

The right to organize:

# Human rights defenders

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■ The international rights movement is less than half a century old. Still in a dramatic period of growth and evolution, it is now entering a second distinct stage, distinguished from the first by the rapid development and growth of local human rights groups and advocates in every region of the world.

Internationally focused non-governmental organizations (NGOs) concerned with human rights were the first to develop. These international human rights NGOs have helped to stimulate and invigorate the UN's human rights work. By providing accurate, objective and up-to-date information about human rights abuses they have effectively transformed the UN's debate. They have also pressed for a more open agenda, for increased participation by a wide range of NGOs at UN meetings, and for the UN to live up to its commitments to protect and promote respect for human rights.

Many governments have resisted NGO participation in the UN at every turn. In particular, those governments that are

themselves gross human rights violators have quickly realized that human rights NGOs are much more likely to expose their violations publicly than other governments would be. These governments also recognize that NGOs will raise these concerns with greater specificity and in much sharper terms. NGOs are much more inclined to press the UN to appoint experts to report on specific country situations and to demand that such debates be public.

The second phase in the evolution of the human rights movement is the development of local human rights NGOs throughout the world. Indicative of the growth as well as the maturation of the human rights movement, local groups can play a key role in translating human rights principles into actual practice, there being no substitute for on-site watchdogs. They also have a critical educational function – to inform their own communities of their rights, and of the government's obligation to respect those rights. Many groups also try to help victims of human rights abuses gain redress, where possible through the legal system, or by calling publicly for official accountability for human rights violations. The nature of their work means that these groups are rarely popular with repressive, rights-abusing governments. The very existence of such groups can therefore be a useful indicator of a government's commitment to respect human rights principles within their own societies.

A critically important challenge now facing

**Women protest against disappearances: the growing human rights movement around the world seeks to hold those responsible for abuses to account**



**Local groups can play a key role in translating human rights principles into actual practice. An environmental demonstration in Hungary**



JEREMY HARTLEY/PANOS

the human rights community is how to support and strengthen the development of local human rights NGOs. Effective domestic implementation of human rights law depends in large part on the ability of these groups to survive and to flourish. And it is their voice, above all, which must be heard in international debates on human rights issues, in order to inform and sensitize the discussion, and thereby to contribute to a strengthening of international enforcement mechanisms.

Many governments fear, and therefore seek to limit, criticism of their actions. Their sensitivities to criticism are particularly acute when private individuals and groups seek to hold them accountable for state-sponsored acts of violence and repression, such as torture or political killings. Domestic human rights groups are viewed as a serious threat by many unstable governments, precisely because they expose official wrong-doing and press for change. And, unlike international bodies, these local groups are vulnerable to governmental measures to limit or control their actions.

In some countries, laws governing the establishment and operation of non-governmental associations are over-broad and violate relevant international standards. In other places, the laws are applied in an arbitrary and capricious manner with respect to human rights groups that are critical of government actions.

In some countries, governments have enacted legislation or passed regulations which either prevent non-governmental human rights organizations from being legally established, or prevent them from operating

effectively. In other countries, governments seek to control the effectiveness of these groups by placing restrictions on fundraising and the receipt of technical assistance and support. Other governments have sought to control the activities of domestic human rights groups by limiting their ability to meet, to hold public demonstrations or rallies, or to publish and disseminate their findings in the language of the community. Another tactic is to deny human rights activists freedom of movement, thereby preventing them from carrying out their monitoring and investigative work effectively.

The most extreme but far-too-frequent option used by governments to limit or prevent effective human rights NGO activity is to threaten and intimidate human rights NGOs, including detention of and violent attacks against individual members, as well as attacks on and destruction of property. One example of this phenomenon is the attack faced by lawyers seeking to take up human rights cases. In many countries, such lawyers are subjected to harassment, persecution, and even arrest, torture, and killing, by governments who want to prevent their activities. While various UN bodies have given increased consideration to attacks against human rights advocates in recent years, such consideration is reactive and fails to address the underlying assumption in many countries that human rights advocacy is not a legitimate activity, entitled to protection by the law.

