

Paper *preview*

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The International Human Rights Regime since 9/11

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The role of Human Rights NGOs since 9/11: new policies or just necessary changes?

The paper will focus on the widely supposed different role which human rights NGOs are facing after 9/11. My main argument will be that NGOs had to re-order their human rights agenda and policies after 9/11 and to set slightly different priorities than before 2001. Overall they have changed their policies and strategies. In order to keep their credibility, independence and effectiveness in the growing and competitive field of human rights advocates and defenders, big NGOs and agencies like for example Amnesty International, Human Rights Watch, the International Red Cross, Action Aid will as a consequence focus more on

- Non-state armed and/or terrorist groups as human rights violators and perpetrators
- Combating human rights violations wherever and whenever they occurred with a careful distinction between human rights defenders and terrorist groups who title themselves, for example, “freedom fighters”
- Stressing the importance of transparency, independence and accountability in their actions and towards their stakeholders, state governments and donors.

In summary I will argue, that seven years after 9/11, human rights NGOs are back to their agenda of “all human rights for all” but they have to more carefully shape and prioritize their human rights agenda and work.

What happened after 9/11?

First, there was the perceived threat to the international human rights norms and standards, overall the UN conventions, such as the anti-torture convention or basic freedom rights such as expression or privacy. Citizens were under constant scrutiny,

privacy at a stake. In Europe the debate on the “transparent citizen”, the citizen, who has no privacy and all her/his accounts and moves can be subject to investigation at any time by state security forces.

Second, since the early 1990s after the Vienna World Conference on Human Rights in 1993, we observed a tendency that governments and state agencies outsourced their state obligations to human rights NGO. They were no longer perceived as “watchdog” who might be a threat to state actions, but rather collaborators in the work to protect and promote human rights. Many NGOs benefited from this new “tendency” through economic means. They were embraced by governments to do work, for example Human Rights Education or monitoring of migration and asylum issues, that are the overall obligation of the state. NGOs received donations or their staff was on the pay-role of state agencies to fulfill certain human rights jobs.

Third, parallel to 9/11 non-state armed groups, who use or support violent or terrorist acts, used human rights rhetoric for their purposes to legitimize violent act in order to achieve “freedom”, “independence” and “justice”, such as ETA in Spain or religious fundamental and other terrorist groups.

Fourth, since the 1990s and as of 9/11 the human rights movement has grown and became more global. Today, more people and pressure groups than ever argue and act in the name of human rights. This might also be due to the fact that many human rights defenders and advocates after 9/11 felt encouraged or rather pressured “to do something” against the threat that the international human rights regime might face?!

Consequently the observation can be stated that in the years after 9/11 human rights NGOs have started to adapt their policy agenda to...

1. safeguard (again) basic human rights standards already fixed in the international human rights regime which have been in decline since 2001;
2. focus on a “new” actor in the human rights arena, the non-state armed groups;
3. be under more scrutiny and thus become more accountable and transparent to their stakeholders;

4. avoid the tendency to be “embraced” by governments or state authorities in their efforts to undertake independent human rights work and at the same time to avoid to become a governmental human rights agency under the label of a NGO.

Background & Before 9/11

Before 9/11 and in the 1990s human rights NGOs were mostly seen as the guardians of human rights and the motor to disseminate the idea and objectives of international human rights norms and standards. They were welcomed as experts, advisors and sometimes as the “implementors” by the UNO as well as, for example, by the European regional organizations, the Council of Europe (CoE), the Organization for Security and Cooperation in Europe (OSCE) as well as the European Union (EU) to monitor human rights violations and to do a lot of projects to foster and promote human rights. After the world largest human rights conference in Vienna in 1993 and the following world conferences on population and development in Cairo (1994), on women in Beijing (1995) or on development in Copenhagen (1995) it was unthinkable to exclude major human rights NGO participating parallel to/ or being inside the conference halls. Major studies and works were published on the effectiveness and impact that human rights NGOs like AI or HRW have in terms of their flexibility, expertise and with their tactic of “naming and shaming” of state. States were seen as the main (legal) entrepreneurs to secure and implement human rights in their boundaries. NGOs were the first civil transnational actors (Keck/Sikkink, 1998) who achieved major changes in terms of safeguarding international human rights standards and more freedom rights and justice in many countries in the world (Risse/Ropp/Schmitz/Sikkink, 1999).

At the same the boom and blossoming of NGOs in the 1990s was not to be stopped. They became important actors in transition countries, as in Eastern and Central Europe, to give a voice to civil societies. Due to their flexibility and independence from state bureaucracy, they were more and more appreciated and seen as political actors to do what many of the corrupt or over-bureaucratic governments in transition countries were not capable to do. International organizations and their agencies, such as the UNDP, the OSCE or the European Union provided major funding for NGOs and started numerous co-operations with them. Governments and state agencies did likewise. But what sounded

a flexible and good working solution, to get “human rights work done” in countries where there was nothing before led also to the consequence, that as of today, most of the over one million NGOs in the humanitarian field can not be considered by large as independent or a “voice of civil society”. The moment they were embraced by IGOs and governments they lost their independence and thus their effectiveness. Only few, if not to say the very big NGOs like Amnesty International or Human Rights Watch, could resist this tendency and still compete with the fact, that many of the smaller NGOs (still) get constant money supplies by governments and thus do what their state-donors want them to do.

