

Chapter 10

Globalizing Human Rights: The Role of NGOs in Protecting and Promoting Human Rights in Sri Lanka

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Introduction

Civil society plays an important role in securing human rights and democracy, and facilitating state reforms to ensure democratic governance. Most scholars working on democratic transition and consolidation claim that a vibrant civil society is a sine qua non for liberal democracy to take root (DeVotta, 2005). Some argue that non-governmental factors have been the engine of global expansion of human rights in the post -World War II era (Lauren 1998; Weiss & Gordenker 1996; Wiseberg 1992). Among them are international non-governmental organizations such as Amnesty International and Human Rights Watch, which have played key roles in the formative years of global human rights by promoting international human rights instruments and publicizing gross human rights violations (Tsutsui, & Wotipka, 2004: 587). It is argued that human rights international nongovernmental organizations have become even more critical in the contemporary international human rights regime - their unsparing reports of local human rights practice all over the world have been essential in proceedings of United Nations human rights instruments such as Human Rights Council. Many NGOs have gained official consultative status in the U.N and have been actively promoting their visions of human rights standards into the new century. Indeed, non-governmental organizations have been taking turns leading the efforts to establish human

rights as a major global political agenda (Lauren, 1998; Weiss & Gordenker, 1996; Wiseberg, 1992).

The number of human rights NGOs and citizen memberships have increased dramatically, especially within the past twenty years, corroborating the expansion of the international human rights movement. At the national level, we find that many countries have increased their participation in the international human rights movement in the last few decades. While wealthy Western countries tend to have the greatest number of citizens who are members of NGOs, the least wealthy or peripheral countries consistently register the lowest level of citizen participation in affairs of human rights. Indeed, citizens in less industrialized and less democratic countries are increasing their involvement in international human rights activities due to persistent violation of human rights and various forms of discriminations. Some evidence shows that linkage to global civil society is a key factor in drawing citizens into human rights activism (Tsutsui & Wotipka, 2004: 612). Among the thousands of campaigns and movements working for human rights locally and globally, two remain significant. The biggest is Amnesty International (AI), founded in 1961 in London. By the beginning of the twenty-first century, AI had around one million members in more than 160 countries, and national sections in around 70 countries. Its budget has increased through findings from individual subscriptions and private foundations and it does not accept money from governments. The other is Human Rights Watch, founded in 1978 in New York (Tsutsui & Wotipka, 2004; Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). It began its existence as Helsinki Watch, established to monitor the human rights commitments of the superpower agreement of 1975 (the Helsinki Accords).

In contrast to AI, Human Rights Watch is a non-membership organization with regional divisions and a budget of around \$16 million. It has prime access to the mass media and its regular reports of abuses of human rights all over the world are highly visible and, like AI, often controversial (Welch, 2001). Despite the powerful work they do, in some respects these are both elitist organizations that have ambiguous positions with respect to capitalist globalization (Sklair, 2009: 92). Thus, human rights NGOs are part

of a broad range of organizations and movements, variously referred to as transnational advocacy networks, transnational social movements and even a nascent transnational civil society. These umbrella terms generally exclude official governmental bodies (including the UN and other inter-state networks) and those attached to the private economic sector. At the UN Beijing World Conference on Women in 1995, for example, 40,000 people representing thousands of these groups attended the NGO forum (Sklair, 2009: 90). Yet, Van Tuijl (1999: 493) argues that NGOs need to further develop the quality of their networks to become innovative sources of democracy as well as legitimate and effective sources of universal human rights and international justice.

Globalization seems to have a considerable influence in the proliferation of NGOs across the world, because the former increases the sources of injustice that are beyond the scope of national systems of justice. The World Bank and the International Monetary Fund have a major impact on the lives of millions, but there are only a few local or decentralized institutional opportunities to resort against their actions. The political space for governments is equally affected by international forces, which may have an impact on how governments behave domestically. NGOs have begun to fill some of these widening institutional and geographical gaps for people or communities who want to exercise their guaranteed rights (Tsutsui & Wotipka, 2004; Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). Particularly, during the last 25 years, NGOs have contributed to international and national discourses on issues of global scope, such as the eradication of poverty and the promotion of gender equality, peace, sustainable development and human rights. Most NGOs no longer work alone but rather in networks that transfer information and other resources across borders. Gradually increasing density of NGO networks and the intensifying degree of NGO advocacy have provided organizational articulation of a global human rights enforcement mechanism (Van Tuijl, 1999: 494).

Research on the development of international human rights law and institutions has revealed the crucial role played by nongovernmental agents in defining international human rights norms, developing institutional

mechanisms to ensure adherence to international norms, and monitoring national and local human rights practices. In recent years, researchers have made more concerted efforts to understand how NGOs operate and interact in protecting and promoting human rights (Lopez et al, 1998). There is a steady growth of NGOs engaged in human rights works and they are organized across national boundaries. Against this backdrop, the study aims to provide better understanding of the work and contribution being done by NGOs in the field of human rights in Sri Lanka in general and promoting a human rights culture in particular.

In Sri Lanka, NGOs work at every level to promote and protect the human rights of every individual with their maximum potential within their mandate. They play an important role in identifying, addressing and offering direct assistance to those whose rights have been violated. NGOs conduct trainings and meetings at grass-root levels to raise awareness of human rights for every individual in the society in general and marginalized communities specifically. For example, some NGOs focus on providing training to government officials as well as providing awareness to the public, particularly those who were affected by war, legal and institutional discriminations, natural disasters and other epidemics. Such training covers a range of topics such as human rights, women's rights, child rights, gender equality, migrant workers' rights, minority rights, and so forth. NGOs also fight against the individual violation of human rights against any member of the society by providing safety and security (Baehr, 1993). NGOs usually lobby for changes and reforms in national and international law related to human rights. Since NGOs have their own network and have common issues to address locally as well as internationally, they use many tools to advocate and influence states and regional mechanisms to adopt various regulations in promoting human rights including free and equal access and justice. NGOs also work with the government and other stakeholders in developing the substance of those laws they propose (Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). The active participation of NGOs in law making can be considered as the right sign of democratization.