#### **International action**

The legal framework for enhanced international attention to the work of national human rights NGOs is largely in place. Article

We are but six years away from the close of a turbulent century and the start of a new era in human endeavour. We must place the dignity and development of the individual at the centre of our concerns. The successful progress to date in the field of standards-setting in human rights must be matched by a commitment to improve upon the implementation of these standards. On behalf of the people of Ireland, I hope the World Conference on Human Rights will have provided a constructive focus on these issues. We owe it to future generations to give a more hopeful start to the 21st century than that which our predecessors inherited nearly one hundred years ago.

**H.E. Mary Robinson**  
President  
Republic of Ireland



Human Rights are universal and indivisible. As a matter of high priority, the Jewish people and the State of Israel are committed to support, promote and protect human rights and to fight all forms of racial discrimination. The Declaration of Independence of the State of Israel of 1948 emphasizes that the State "will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex and guarantee freedom of religion, conscience, language, education and culture". Israel participated in the World Conference in Vienna and will contribute fully to the international efforts to promote human rights and democracy worldwide and especially to transform the Middle East from an area of confrontation into an area of peace, cooperation and respect for human rights.

**H.E. Ezer Weizmann**  
President  
State of Israel

20 of the Universal Declaration of Human Rights states that everyone has the right to freedom of association. The International Covenant on Civil and Political Rights (ICCPR), a binding treaty that has now been ratified by 117 nations, further elaborates on this protection. It provides in part:

*No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.... (Article 22, paragraph 2)*

While these exceptions provide room for considerable discretion by governments, they at least place the burden on governments to justify any official restrictions on NGO activity. (In practice, the burden often falls initially on the international community, in particular the UN, to question any attempts by governments to curtail the work of independent human rights organizations under the pretext of protecting national security, and thereby ensure that the government's discretion is not abused.)

The ICCPR also includes relevant provisions guaranteeing the freedoms of assembly and expression. Each of these provisions adds to the legal foundation for UN action to ensure respect for the right of human rights NGOs to operate freely.

Current UN efforts to address the role of NGOs are fragmented and largely ineffectual. The UN needs to take a broader review of its relationship with human rights NGOs, and to work more closely with them. This review should be undertaken throughout the UN system with a view to ensuring that human rights NGOs really are allowed to operate freely, and without fear, in all countries of the world.

#### **The Economic and Social Council (ECOSOC)**

ECOSOC currently provides three levels of consultative status to NGOs, including human rights organizations. However, the terms of ECOSOC Resolution 1296, which broadly specifies what organizations can be granted status, effectively preclude local human rights NGOs from receiving consultative status. By restricting the granting of consultative status to NGOs with an international focus, Resolution 1296 seriously limits the capacity of local NGOs to participate in key UN meetings on human rights. Consultative status not only gives an NGO automatic entrance into key meetings such as the Commission on Human Rights, it gives the NGO the right to submit oral and written statements on different agenda items, and, mundanely but

importantly, means that the NGO is informed when and where UN human rights meetings are taking place, and is provided with all relevant UN human rights documents and reports. The discrimination between international and 'national' or local NGOs should be immediately ended, and all human rights NGOs awarded UN consultative status should be guaranteed the same rights, including the right of effective participation in UN human rights meetings.

In the past, another problem has been that ECOSOC's 'NGO Committee', which decides which NGOs will be awarded consultative status, has adopted an informal rule of consensus. As a result, a single government can, and often has, blocked the provision of consultative status to an NGO. This can be particularly treacherous in the human rights area where independent NGOs are often challenging government actions. At the March 1993 session this practice was, for the first time, broken, and in two cases votes were recorded. It must be hoped that this is a precedent which will be followed.

#### **The Commission on Human Rights**

Although over 160 NGOs attended the 1993 session of the annual session of the Commission on Human Rights in Geneva, the 'privileges' they are granted are few, and their meaningful participation thereby limited. Only a few of the largest, international NGOs, with the greatest resources, are able to participate fully and effectively in the debate. The formal debates in the Commission are often sterile, with the real work taking place behind closed doors as resolutions are drafted and revised in an extensive consultation process by all the regional governmental groupings.

