

# **The professionalisation of the human rights civil society: craving for a definition**

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## Table of Contents

Acknowledgements	3
Acronyms	4
Abstract	5
Chapter 1: Introduction of the problem	6
1.1 Description of the problem	6
1.2 Research design	7
1.3 Theoretical choices	9
1.4 Research approach and methodology	9
1.5 Reliability, validity and generalisations	14
1.6 Disclaimers	14
1.7 Linguistic and other considerations	15
1.8 Structure of the thesis	16
Chapter 2: Civil society and human rights NGOs	17
2.1 Civil Society: a definition	17
2.2 Human rights NGOs	25
2.3 Civil society theories	31
2.4 Conclusion: discussion of the different theories	36
Chapter 3: Professionalisation	38
3.1 Introduction: the context of a 'professionalising' human rights civil society	38
3.2 Professionalisation of the human rights civil society	44
3.3 Conclusion and revisiting the research question	53
Chapter 4: National human rights institutions and human rights consultancy firms	56
4.1 Consultancy firms working in the field of human rights	56
4.2 NHRIs	62
4.3 Conclusions	67
Chapter 5: Human rights NGOs, NHRIs and firms: struggle for contested space?	68
5.1 Comparison on formal criteria	68
5.2 Other comparative considerations	69
5.3 Conclusions	70
Chapter 6: Final conclusions	72
Bibliography	79
Annex 1a: Questionnaire	84
Annex 1b: Summarized results questionnaire (selected parts/ quantitative part)	90
Annex 2: Transcripts of the four interviews conducted	93

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## Acronyms

AI	Amnesty International
BRINGO	Briefcase NGO
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CoE	Council of Europe
Come NVO	Come and Go NGO
CONGO	Commercial NGO
CRINGO	Criminal NGO
ECO	European Consultancy Organisation
ECOSOC	Economic Social Council
EU	European Union
FANGO	Fake NGO
HRC	Human Rights Consultants
HRW	Human Rights Watch
ICC	International Co-ordinating Committee of national institutions for the promotion and protection of human rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
ICJ	International Commission of Jurists
IGO	Inter Governmental Organisation
IHF	International Helsinki Federation
IHRLG	International Human Rights Law Group
ILHR	International League for Human Rights
LCHR	Lawyers Committee for Human Rights
MANGO	Mafia NGO
NGO	Non-governmental Organisation
NHRI	National Human Rights Institution
QUANGO	Quasi-autonomous NGO
TNC	Trans National Corporation
UN	United Nations
UDHR	Universal Declaration of Human Rights



## Abstract

The research question of this thesis is: *What are the characteristics and implications of the professionalisation of human rights civil society in Europe?* The first part of this study compares different conceptualisations of professionalisation and concludes that, despite the identification of six different dimensions of the use of the word, there is no standard definition of professionalisation. Instead a highly normative definition of professionalisation is in place. The second part of the study focuses on two concrete empirical manifestations of professionalisation of human rights civil society: National Human Rights Institutions (NHRIs) and human rights consultancy firms. The study argues that donor-imposed output oriented benchmarks and competitive grant and tender procedures as well as state-initiated partnership arrangements with civil society, led (1) to the creation of new professions in human rights NGOs, such as civil society fundraisers and consequently marketing and public relations specialists as well as on an organisational level (2) to the creation of human rights consultancy firms that exactly respond to the way of working of donors. The thesis concludes that civil society theory does not explain the professionalisation of human rights civil society. There is a need for a new theoretical framework explaining effectively the reality in which (parts of the) civil society are merging with market. In that respect this study pleads for taking the desired roles and manifestations of human rights organisations as a benchmark, regardless whether they are a NHRI, a consultancy firm or a human rights NGO.