In August/ September 2001 the world ever largest international human rights conference the „World Conference against Racism“ took place in Durban, South Africa. More than 2.000 human rights NGOs had been registered and organized their parallel sessions to discuss and lobby the world conference outcome on September 7, 2001. But it was the last UN conference with such high participation of NGOs. Because due to the events happening only four days after in the USA there was no time for any aftermath or discussing the new emerging role of NGOs to protect or foster human rights after the Durban conference. The terrorist attacks in the USA changed the human rights agenda of IGOs, governments and human rights NGOs. NGOs have not been invited to such a large number to any of the world meetings or conference ever since. Due to their incoherent and often single-issue agenda, their effectiveness and influence is questioned today more than before 2001.

After 9/11

Amnesty International, Human Rights Watch or the International Red Cross as well as many other NGOs had to realize that the new „anti-terrorist acts“ in most of the UN member states, impacted their human rights agenda. What weighted strongly in the change of policies was the fact that the decision making bodies of IGOs such as the UN Security Council as well as the Council of Europe or the European Union passed guidelines and resolutions which encouraged governments to change national legislation in any reasonable way to avoid further terrorist acts worldwide shortly after the attacks had happened (Bianchi, 2008). However, what was missing was the amendment which

clearly indicated that any “anti-terrorist” act or law have to be within the lines and framework of international human rights standards (only the Council of Europe passed these guidelines in 2004).

NGOs like AI or HRW, instead, having worked for more than three decades on enhancing international human rights standards, awareness, establishing and drafting international human rights covenants and conventions were now confronted with a serious decrease and disrespect of human rights standards through new legislations or police practices in the month and years after 9/11. Governments of UN-member states which were once “solid allies” for the cause of human rights, when AI or HRW blamed authoritarian regimes, were now under scrutiny by the same NGOs they once supported strongly in their fight against “anti-democratic” regimes in Africa or Eastern Europe. NGOs once again had to prove their independence and credibility. Equally, before 9/11, human rights norms aiming to stop torture, ill-treatment or racism were once seen as a fixed accomplishment in the international human rights community in the 1980s and in the 1990s – in particular after the end of the Cold War (Gaer, 2003).

When in September 2001 the US government declared „war on terror” it determined the political agendas worldwide and consequently affected the focus and priorities of NGOs. If before 2001 racism, xenophobia and discrimination had been the major issues of the international human rights community – as the Durban conference had as their core issue - than after 9/11 the focus shifted back on basic human rights like freedom of speech, physical integrity, press, privacy, detention, movement and political human rights.

Therefore, the international human rights community composed of human rights NGOs, the OHCHR, western democratic governments and human rights advocates and activists all over the world, were no longer a unified strong hold against for human rights abuses. One could argue, that as of today or as always international conventions and treaty bodies, like the UN-ICCPR confront a serious erosion in the name of „fight against terrorism“ or “human security” . Governments instead justify restriction on freedom human rights under the title of „security“ - which is now probably one of the most

questioned and debated term among human rights experts and advocates. Before 9/11 dictatorships and authoritarian regimes were called the major threat to human rights, today the rhetoric – not the reality – has changed, and we call it “fight against terrorism”. Thus, in the consequence, the threat of erosion remains, what has changed are the actors in this field – and its those actors to which NGOs have to react to and adopt their human rights agenda.

Democratic countries in Europe or countries like Australia, Israel and the USA have passed laws and legislations which can violate major human rights in their countries. Their credibility and “good examples” have vanished in the eyes of human rights advocates and among civil society. Amnesty International or HRW are better off to work without any backup and “help” of these countries and make their human rights work a major “civil, women and men movement” worldwide. What adds to this erosion is the disfunctioning of the UN Human Rights Council only a few years after it has been established. The majority of the member states in the UN Human Rights Council have not only passed anti-terrorist laws and are violators of human rights standards they never seriously intended to improve the human rights situation in their countries.

In the following years after 2001 human rights NGOs thus had to once again show their flexibility to change and adapt to the new situation, challenges, actors and “Target groups” and change their policies, strategies and tactics. Not all succeeded and instead have to face serious decline of their impartiality and independence when they do not criticize democracies for their human rights abuses at the same level as they do or did towards authoritarian regimes.

Nevertheless, I would argue, that their major changes and challenges did not lay in establishing good arguments and campaigns to fight anti-terror laws in the world and to remind IGOs such as the UNO or the EU to not fall into the trap of sacrificing human rights in the name of human security – the major change was in the policy and strategic outset to no longer rely on state governments as allies in implementing and pressuring human rights.

