on years of advocacy by NGOs to combat impunity for human rights violations, the newly established ICC now has the power to investigate and prosecute individuals accused of crimes against humanity, genocide, and war crimes. In July 1998, governments at a UN conference in Rome approved the Statute of the ICC, and the treaty itself entered into force on July 1, 2002. NGOs worldwide fought hard for the establishment of the court. The Coalition for the International Criminal Court, a network of over 2,000 NGOs, coordinated many of the efforts, but an even more diverse group of NGOs from all regions of the world joined the campaign at crucial stages. These NGOs deserve much of the credit for insisting on a tough new set of standards for prosecuting international crimes.

Several women's rights groups led an equally impressive campaign to ensure that gender-based crimes were included and adequately defined in the Rome Statute.

MAKING HUMAN RIGHTS REAL

GIVEN THE HUMAN RIGHTS SUCCESSES OF THE PAST DECADE, it is hard to explain why the human rights landscape is not improving faster on the ground in those places that are so very desperate for justice, accountability, and basic human rights. Why do NGO human rights reports look so similar year after year? Is it because human rights standards have been raised to such lofty heights that progress toward those standards looks as distant—or more distant—than ever? No, the problem is clearly one of implementation.

Human rights activists now recognize that the next phase of struggle will require even more effort to make human rights real for the men, women, and children who need them most. Standard-setting by itself is simply not enough. Those standards must deliver measurable improvements in the lives of ordinary people, with human rights protections expanding to match the developing vision of human rights at the international level. Many NGOs, including NGOs struggling on the ground in complex and dangerous environments, are already waging that battle. They are grappling with enormous challenges, responding to new threats posed by armed, non-state groups, transnational corporations, and fundamentalists with their own exclusion-based ideologies. Within this new terrain, they are playing vital roles and building new models of human rights activism. It is this grassroots struggle to bring human rights standards down to the ground that must surely define the next phase of NGO activism for the human rights movement as a whole over the coming decade.

The work of some of the NGOs in the eastern region of the Democratic Republic of the Congo (DRC)—one of the most dangerous places on earth—provides a snapshot of this next phase of struggle. Congolese NGOs have continued to operate throughout Congo's long and brutal war, often at significant risk. In an environment where rebel groups have presided over an ineffective, *de facto* administration, controlled a justice system in ruins, and proved unable and unwilling to control allied foreign armies or local militias, local NGOs have continued to expose atrocities and all forms of mass violence committed against the civilian population, such as looting, mass killings, abduction and forced recruitment of child soldiers, and destruction of vital social infrastructure. At times, these persistent NGOs in eastern Congo have emerged as the lone voices calling for moral and political action through human rights reports, urgent alerts, press releases, and spontaneous advocacy efforts.

At the same time, improved access to parts of the country over the past year has exposed egregious acts of sexual and gender-based violence committed by all armed groups. During the resurgence of violence in northeastern DRC in March to July 2003, armed groups committed mass rapes and other acts of sexual violence, targeting women from ethnic groups identified with their political rivals. Armed groups also abducted thousands of young women into servitude for sexual or domestic labor, a practice that is equally widespread in several parts of the country. Today, NGOs that provide limited trauma relief, medical care, and social reintegration support to victims of rape, sexual violence, and trauma are witnessing an influx of new cases.

Despite this somber picture, Congolese civil society groups, particularly in eastern Congo, are using opportunities that emerge within the country's new political dispensation to push their agenda for change. NGOs seek meaningful participation in the transition process

and its institutions, such as the new Human Rights Observatory, Truth and Reconciliation Commission, National Assembly, and Senate. NGOs are influencing key legislative reforms, such as the nationality law, the law on the new national army, and a law to limit gender-based discrimination. NGOs are already engaged in advocacy to combat impunity and redress sexual and gender-based violence, while taking steps to encourage the participation of excluded groups—especially women, disabled persons, and ethnic indigenous minorities—in the unfolding political process.

Human rights NGOs in Bosnia and Herzegovina are also fighting to give domestic application to international human rights standards as part of the country's post-war reconstruction process. The four-year war in Bosnia crippled the country's institutions, creating an atmosphere of social upheaval and economic instability that had a particularly devastating impact on the rights and opportunities of women and girls throughout the country. Within that context, NGOs lobbied hard for the Bosnian parliament to pass a Gender Equality Law (GEL), and, in March 2003, a law based largely on draft legislation developed by a coalition of local NGOs was adopted by the parliament. That was an important victory for the NGO movement in the country. The law, however, was just the first step in the process, and that same NGO coalition is now fighting to promote effective implementation of the GEL across the country.