As such, the work of NGOs in Sri Lanka has been identified as important in various contexts, though they have largely been looked at in a negative perspective. Since the 1970s, non-governmental organizations (NGOs) in Sri Lanka have played a key role in addressing problems including human rights violations and issues with decentralization, local government and community development. The point of departure was the formation of the Civil Rights Movement in 1970 by a group of Colombo - based elite highly committed to human rights. Yet, in most cases, the relationship between the Sri Lankan government and the NGOs has similarly been contradictory. Reports and publications by NGOs on both completed and ongoing projects provide an account of their role in the field of conflict resolution, peace building, relief, rehabilitation and reconstruction work, humanitarian assistance, human rights, policy advocacy and local development, but it has not been duly recognized by successive governments of Sri Lanka.

Much of the existing research on human rights and NGOs consists of case studies of individual organizations working for human rights; comparative studies of a select number of organizations; studies of the work of human rights organizations and institutions in specific countries or regions; and studies of the political processes surrounding human rights standard-setting and enforcement (Lopez et al, 1998). This chapter thus complements previous research with a systematic survey on the contribution of NGOs in globalizing human rights in the Sri Lankan context, addressing questions about (a). how these NGOs are organized, (b). Contribution towards creating a human rights culture and how they seek to uncover and defeat violations of human rights nationally and internationally. (c). The chapter will further analyze how the political authorities have handled NGOs in Sri Lanka and (d). the changing space for the NGOs to operate in Sri Lanka.

There has already been much written on NGOs in Sri Lanka from different perspectives such as NGOs role in peace building (Orjuela, 2005; DeVotta, 2005; Goodhand, 1999; Walton, 2008, 2012a, 2012b), origin, development, functions of NGOs and their impact on socio-economic political spheres (Fernando, 2003; Perera, 1998; Wickramasinghe, 2001; Uyangoda, 1995; Kelly, Kilby & Kasynathan, 2004; Fernando & De Mel, 1991),

NGOs politics in Sri Lanka (Akurugoda & Yurova, 2017; Sørensen, 2008), relationship between state and NGOs in Sri Lanka (Kloos, 1999) and the ethno-gender dynamics of Sri Lankan NGOs (Ruwanpura, 2007). These are some of the widely cited literature that review the role of NGOs in protecting and promoting human rights in Sri Lanka. Yet, these scholarly works have provided little attention to demonstrate the contribution rendered by NGOs and their impact in the human rights spheres. Thus, the present chapter aims to fulfill the lacuna in the existing literature by providing theoretical and empirical insights on the role of NGOs in Sri Lanka towards the creation of human rights culture and norms. The chapter has been written based on a large volume of secondary evidence collected from scholarly publications, government reports on NGOs, publications of human rights NGOs, NGOs Secretariat, Reports of Human Rights Commission, media reports and other relevant documents. We have employed a qualitative content analysis method to interpret our findings and arguments in this chapter. The prevailing pandemic situation prevented the authors from involving in field work and meetings at the community level to collect primary data which could be a limitation of this chapter. Yet, the authors used their informal contact with human rights NGOs across the country to collect certain information and clarified some of the misconception prevailing over human rights NGOs in Sri Lanka. The reminder of the chapter has been organized as follows; the second section provides the theoretical framework and review of literature to situate the chapter in order to provide better understanding on the contribution of NGOs towards human rights globally; the third section examines the functions of NGOs working for human rights in Sri Lanka; the fourth section discusses the nexus between NGOs and human rights in Sri Lanka; the fifth section examines the relationship between Sri Lankan governments and human rights NGOs; the sixth section examines the challenges faced by human rights NGOs in Sri Lanka followed by conclusion and policy implications.

Role of NGOs in Promoting Human Rights: Conceptual Framework and Review of Literature

The concept of non-governmental organization (NGOs) and international non-governmental organizations (INGOs) is a contemporary

world phenomenon. They are non-state actors who work in every spheres of social life of global citizens today. There is no universal definition of NGOs. Simply it means an organization or agency unrelated to main organs of the state mechanism- Legislature, Executive or Judiciary - they are called non-governmental organizations. International and domestic laws recognise NGOs-for example, Article 71 of the UN Charter confers consultative status to NGOs. The Economic and Social Council (ECOSOC) formed the Committee on Non-Governmental Organizations (NGO Committee) in 1946. Anna Vakil (1997) defines NGOs as self-governing, private, not-for-profit organizations that are geared toward improving the quality of life of disadvantaged people. They are neither part of government nor controlled by a public body. As such, they are elements of civil society, which is a space or arena between households and the state which affords possibilities of concerted action and social self-organization. In Sri Lanka, NGOs emerged due to her unique hydraulic civilization combined with the Buddhist value systems that promote voluntarily giving away things for the benefit of others. Irrigation Councils that maintained and managed small- and large-scale water reservoirs are considered as the early community-based organizations in Sri Lanka. Later, with the three western invasions, western- model NGOs/INGOs emerged in Sri Lanka. In other words, The British colonial period marked the clear emergence of the organizational forms of NGOs as they are known today - for example, the Christian missionary work in education, health and social welfare, the establishment of the Young Men's Christian Association (YMCA), the Young Women's Christian Association (YWCA) and the Salvation Army's presence in Sri Lanka were significant non-profit organizations. In the post-independence era, several periods can be identified where dramatic increase of NGOs has taken place viz. 1970 (s)-introduction of foreign aid, 1978-liberalization of economy, 1983-civil conflict, 1987-89-second youth insurrection, 2004-tsunami, and 2009-end of LTTE terrorism (Bandara, 2021; Wickramasinghe, 2001).