Non-state actors and armed groups became part of the greater picture in the world of human rights activists (as well as for IGOs or governments). Whether war lords in Africa, liberty movements in Asia or terrorist groups in Europe or South-America in the state owned “fight against terrorism”; they are today one of the main key figures and actors to aim at. For state authorities and national police forces in Columbia, Sri Lanka or Egypt this shift was not new, but the world leading human rights NGOs, AI and HRW, had to revise their strategies and even imagine and investigate how to reach terrorist actors and groups, start a dialogue or even to stop them from violating human rights. Needless to say, that non-state armed groups do not adhere to any international human rights standards, treaties or other contracts; the model of “naming and shaming” as perpetrators is useless and a public campaign to put pressure on terrorist leaders is without sense. Consequently, Amnesty or HRW had to rethink their strategies – as for example: how to reach non-state armed groups?

One of the consequences was that the so called Track One and Two diplomacy meaning to co-operate with non-state armed groups in terms of dialogue became more important. But, even though, there is no solution or convincing tactic up to this day to stop human rights violations by terrorist groups - what is now more visible - non-state armed groups are perceived as equally important actors in the “human rights arena” like IGOs, state authorities, governments or NGOs. The picture is became more complex. Even if these actors were on the screen of NGOs before 9/11 – the terrorist acts of 2001 in New York or 2004 in Madrid, made them more visible.

If NGOs want to remain successful actors in this field, keep their credibility and receive donor money they ought to approach these actors with the aim to stop violence and human rights abuses. This will be less through “naming and shaming” or “international pressure” but rather soft methods/ skills of educational or awareness raising campaigns among the constituency and supporters of these armed groups. Human rights NGO might also serve as moderators and mediators among the opposed groups, governments versus armed groups, find ways to compromise and find binding solutions mechanism.

Therefore, one can argue that 9/11 only was the kick start to focus more on non-state actors and to re-shape the human rights agenda. As mentioned above, the problem of terrorist groups is not new, Al Qaida existed long before 9/11; the Tamil Tigers, the FARC or ETA were just not seen as actors in the battlefield that human rights NGO could meaningful approach or convince to stop human rights violence (Scheinin, 2007).

(Some more) consequences

After 9/11, the big human rights NGOs, like AI and HRW had to shift their major human rights objectives „back“ to what they had already thought to be fixed and thought not to be questioned since the end of the cold war: individual freedoms and political rights. They were now in the focus through the „fight against terror“. NGOs have moved “back to their roots” and work now (again) on safeguarding international human rights standards in particular freedom and political human rights as they did in the 1970s and 1980s.

In addition to this, NGOs themselves became under more scrutiny since 2001. New technology, the widespread of human rights awareness and the ongoing “boom” of human rights NGOs since the 1990s rose with the demand of stakeholders, the public media or simply donors of NGOs to know what their money is spent on and how they work. AI, HRW and thousands of other NGOs were subject to more public criticism due to the fact that many of the emerging and new human rights NGOs in particular in transition societies and countries have been financed by governmental money and state agencies. Not exceptionally their professional staff is on the payroll of ministries and state agencies. NGOs independence was at a stake. Often their work is based on issue agenda which reflects rather governmental or particular donors interest than larger human rights protection.

Before 2001, governments had already started to „embrace“ and thus “misuse” NGOs for tasks that are not genuine NGOs tasks, as for example to outsource the human rights monitoring work to NGOs and to let them watch human rights abuses in their own countries. NGOs are cheaper, more flexible and less bureaucratic. If and NGO does not to

its work in the sense the governmental donors wants it to do, it will no longer receive money.

These developments cumulated in 2001 and the following years, when human rights NGOs had to criticize western governments for their “anti-terror policies” which led to human rights abuses in terms of physical integrity; privacy; freedom of movement; freedom of speech and many other basic human rights topics. The dilemma started when the human rights NGOs which are mainly supported by a constituency, members, donors or even governmental agencies in democratic societies, lost their credibility and supporters because they criticized the US administration as well as the Chinese or Nigerian to an extent that they had never done before. The same constituency that supported them in their fight against authoritarian regimes earlier did not do so when they criticized “their own” governments and their human security policy. Amnesty International and other NGOs lost supporters. They fought this loss and became more transparent, in order to show their stakeholders and constituency that they are independent and simply criticize human rights violation wherever and whenever they happen, independently from the government or state.

The above mentioned mixture of events and developments after 9/11, however, re-shaped the agendas of many NGOs and thus their role. Many of them had to keep more distances to governments and their agencies which they were used to work together “in good faith” in the 1980s or 1990s. Decision makers of human rights NGOs know that they can only survive and keep their work up, if they are independent from governments, keep a holistic human rights approach and be loyal to their stakeholders – which now after 9/11 are many citizens and people living in countries that passed and established “anti-terror” legislation and policies which widely affect and violate human rights standards.

I also conclude that 9/11 was only the trigger to make the necessary changes in the policies, strategies and the agenda setting of human rights NGOs, which otherwise would be have been undertaken at a later stage: focusing on non-state armed groups, stronger

safeguarding of international human rights standards and being more transparent, independent and accountable to their stakeholders and donors.

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