In another struggle, local NGOs are playing an integral role in helping marginalized communities on the Atlantic coast of Nicaragua protect their rights to indigenous lands. After a historic ruling of the Inter-American Court of Human Rights that called for the demarcation and titling of indigenous lands, NGOs worked to implement the decision and disseminate information to other affected groups. Thanks to these NGO efforts, a new law in Nicaragua calls for the creation of both national and regional demarcation commissions, a process that is strengthening the ability of indigenous and ethnic communities to assert their rights.

EMERGING CHALLENGES

HUMAN RIGHTS NGOs TODAY also face several challenges to their work. One obvious challenge is to reach beyond the traditional NGO focus on civil and political rights to address economic, social, and cultural rights with equal respect and intensity. This leap forward will contribute to the much-needed effort to make human rights more meaningful to individual human beings across the globe. Indeed, achieving the right to water, food, or education may well have more of an impact on the lives and attitudes of an entire community, and each individual within that community, even though the parallel rights of that community to be free from violence, state-sponsored intimidation, or political exclusion are of equal importance. The struggle for human rights must be balanced, and civil and political rights are just as important as economic, social, and cultural rights. For too many years now, however, human rights NGOs have focused on civil and political rights to the neglect of some of the world's great struggles for social and economic justice. This is true in both the developed and the developing world, and it reflects an elitism that has long stifled the human rights movement.

Many human rights professionals come from elite backgrounds. More often than not, the leading human rights activists in any country belong to a privileged class or social group. This is particularly true in resource-poor environments, where the human rights field has become

something of a last-chance business—and may represent one of the few sectors where paid, professional jobs are still available. This phenomenon is reinforced in other countries by the dominance of legal professionals within the human rights field. Such class considerations are relevant to the extent they have perpetuated the long-standing bias of many NGOs in favor of civil and political rights, over those economic, social, and cultural rights that could have as much appeal, and more impact, on the lives of impoverished communities. At times, these elite NGO leaders come from the same class or group that dominates the government, the bureaucracy, and the funding or donor community. In extreme cases, then, a triumvirate of elites from the same social strata, representing donors, human rights activists, and government officials, may well be locked in an important human rights struggle that nonetheless ignores the priorities and aspirations of the great mass of sick, impoverished, or marginalized groups in that country.

Perhaps the greatest challenge to emerge from this disproportionate focus on civil and political rights, and the failure of some elite human rights NGOs to connect their mission to the struggles and dreams of average people, is that human rights NGOs are slowly losing their constituencies. This is not true for all human rights NGOs, but it is true for many of them. With that loss of mass support, these NGOs are having less impact on the ground, even when working on traditional civil and political rights issues. This corresponds then to the emerging problem that all NGOs are experiencing, the problem of translating human rights standards into concrete results and making human rights real for those who need them most.

To have a lasting impact, the struggle for human rights also requires a demand-side approach. Actual communities and constituency groups must understand their struggles in the context of rights and obligations, they must demand those rights, and human rights NGOs can then work with specific communities to help translate those demands into mass-based action. Mass protests brought down authoritarian regimes in the 1980s and 1990s, lending confidence and momentum to the modern NGO movement. Yet the same movement that was so inspired by mass-based action more than a decade ago has sanitized its rabble-rousing image and lost much of its constituency in the process. Some NGO activists look more at home now in the corridors of power in Geneva, Vienna, or New York than they do in the middle of protests in the streets of Kinshasa, Sarajevo, or Managua.

Standard setting is important, but the NGO community must also work to regain its base of support if the successes of the past ten years are to be repeated over the next decade. This is particularly true as human rights activists are confronting daunting new arguments about global terrorism and responding to the dominance of security concerns over human rights protections. The excitement and momentum of the human rights movement of ten years ago stands in contrast to the fear and retrenchment of today, when many NGOs are losing their base of support just as they find themselves bogged down by restrictive global efforts to combat terrorism. NGOs acting on their own, without the support of a much larger constituency base, are not well positioned to protect the hard-won human rights standards that were set over the past decade. NGOs must build a new, mass-based constituency to prevent a more significant retrenchment in these standards. To do this, NGOs will be forced to respond to growing demands for economic, social, and cultural rights within a deeply divided economic order, as these are the issues that will help build the next mass constituency for human rights.

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