In the contemporary world, there remains a significant increase of NGOs all over the world. For example, India is reported to have over 3.3 Million NGOs. It means there is an NGO for every 400 people. The number of people worldwide donating money to NGOs increased from 1.2 billion in 2011 to

1.4 billion in 2014. By 2030, the number is expected to grow to 2.5 billion (Bandara, 2021). In Sri Lanka, with little over 37000 registered NGOs (both local and foreign) operating in various parts of the country, their contribution to development, creation of employments and most importantly to attract the much-needed foreign exchange has to be highly recognized (NGOs Secretariat, 2021). Also, their contribution in times of disaster such as the ongoing pandemic is unprecedented. The primary source of funding for NGOs in Sri Lanka consists of a variety of local and international donor organizations. The principal contributors include (a) various UN agencies, (b) bilateral agencies (USAID, Canadian International Development Agency-CIDA, Swiss Agency for Development and Cooperation-SDC), (c) international non-governmental organizations such as Save the Children, World Vision, Oxfam, Child Fund, (d) local private and public sector organizations, (e) Local and foreign private donors, etc. However, in the current context, the public perception on NGOs and their operations have dramatically changed and generally are not favorable across the country due to the recent Easter Sunday suicidal bomb attack and emerging anti-NGO perception under the present government.

NGOs have played an important historical role in establishing and expanding the U.N. human rights system. The U.N. founding conference in San Francisco in 1945 helped achieve the inclusion of human rights in the U.N. Charter (Our Voice, 1993; Korey, 1999). Since the adoption of the Universal Declaration of Human Rights in 1948, NGOs have consistently continued their efforts to strengthen the U.N. human rights system and have succeeded in influencing the formulation of different U.N. treaties and conventions, such as the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1989 Convention on the Rights of the Child etc. Often, NGOs have led the way in proposing new institutional arrangements in order to embody U.N. responses to human rights abuses. Their influence is visible in the creation of such mechanisms as the U.N. expert body to examine disappearances, the working group on arbitrary detention, the establishment of Special Rapporteurs. There are now Special Rapporteurs for nine different categories of universal human rights to conduct expert investigations and, of course, the creation of the position of U.N. High Commissioner for Human Rights, Human Rights Council (Gaer, 1995; Wiseberg, 1992). In the

process of Universal Periodic Review NGOs have been playing a pivotal role nationally and internationally. In most cases, NGOs collect the information necessary to reveal the truth about human rights conditions in the most remote or politically oppressed corners of the world. Evidence shows that human rights violations fall between the cracks of local, national and international systems of governance and justice so that NGOs try to compensate for these gaps by invoking international human rights standards (Van Tuijl, 1999: 497; Korey, 1999). Conceptual divisions between NGOs are often made according to levels of operation, function and substantive orientation. Examples of these divisions include issues such as the environment, gender, peace, human rights, poverty development. The primary goal of human rights NGOs "monitoring and reporting of government behavior on human rights, particularly violations, building pressures and creating international machinery to end the violations and hold governments accountable (Gaer, 1995; Van Tuijl, 1999). Under the umbrella of human rights promotion, for example, there are organizations that focus primarily on human rights but also organizations that deal with poverty and social development issues.

Korey (1999) indicates that 'the establishment of international norms by which the conduct of states can be measured or judged was the primary preoccupation of NGOs'. In many cases, human rights NGOs were the initiators of new human rights documents that helped set-up some rules aiming to protect the human rights. They participated in drafting the main human rights documents. In setting-up the human rights standards NGOs play the role of contributors as well. In the drafting processes, they help to write laws and treaties and largely act as experts of particular field of human rights rather than politicians. Claude (2006) argues that "this role increased and became political as NGOs gained legitimacy shaped international public opinion and formed coalitions with sympathetic governments". NGOs also significantly contribute to the formulation and development of international human rights law through the submissions of complaints and through international litigation, instituting or intervening in cases as parties serving as experts, testifying as witnesses etc. Moreover, in many instances NGOs have been involved not only in articulating and building consensus for relevant norms, but also in helping to establish the institutions designed to enforce

those norms (Claude, 2006). In other words, NGOs act as ‘watchdogs’ and provide an independent overview and assessment of whether and how human rights are ensured.

Uyangoda (1995) notes that NGOs are precisely the long description of the non-government organizations. They are voluntary bodies formed by groups of citizens for specific purposes of social service or social and policy intervention. They can be neighborhood associations, pensioner’s clubs or temple development societies with a limited scope of interest and activity. They can also be human rights bodies or economic development and environmental organizations or women’s associations with a concern for national issues and therefore a wider scope of interest and activism. The theoretical framework and review help provide detailed account of the contribution of NGOs in promoting and protecting human rights in Sri Lanka. Further, the framework sets out the foundation to understand the contribution and the impact of NGOs’ activities towards the promotion of human rights and challenges encountered by NGOs in the journey of creating a human rights culture in Sri Lanka.

Functions of NGOs Working for the Protection of Human Rights

For more than 30 years, human rights NGO’s have been performing a variety of important functions in both the protection and promotion of human rights which started with the formation of the Civil Rights Movement in 1970. The first and one of the most important functions they play is that of monitoring the behavior of the state and of other power elites with the view to exposing and denouncing human rights violations. This is a vital function because unless their behavior is monitored, governments will not be held accountable. Maintaining human rights in accordance with the standards of international human rights law is one of the main function of NGOs (Korey, 1999; Brochard, 2005). Increasingly in the international arena, NGO’s have initiated and played vital roles in the drafting of international standards and in helping to interpret those standards. As an aspect of this, NGO’s have also played an important role in articulating or defining new issues and areas requiring legislation. At the national level, human rights NGOs are

often engaged in drafting legislative proposals, preparing position papers on pending legislation, testifying before parliamentary committees and lobbying for the repeal of unjust legislation (Brochard, 2005).