Formally, the role of NGOs is confined to submitting formal written or oral statements to the Commission (although much of the most effective NGO input comes from the informal lobbying which takes place). Even though NGOs are restricted to making one brief statement per agenda item, the sheer number of groups wanting to make statements has led to a virtual breakdown in the system. NGOs often find themselves speaking late at night, when the great majority of government representatives have gone home. Since oral statements are not subsequently circulated as official UN documents, the impact of months of research and information-gathering may be virtually nil.

In addition, only NGOs with consultative status which have the capacity to submit formal written statements well in advance of the meeting see their work officially reproduced and circulated. Otherwise,



**The right to vote is fundamental, as is the right of local human rights groups to operate without interference**

NGOs' written statements cannot be placed on the desks of government delegates in the Commission room, and there is no system whereby NGO reports can be easily and cheaply delivered to all government representatives. Distributing NGO information documenting serious human rights violations is thus a time-consuming and labour-intensive process which is simply beyond the capacity of all but the largest international NGOs. Some of the most important information, particularly from local human rights NGOs and the individual victims they represent, is thus never considered.

One way to improve things would be to establish a formal public hearing procedure whereby local and international NGOs, and individual victims, would be invited to present oral and written testimony on certain agenda items.

#### Treaty bodies

There is a similar problem for NGOs that wish to present their information effectively and efficiently to the various UN treaty bodies. These bodies are heavily dependent on NGO information, but in most cases the relationship with NGOs is still uncertain, is not transparent, and hinders meaningful participation by NGOs, particularly the local groups. However, useful precedents have been set by both the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, which have welcomed participation by human rights NGOs and have used several creative means to do so.

#### Recommendations

As it seeks to help set a human rights agenda for the future, the UN should address issues

relating to non-governmental human rights organizations in several ways. The following recommendations could usefully be adopted by the UN:

- 1 The UN should acknowledge the critical importance of the work of independent human rights NGOs in the protection and promotion of human rights. It should urge States to take whatever actions are necessary to enable such groups to operate freely.
- 2 Both local and international human rights NGOs should be eligible for ECOSOC consultative status. Immediate steps should be taken to end the distinction between international and local NGOs in this process.
- 3 Local and international human rights NGOs should be enabled to participate meaningfully and effectively in international meetings such as the World Conference. This should include being granted access to formal meetings, and being provided with necessary documentation. Written and oral interventions by NGOs should be allowed.
- 4 As an expression of the UN's commitment to the right of independent human rights NGOs to operate freely, the UN should prepare and publish a report on the situation and treatment of human rights NGOs. Such a report could be prepared by an independent expert under the auspices of the Sub-Commission. The report should assess the laws and practices in every member state with respect to these groups, including relevant laws and practices relating to freedom of association, of assembly, and of expression, and the freedom to disseminate reports and other information. It would also examine accessibility to government institutions, such as the courts, for human rights advocates. The report should contain recommendations on ways in which the right of NGOs and human rights advocates to operate freely can be strengthened, particularly in the national context. The report should be updated on a periodic basis.
- 5 UN departments and specialized agencies should review their contacts with NGOs with a view to strengthening such contacts, and to seeking out, considering and acting on pertinent information received from such groups in a timely fashion.
- 6 The UN should expressly recognize the unique contribution of lawyers in the protection and promotion of human rights, and should call on governments to afford them the necessary guarantees of independence to enable them to continue their work without fear or hindrance.

*EXTRACT FROM: The Establishment of the Right of Non-governmental Human Rights Groups to Operate, Lawyers Committee for Human Rights*

The international community has been active in recent years in promoting human rights. However, the path is still long and difficult. We must redouble our efforts to implement the decisions adopted by the Vienna Conference in order to promote respect for these rights in all countries. Italy welcomes *Human Rights – the new consensus* as an initiative aimed at fostering this cause.

**The Honorable Carlo Azeglio Ciampi**  
Prime Minister  
The Italian Republic