One of the main function of NGOs is to provide relief through humanitarian activities. This paves the way for immediate relief for the affected people. This might also additionally contain a mix of techniques and strategies from denunciation to providing legal assistance to trace disappeared individuals, for touring detainees and trying to stable humane remedy and situations even as they're imprisoned to provide clothes and ethical assistance to their families. It may additionally contain lobbying now no longer simply one's very own authorities but governments in different international locations and worldwide organizations (Welch, 2001). Another Function of NGOs is to promote human rights education and human rights awareness. This method should be found in both formal and informal methods. NGOs which play a key role in human rights struggles are often the most vulnerable and isolated. However, these organizations act with impunity in the interest of the people and has been successful in mobilizing people in rural areas. Even though human rights struggles are fought and won largely in national arenas by organizing and mobilizing in the slums and the barrios by concertizing people about their rights and how to fight for them, the role of international support cannot be underestimated (Brochard, 2005). Thus, solidarity and support at both the regional and the international levels can have an impact and it can and often does by giving visibility to the struggles of national and local NGO's that provide some small measure of protection for those on the front lines.

In addition to the above, NGOs participate in policy activities according to their objectives and nature. Mainly they carry out policy formulation and policy implementation activities, namely they influence the process of law making and enforcement via various their methods at various levels according to their nature and objectives. Influence in law making depends on the time frame, audience and the scope of impact, whether national or international. The primary way any NGO can influence the process in human rights protection and promotion is by direct assistance. Direct assistance is quite a common

way in the NGO field, particularly when working on social and cultural rights where direct services to the victims whose human rights were violated will be compensated through humanitarian assistance, training developments and by giving legal aid to present their claim against the violation they suffered (Becker, 2020; Korey, 1999; Welch, 2001). There are also NGOs that do the work of gathering information. Their work is very supportive in bringing human rights offenders to justice and sentencing which sometimes governments are reluctant to do, and particularly any violations caused by government policies or enforcement. Presenting accurate information in international forums will put pressure on the people or government to address human rights violations and ensure the protection of marginalized people (Korey, 1999). There exists a view often mentioned about NGOs, that is their policy of ‘naming and shaming’ human rights violators and abusers in order to put pressure on government. Simmons (2013: 46) notes that Non-governmental organizations have been at the heart of understanding how and why human rights values became salient internationally in the twentieth century. He argues further that human rights have been championed by civil society actors, and embraced by most governments grudgingly. This is the natural consequence of the content of these rights—they tend to empower individuals and civil society groups and their governments. Qualitative literature has been dominated by studies of the importance of civil society actors, non-governmental organizations and transnational advocacy networks in moving the human rights agenda forward (Korey, 1998). NOGs are now said to constitute ‘external legitimating audiences’ that keep the unlimited exercise of state sovereignty to some degree in check.

Campaigning and lobbying are the third way an NGO employs to influence the process of law making and enforcement regarding Human Rights protection and promotion. Although there have been a number of methods in campaigning, and lobbying by NGOs, and every NGO will find the most suitable, given the objectives it has in mind, the nature of the target and the availability of resources. Letter writing campaigns and signing online petitions are common methods that have been used by most of the international NGOs such as Amnesty International and UNICEF. NGOs contribute to human rights awareness and public awareness by providing human rights

education. The purpose of providing such education is to make the public aware of their rights and for educational work. The public is educated about the basic human rights, protection, violations but also about defending them from any human rights violation (Gaer, 1995; Wiseberg, 1992; Korey, 1999).

Nexus between NGOs and Human Rights in Sri Lanka

Wickramasinghe (2001) notes three characteristics of the NGOs in Sri Lanka: (1) an international NGO sector serving the humanitarian needs of the country stemming from the ethnic conflict; (2) a few large and well-distributed national NGOs involved in poverty alleviation projects in conjunction with the state or complementary to the state and (3) a myriad of small NGOs sometimes called CBOs involved in rural development. The Voluntary Social Service Organizations Act, No. 31 of 1980 is the main act which refers to organizational forms similar to NGOs but it does not specifically mention the term 'NGO'. According to the act, 'voluntary social service organization' means any organization formed by a group of persons on a voluntary basis and (a) is of a non-governmental nature (b) is dependent on public contributions, charities, grants payable by the government or donations local or foreign in carrying out its functions (c) has as its main objectives, the provision of such relief and services as are necessary for the mentally retarded or physically disabled, the poor, the sick, orphans and the destitute and the provision of relief to the needy in times of disaster.

Up until 1970, there was a slow but steady increase in the number of human rights NGOs. The reason for the sudden increase in the number of NGOs from 1971 onwards was in response to the internal conflicts and insurrections which occurred at that time. In 1971, the Janatha Vimukthi Peramuna (JVP) insurgency led to a new awareness about problematic socio-economic issues and in the absence of an adequate government policy, private persons took various initiatives to improve situations conceived as highly problematic. According to Fernando and De Mel (1991) there was no trend towards the formation of new or expansion of the existing NGOs in the SLFP government. It was the newly elected United National Party (UNP) government's emphasis on an open economic policy which led to a reduction

of certain welfare policies and this trend opened spaces for NGOs to enter where and when the government withdrew (Fernando, 2003). Movement for Defense of Democratic Rights was another organization engaged in educating human rights among rural Sri Lankans shortly after the JVP insurrection.

Similarly, Movement for Inter-Racial Justice & Equality was the first major majority Sinhalese based group calling for ethnic equality. It is currently almost defunct, but is a precursor of all other organizations and groups that have mushroomed in recent years calling for peace, human rights, democracy and ethnic equality. On August 22, 1979, several organizations and individuals met in Colombo to express their commitment to work on racial justice and socialist equality. The Movement for Inter-Racial Justice and Equality [MIRJE] was formed because of this conviction. MIRJE aimed to promote inter-racial justice and equality in accordance with the following principles: (i). equality of all rights among the various linguistic groups in the country; (ii). opposition to communalism and racial injustice and discrimination in all their overt and covert forms; (iii). opposition in the area of inter-racial relationships to all anti-democratic policies and procedures of government, all repressive legislation and repressive action of the security forces; (iv). upholding in the area of inter-racial relationships of democratic and civil rights and human liberties; (v). upholding of the right to full and free citizenship of all the people of Sri Lanka, including the Tamil people on the plantations and elsewhere; (vi) opposition to racial discrimination against estate workers and others in the fields of employment, education, housing and health; and (vii) fostering the union of workers and peasants of all races in the struggle for inter-racial justice and equality. MIRJE was an NGO devoted to the realization of the human rights of all people within a plural democratic framework. During the past two years, it facilitated awareness-raising among students on human rights issues, the constitutional provisions related to human rights and the Universal Declaration of Human Rights.

At present, Center for Policy Alternatives, National Peace Council, Law and Society Trust, Centre for Human Rights and Development, Centre for Society and Religion, Women in Need, Women and Media Collective, National Fisheries Solidarity Organization, INFORM Human Rights

Documentation Centre, Right 2 Life, Rights Now, Institute of Human Rights, National Federation for Human Rights, MONLAR, Viluthu, Institute of Social Development, Human Development Organization, are among many others, that continue to remain active in protecting and fostering human rights in Sri Lanka. In addition to this, there are also human rights centers established in the universities to promote human rights education among university community and outsiders-they include the Centre for the Study of Human Rights, University of Colombo and Centre for the Study of Human Rights, University of Peradeniya. These centers have also been working at the community level through series of outreach programs and they are also working with law enforcement agencies to enhance their knowledge and understanding of human rights. NGOs also work with and support Human Rights Commission of Sri Lanka to carry out human rights education across the country and conduct quiz competitions among school students, and celebrate international Human Rights Day and international events related to human rights. NGOs contribute significantly to create awareness on UDHR and other international human rights instruments-international, national, regional and local NGOs remain part of this venture.

In addition to the above, many voluntary NGOs in Sri Lanka have shown interest in development issues that have played a less energetic role in the state or have been completely emptied. This can be seen in the wider focus of NGOs in the 1980s when they expanded their concerns from development-oriented activities to a rights-oriented sphere. The prolonged war and the second JVP insurrection resulted in numerous human rights violations and many NGOs were involved in activities associated with the protection of human rights and the support of war affected people through relief and rehabilitation work. Uyangoda (1995) claims that in the 1980s and 1990s, a number of other NGOs actively campaigned for peace and the democratic rights of the Tamil people. These were multi-ethnic advocacy and activist groups who were bound by a shared commitment to a vision of progress for Sri Lanka conceived on the basis of liberal and humanitarian concepts of ethnic harmony, justice and equality. In the aftermath of the December 2004 tsunami disaster, many voluntary NGOs and private individuals landed in Sri Lanka with budgets of various dimensions and projects of various time periods. This

involvement can be highlighted as an important point of NGO growth in Sri Lanka. Although there was already considerable NGO involvement, it was in the post-tsunami period that these rose rapidly.

Relationship between Government and Human Rights NGOs in Sri Lanka

After 1948, the UNP government continued the plantation-based economy and the open policy on foreign investments. In 1950, Sri Lanka obtained membership of the IMF and the WB. At that time, the government also reduced its social welfare commitments and this led to a change of government in 1956. After 1956 the government promoted Sinhala nationalism and this had a profound influence on development policies, foreign policy and the flow of foreign aid. In the 1960s, government recognition of an NGO role came in the 'freedom from hunger campaign' under the auspices of the food and Agriculture Organization (FAO). During this time, NGOs also worked with the state on the promotion of minor irrigation schemes and as collaborators with the government in development projects (Korey, 1999).

In March 1990, a high-powered panel was set up by the Executive President R. Premadasa to investigate allegations of foreign funding to international and local NGOs without the knowledge or approval of the government. This was called 'the Presidential Commission of Inquiry in Respect of Non-Governmental Organizations functioning in Sri Lanka' which was better known as 'the NGO Commission'. There were three broad reasons for the inquiry which was made public in the gazette notification setting up the commission: (1) the number of NGOs functioning in Sri Lanka (2) concern that there was no framework for monitoring the activities and funding of these NGOs (3) concern that some of the funds received from foreign sources as well as those generated locally were being misappropriated or used for activities prejudicial to national security, public order or economic interests and in addition for activities detrimental to the maintenance of ethnic, religious and cultural harmony among the people of Sri Lanka. In 1994, the People's Alliance (PA) led by the Sri Lanka Freedom Party came to power and marked another phase of state-NGO relations. In the 1994 Parliamentary

election, the NGOs and PA government shared a common ground on the need to solve the ethnic conflict through a negotiated political settlement. NGOs became involved in implementing programmes towards a non-military solution for the ethnic conflict to restore peace (Fernando, 2003). During this period, NGOs were actively helping the government to implement human rights agenda and programs which eventually led to the politicization of NGOs. However, this collaboration between the PA government and NGOs was not evident in other government programmes. After the collapse of peace talks and negotiations between GOSL and LTTE (1994-2005), many NGOs lost confidence in building peace in Sri Lanka. After 2005, NGOs came under severe scrutiny under the Rajapaksa regime which, particularly targeted HR organizations and curtailed their operation-yet such NGOs survived amidst the growing pressure on the part of the government and they continued their agenda of promoting and protecting human rights and democracy which can be considered as a significant contribution of NGOs in Sri Lanka to ensure human rights. Media remains important in human rights advocacy, but, in the case of Sri Lanka, there is no such media to promote the culture of human rights, rather they tend to instill anti-NGOs perceptions among the public and policy makers which continues to be a threat for HR NGOs. During the 'Yahapalanaya' government, HR organizations became prominent and they closely worked with the government to establish transitional justice mechanism and supported the government's efforts to build peace and reconciliation in a variety of ways, which unfortunately did not last long due to different reasons. During this time, NGOs also supported the preparation of the National Human Rights Action Plan, but after the regime changed in 2019, all these initiatives came to standstill.

Fernando (2003) further notes that human rights-based NGOs began to revert to the watchdog role they had played in the 1988-1993 era as many incidents of human rights violations began to be reported especially in war-affected areas. Further, election malpractices, violence and misuse of power by the government were also reported during the Wayamba (north western) provincial council election in 1999. NGOs played an active role in monitoring the election process and openly confronted the government's action. In this period, the government began to come under heavy criticism by NGOs. Since

the 2002 ceasefire, NGOs have been involved in peace-building projects including promoting development in conflict-affected areas, establishing 'peace dividends', building relationships at the community level and fostering popular support especially in the south (Goodhand, 1999). According to Walton (2008), these programmes had donor commitments to and hence their support for NGOs was heavily dependent on the state's commitment to the peace process. As a result, NGO activities and objectives became increasingly aligned with the political project driven by the United National Front (UNF) government and its international supporters.

During the post-war period despite facing restrictions and constraints by the central government, some NGOs began to be involved directly with local communities to deal with human rights issues. This involvement and their contributions revealed the potential for NGOs to address the multiple needs in human rights. The long background of failure by the central government to introduce genuine efforts to address the human rights issues and the recent contributions of NGOs to human rights suggest that if NGOs were involved directly, there would be more progress than that could be achieved by simply relying on the central government (Akurugoda & Yurova, 2017). In general, Sri Lanka's NGOs that promote human rights have substantial information and contacts abroad, as well as a large repertoire of strategies to pressure the government. Importantly, NGOs strengthen the voice of local organizations by supporting them financially, suggesting advocacy methods or providing information which would not have been otherwise available. They focus on issues of marginalized, underprivileged and ethnic minorities and empower these communities to demand their rights and entitlements. NGOs also expose the wrongdoings of government at international levels, such as the U.N. or World Bank meetings, in international media, multinational companies and international human rights organizations. They raise the issue of lack of accountability for human rights violations that had occurred during the last phase of the ethnic conflict. They disseminate information on human rights issues, and use the legitimacy and send NGO representatives to attend such meetings. NGOs tend to achieve an optimal degree of pressure with the support of domestic and international strategies and institutional mechanisms.

The approach governments choose to deal with the increasing influence of NGOs tends to have a domestic focus, where governments expect to have a certain degree of control. NGOs persuade their governments to do the 'right thing', such as to establish an independent judiciary system, provide protection against organized crime, create budgets for social services, pass laws to properly regulate labor relations or set environmental standards, protection of fundamental rights, which in turn create hostile relationship between the government and the NGOs. As a result, they experience heated debates on the development or enforcement of laws or regulations governing NGOs. In the past two years, for example, new proposals for a revision of NGO laws or regulations have been introduced in many countries Albania, Brazil, Egypt, Japan, Mongolia, Pakistan and Uganda ((Human Rights Watch 2011; Lai 2004) and a similar process is underway in Sri Lanka as well.

To maintain control over NGOs, the Sri Lankan government including the present and the past, use different means to hamper, disturb or stop their activities. The government has challenged the credibility or legitimacy of certain NGOs and their actions by using legal or sometimes illegal means to ban them from operating in the country or intimidate or arrest NGO personnel. This explains that governments that neglect or violate human rights are more likely to control NGOs by repressing them or denying their right to exist. In some cases, the state has prohibited the operation of independent NGOs, such as in China. NGOs tend to collect information on human rights violations or environmental degradation using rudimentary forms of organization or individual action (Van Tuijl, 1999: 503; Jayasankaran, 1997). Under such severe governmental pressure, NGOs in Sri Lanka employ creative ways to survive using their organization's structure or mutual relationships vis-à-vis the prevailing legal and political regime. Some NGOs have been able to evade the impact of restrictive laws by registering as non-profit companies under the Company Law. There are also NGOs registered as foundations so they can avoid being subject to the restrictive law on mass organizations. Based on the Sri Lankan case, one could argue that NGOs may also exist and operate in an undefined institutional space created by lengthy legal or bureaucratic procedures.

Moreover, in Sri Lanka, coalition building among NGOs has been an effective means of protection against government interference. In some cases, NGOs have opted for national coalitions or networks in order to build consensus and to present a unified front to authorities. In other cases, NGOs have decided to stay away from centralized coalitions to avoid becoming visible targets for control driven authorities. It is also evident that NGOs in the local and regional levels in partnership with the mass media, have enlightened societies on human rights issues, primarily achieved through daily and continuing advocacies for human rights in response to the abuse, negation, and/or neglect of human rights. This is partly supported by international human rights NGOs such as Amnesty International, Human Rights Watch etc. These campaigns demand stronger international norms on human rights, particularly those for the protection and promotion of the economic, social, and cultural rights of children, ethnic minorities, migrant-workers, refugees, women, and other vulnerable groups, enhancing the rights for each individual and community.

Overall, NGOs in Sri Lanka serve as:

- Focal point, platform, and network for information gathering and research required to both challenge and create new policy advocacies for human rights;
- Avenue for articulating particular human rights abuses/issues. For example, Amnesty International has a regional office in Sri Lanka to challenge human rights abuses, be they individual or collective cases;
- Agency for mobilizing and/or articulating various forms and modes of confrontational protests and demonstrations, targeting NGOs
- Networking forum to push local, regional, and international government bodies to react to human rights abuses;
- Hub to gather strong local support to reshape human rights norms and policies, which are more likely to promote governments commitment towards human rights.

Challenges for Human Rights NGOs in Sri Lanka

Since most of the NGOs in Sri Lanka advocate democratic reforms, human rights, peace, free and fair elections, and media freedom, they do encounter various forms of challenges. It is noteworthy that foreign funding for NGO peace work has come under severe criticism in Sri Lanka. According to Orjuela (2005) the strongest opposition to NGOs and the peace process came from Sinhala nationalist groups. Wickramasinghe (1995) adds that militant Sinhala groups vilified 'foreign-funded NGOs' as responsible for undermining the morale of the troops and pursuing 'selfish aims' instead of thinking of the good of the nation. Critiques of relief organizations failed to make distinctions between local NGOs which received foreign funds and others. Uyangoda (1995) stated that what extremely interesting in Sri Lanka was that the state had only occasionally come out against the human rights-based NGOs on the argument that they endangered national security.

Humanitarian NGOs who had worked in the conflict areas were branded as pro-LTTE because they had worked among civilians in LTTE-controlled areas. For example, international humanitarian NGOs such as the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR) were there because in situations of armed conflicts, direct parties to the conflict are not always capable of looking after and providing for the civilian population affected by the conflict itself. Critics of human rights NGOs failed to understand that international humanitarian organizations have worked in Sri Lanka at the request of the government to carry out specific activities asked by the government (Uyangoda, 1995).

A Secretariat for NGOs was established in 1996 in the Ministry of Health, Highways & Social Services. Nevertheless, according to a special gazette notification issued in 2010, the NGO Secretariat has started functioning under the Ministry of Defense (NGO Secretariat.1995). The motives for setting up the secretariat may have been clear and reasonable, but the problem was that they were under the control of the Ministry of Defence. Because the war ended in 2009 and the government was unable to present arguments about national security. In 2015, it functioned under the purview of the Ministry of National

Co-existence, Dialogue and Official Languages under the good governance government. But again, the NGO Secretariat started functioning under the Ministry of Defense in June 2020 and a few months ago was brought under the Ministry of Foreign Affairs.

Some of the challenges which are encountered by the Sri Lanka's NGOs are closely related to government policies and attitudes towards NGOs. Namely, NGOs that are working in the field of human rights tend to face more challenges due to long-standing human rights violations triggered by three decades of civil war and lack of accountability for human rights. There is also the point of view on the part of government that NGOs are doing wrongful deeds to the society, which leads to condemnation, targeting the activities of NGOs without any rationale. Disclosure of certain information regarding discussions conducted in a closed environment via media without the consent of parties concerned. The government tends to discourage rights-based interventions, policy advocacy, training, awareness raising campaigns etc. by preventing or advising against implementing NGO activities in the form of networks and collectives ; discouraging the activities of NGOs that engage in constructive criticism on the policies of the government and lack of accountability; spreading a wrong opinion about NGOs stating that they are a threat to national security and sovereignty; embarrassment and intimidation of staff members of NGOs by forced entry into their offices without proper notice; forcing to register NGOs with the National Secretariat even when they are duly registered with various state authorities under relevant Acts; interrogating various NGOs by summoning them to the National Secretariat stating that there are complaints against their organizations..

The Mullaitivu District Secretariat issued a set of guidelines in 2019 to the NGOs working in the district asking them to prioritize infrastructure development and not soft skill trainings. This guideline specifically says that NGOs should reduce training provided in thematic areas such as women's empowerment, child rights, youth training, human rights, democracy, civil society, land rights training, and the formation and strengthening of self-help groups. Furthermore, the action plans of organizations that contain less than 70 per cent of physical infrastructure activities, such as the construction of rural

roads, wells and preschools, will not receive its approval. This restricts right-based organizations continue their goal in promoting human rights especially in post war areas like Mullaitivu where it is most needed and also puts a risk to the sustainability of these organizations (see: <https://srilankabrief.org/sri-lanka-crackdown-on-ngos-and-ingos-guidelines-from-district-secretaries/>). A Similar kind of pattern could be observed in other areas as well where the Director General of NGOs Secretariat urges NGOs to spend their time and money on tangible things rather than conducting training and capacity building activities and human rights NGOs have come under severe criticism and scrutiny under the present government.

From Sri Lanka's National security perspective there were recommendations made by the sectoral oversight committee in 2020 shortly after the Easter Sunday attack. This includes the following areas: empowering and legalizing of the NGOS Secretariat, amendments to the Wakfs Act No 51 of 1956, empowering Muslim Civil society. There is a dedicated section that talks about regulating Muslim Civil Society organizations and it went on to state further that NGOs funded by Middle Eastern countries are recognized as religiously aligned and therefore interpreted as non-genuine. It is also mentioned that any social organization working with the Muslim community must comply with the Jamiyyathul Ulama Council (Council of the Muslim Theologians) and this is applicable to the entire country. This one size fits all approach also applies to any organization lead by persons who belongs to the Muslim community despite whether the NGO is registered under (Volunteer Social Service Organization (VSSO) or companies act etc. This is a discriminatory approach and the same doesn't apply to organizations that have Christian, Buddhist or Hindu affiliation.

In February 2020, the decision to withdraw from the co-sponsorship of the UN Human Rights Council resolutions 30/1 and other linked resolutions regarding human rights accountability in Sri Lanka impacted the survival of NGOs working on transitional justice and reconciliation processes. This includes organizations that work with the Office of Missing persons in relation to enforced disappearances. Lack of trust among the NGOs in the newly appointed Director General of the NGOs' Secretariat has created a

non-amicable environment. The independence of these institutions and their relationship with NGOs to collaboratively promote human rights in Sri Lanka is being questioned. Very clearly this shows the shrinking space for civil society under the present government. The government is planning to bring about a new law to regulate civil society organizations. In August 2021, President Gotabaya Rajapaksa, in his capacity as the Minister of Defence, advised the Legal Draftsman to draft a bill enabling the introduction of a new piece of legislation in place of the Voluntary Social Service Organizations (Registration and Supervision) Act No. 31 of 1980. The cabinet decision regarding the above move was published and the government started the process of drafting the new Act soon. According to the Cabinet's decision, it has been found that the provisions of the existing Voluntary Social Service Organizations (Registration and Supervision) Act, which is the main legislation for the registration of voluntary organizations, does not cover the present requirements. During the previous Yahapalana Government's tenure, the Cabinet also approved a proposal to include amendments to the Voluntary Social Service Act.

Yet, during that time, many activists and organizations, including the Centre for Policy Alternatives (CPA), mentioned that the proposed amendments had contained adverse effects as well as far-reaching consequences on the activities and finances of civil society, adding that those amendments, if enacted, would have a discouraging effect on a variety of private entities in Sri Lanka (Perera, 2021). Interventions by the Criminal Investigation Department (CID), the Terrorism Investigation Division (TID), and military intelligence officer have been taking place to monitor the activities conducted by these organizations and some of the NGOs have been highly securitized due to their activities on human rights, democracy, rule of law etc. It is deemed on the part of civil society that amendments to the Social Service Act will contain some clauses, such as preventing a bank from facilitating an NGO from opening or maintaining a bank account without proof of registration. Under the Act, if the NGO maintains a bank account in contravention of the provisions, such an organization shall commit an offence under this Act, etc. (Perera, 2021). Some civil society activists argue that new amendments or Act will undoubtedly impose additional administrative and financial burdens on these organizations,

which will hamper their ability to carry out their intended goals and missions. The Financial Transactions Reporting Act No. 6 of 2006 also contains similar provisions requiring institutions to disclose financial transactions to the Financial Intelligence Unit. It is also argued that since NGOs fall under the purview of Right to Information Act of 2016, it is unnecessary to bring about new laws or amendments to regulate NGOs, because one could simply obtain necessary information about NGO in relation to financial matters, namely source of funding, target communities, expenses, and so forth. The RTI act also enable one to gather information on transparency, accountability and other operations of civil society organizations in Sri Lanka. When it comes to regulation of NGOs/INGOs, basically, there are three types; i.e. self-regulation, peer regulation and state regulation. Researchers have observed that the literature on the efficacy of peer regulation is scant (Crack, 2016).

The Director General and Registrar of the National Secretariat for Non-governmental Organizations Raja Goonaratne explained the moves for the introduction of a new law to monitor the operations of NGOs and INGOs in Sri Lanka. During an email interview with the Daily Mirror he said that a huge number of NGOs and NPOs operate without any monitoring or supervision in Sri Lanka so that it is the statutory duty of the National NGO secretariat to confer NGOs/INGOs official recognition, provide facilitation and supervision under the regulatory mechanism. He further went on to state that “we have identified more than 15 crucial areas where we need to introduce new laws. In the recent past, several attempts have been made to amend VSSO Act as follows;

- In 2010, cabinet gave approval to amend the VSSO Act in its meeting held on 08.11.2010 under Cabinet Paper/10/2657/403/075
- (b)In 2018, as per a cabinet decision on 20, February, 2018, under Cabinet Paper/18/0272/750/002 the cabinet gave approval to draft a Bill to amend the VSSO Act.
- The idea of amending the NGOs laws was mooted again in 2019, when the National NGO Secretariat was brought under the Ministry of Defense by Gazette Notification No 2153/12 dated 10.12.2019.

- Once again, a cabinet paper for amending VSSO Act was submitted on 02.11.2020 and May 2021 as well (Bandara, 2021).

Conclusion

The chapter intends to explore the role of NGOs in promoting and protecting human rights in Sri Lanka. The theoretical frameworks and empirical evidence of the chapter show that NGOs in Sri Lanka have immensely contributed to the promotion and protection of human rights system as a normative framework-the notion is that human rights reached the grassroots simply because of NGOs' contribution. Put differently, since 1970s, NGOs have been contributing to create a culture of human rights, though there remains challenges and obstacles in achieving the goal. The Sri Lankan case shows that NGO work is an articulation of the promotion of universal human rights. Changes imposed by globalization have strengthened the role of NGOs in human rights such that they are one of the most influential players in ensuring human rights. They have been persistently advocating human rights, peace and democracy amidst growing challenges and securitization in general and specifically NGOs in the Northern and Eastern part of Sri Lanka. In defending human rights, many NGOs in Sri Lanka are guided by international human rights laws that are incorporated in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and many other international human rights treaties. It is argued that in the hands of NGOs, these human rights norms (national, regional, international) become a tool to ensure human rights and freedom for everyone across the globe.

In Sri Lanka, relations between government and human rights NGOs have taken different forms according to the policies and aspirations of different governments and rulers, political parties and leaders and events taking place in the country, as discussed elsewhere in this chapter. Governments backed by Sinhala-Buddhist nationalist political parties and forces sought to brand NGOs as imperialist agents. This critique has been counter-criticized by many authors as a ploy by governments to prevent NGOs from engaging in human rights protection deliberately ignored by many governments.

It expresses the government's fear of receiving international pressure on human rights protection when NGOs act as guards to protect human rights. Compared to human rights NGOs in this regard, development-based NGOs do not face much pressure. Indispensably, NGOs have been playing a crucial role in bringing the concept of human rights to the rural masses during the conflict period and post-conflict situation, and there remains increasing concern and awareness on human rights among the ordinary people of this country-which became possible largely because of the persistent commitment and contribution of human rights NGOs in Sri Lanka. Today the Covid-19 global pandemic is further complicating the work of human rights NGOs. The analysis of this chapter also highlights some of the shortcomings from among NGOs in Sri Lanka-there are ad hoc organizations working in the field of human rights, yet in practice they don't have a culture of respecting human rights, pluralism and democracy. Lack of unity among HR NGOs is another drawback-they are more likely to give priority for funding, and in some cases, they tend to fight to get funds from variety of sources. Though the HR NGOs have individually contributed to human rights, due to internal conflict and competition among themselves, they are unable to devise a collective mechanism to create a human rights culture in Sri Lanka. In this case, some HR organizations including MIRJE, Civil Rights Movement etc. have been exceptional. There has been poor coordination among HR organizations and they are unlikely to have long-term strategies to enrich human rights in Sri Lanka. The chapter nevertheless informs that Sri Lanka's governments should create an enabling environment for human rights NGOs to create a culture of human rights which is a core element of democratic governance and sustainable development-this requires institutional, legal, resource and policy supports on the part of the government.

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