## Chapter 1: Introduction of the problem

### 1.1 Description of the problem

The importance of non-governmental organisations (NGOs) in the human rights field is widely recognised, respected and celebrated. Human rights NGOs are key players in the promotion of human rights and raising awareness with regards to human rights violations; they have captured a place in the international human rights regime.<sup>1</sup> Consequently, the human rights movement has developed immensely over the last decades:

“...From perhaps 15 human rights NGOs that interacted with the UN in 1948 when the Universal Declaration of Human Rights was adopted, to 150 in 1968 at the Tehran conference on the 20<sup>th</sup> anniversary of the UDHR, to 1500 at the Vienna World Conference on Human Rights in 1993.”<sup>2</sup>

Not only is the development of human rights NGOs characterised by a *quantitative* increase, one can also observe *qualitative* changes in the human rights civil society: human rights NGOs have diversified in focus points, action patterns and organisational structure. Given their importance it is striking to observe how modestly human rights NGOs have been subject of academic research within civil society theory and third sector research. Whereas development aid NGOs have been scrutinized<sup>3</sup>, human rights NGOs have escaped the attention of academia. The literature on human rights NGOs focuses on institutional biographies and (comparative) factual and historical descriptions only.<sup>4</sup>

However, this is gradually changing as the human rights civil society has become involved in -or subjected to- the “accountability discussion.” In this debate, which will be elaborated in Chapter Three, the term “professionalisation” of the human rights civil society has been introduced. However, the use of *quotation marks* in a substantial number of publications indicates that the term “professionalisation” itself is a source of confusion or an expression of the unfamiliarity with the word. Does it refer to the dichotomy “activist” volunteer (and thus unpaid) work versus organisations with paid staff? Or should one understand this concept as

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<sup>1</sup> For example see United Nations, *Panel on civil society relations sees a networked UN*, press release, UN Department of Public Information, New York, 2004.

<sup>2</sup> Claude Welch, *Taking rights seriously: citizen action through human rights NGOs*, in <<Netherlands Quarterly of Human Rights>>, vol. 19/2, 2001, p. 119.

<sup>3</sup> See for example Thomas G. Weiss, *Beyond UN Subcontracting. Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, 1996.

<sup>4</sup> For example Claude Welch, *NGOs and Human Rights: Promise and performance*, Philadelphia, University of Pennsylvania, 2001.

the application of business methodology in human rights NGOs? Or is it understood as the attempt by a diverse group of international organisations and practitioners to promote tactical innovation and strategic thinking within the international human rights community?<sup>5</sup> Or is it a combination of all?

Indeed, it is this concept of professionalisation of human rights civil society that is the object of study in this research. Not only needs this term to be clarified. There are also many questions that arise from an academic and theoretical point of view. For example, is there a shift from human rights activism to human rights professionalism and, if so, what does this shift consist of? These theoretical interests are complemented by other, more normative questions. Can human rights NGOs be professionalised at all? Does one need commitment or idealism as an obligatory qualification in order to be allowed to work in a human rights NGO or could one *do well while doing good*? In other words: is human rights work becoming a normal occupation? The overall research question in this study is:

*What are the characteristics and implications of the professionalisation of human rights civil society in Europe?*

This study will focus on both the concept as well as some concrete empirical manifestations of professionalisation in the human rights civil society.

## **1.2 Research design**

The theoretical framework of the present study is situated in the field of human rights, political science and sociology. Civil society and third sector theories form the core part of the theoretical framework. The approach of the study combines different qualitative research methods. Given the lack of academic publications and data on professionalisation of human rights civil society, the present study is necessarily highly explorative. To the best knowledge of the author, there are no studies applying civil society theories to the concept and manifestations of professionalisation of human rights civil society.

As just outlined, the design of this research has a theoretical and an empirical dimension. The first part of this study will focus on a theoretical analysis of the *concept* of professionalisation

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<sup>5</sup> For example the *New Tactics in Human Rights* project that promotes the use and sharing of as wide a range of tactics of different regions and topics as possible. See <http://www.newtactics.org/main.php>.

as it is now found in (academic) literature. This theoretical analysis will be complemented with empirical data from interviews and questionnaires that were conducted and developed in the framework of this study. These steps will lead to a definition of professionalisation. In the second part of this study I will focus on two empirical manifestations that I consider as professionalisation of human rights civil society: the National Human Rights Institution (NHRI) and the human rights consultancy firm. This choice is grounded in the observation that both NHRIs as well as human rights consultancy firms have entered the human rights field and work in the same domain as human rights NGOs. The three working hypotheses are:

1. The discourse on professionalisation of human rights civil society is underdeveloped and there is little analysis on the phenomenon within human rights civil society: neither human rights NGOs nor academics problematise this topic sufficiently;
2. The imposition of donor requirements on human rights NGOs (like output oriented benchmarks and *Logical Frameworks*) and the subsequent use of market-oriented methods in human rights NGOs (like marketing and public relations) is presented as a logic to human rights civil society; the very discourse on *accountability*, *legitimacy* and *transparency* of human rights NGOs is an expression of the hegemony of neo-liberalism;
3. The thematic domain that traditionally belonged to human rights NGOs is gradually extending to other and new types of human rights organisations, as influenced by the neo-liberal hegemony. The occurrence of these new types of organisations has caused diffusing lines between civil society, state and market with the result that the classical distinctions between civil society, state and market are no longer applicable. The new human rights civil society is a highly unexplored and unregulated area.

Taking into account the explorative nature of the study and methodological choices (including problems encountered during the data-collection phase), it should be emphasized that the outcomes of this research, although conducted with basic academic research rules<sup>6</sup>, cannot be generalized to nor be held representative for *the* human rights civil society in Europe. As a conscious choice of the author of this study, one of the premises underlying this research is to

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<sup>6</sup> For various literature on research design and methodology see, *inter alia*, P.J.M. Verschuren, *De probleemstelling voor een onderzoek*, Utrecht, Aula, 1992; Martyn Denscombe, *The Good Research Guide for small-scale research projects*, Buckingham and Philadelphia, Open University Press, 1998; and Jennifer Mason, *Qualitative researching*, London, Sage, 2003.

problematise an issue that was not considered an academic problem as such. These circumstances limit the amount of generalizations that can be derived from the present study.

### **1.3 Theoretical choices**

The research question and the working hypotheses define the contours of the theoretical framework. In the present study civil society theory and third sector theory are the two main sets of theories. These theories have been selected as they, to a certain extent, have elaborated on the question how state, civil society and market (and their interrelations) are to be understood. It is expected that this is a useful framework to understand the professionalisation of human rights civil society, particularly the new emerging organisations that have developed in the market (human rights consultancy firms) and in the semi-state sector (NHRIs).

The choice for civil society theory implies that other theoretical perspectives are not used in this study. While I acknowledge that other perspectives could have offered interesting viewpoints, I have decided – also in the spirit of the E.MA programme – not to use the dominant legal approach so characteristic for the human rights discourse. The legal approach, however, is modestly present in this study, and I acknowledge the merits of a deeper comparative analysis of the legal frameworks of human rights NGOs, NHRIs and human rights consultancy firms. The same applies to an organisational-sociological view on the professionalisation of human rights civil society.

### **1.4 Research approach and methodology**

There are a number of methodological problems with regard to academic research in the field of human rights civil society:

- There is a lack of detailed empirical data on the non-profit sector and how the sector operates. Anheier refers in this sense to the non-profit sector as the “lost continent on the social landscape of modern society”.<sup>7</sup> Though the situation has improved in recent years, it is a serious impediment in researching this sector;

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<sup>7</sup> Helmut K. Anheier, *The third sector: comparative studies of nonprofit organisations*, Berlin and New York, De Gruyter, 1990, p. 8.

- There is a lack of representative data on human rights NGOs because the limited research that has been undertaken refers to a small number of cases only;
- There has been no research on the topic human rights NGOs *and* professionalisation. The available research on human rights NGOs consists, according to Cingranelli and Richards of any of the four types: case studies of individual human rights NGOs; comparative studies of a select number of human rights NGOs<sup>8</sup>; studies of the work of human rights NGOs in specific countries or regions and, fourthly, studies of the political processes surrounding human rights standard setting and enforcement.<sup>9</sup>

As there is a wide variety of approaches and methods available for conducting research<sup>10</sup> the explorative character of this study was decisive in the choice for the *survey approach*. The survey approach can be characterized by its wide and inclusive coverage and empirical character. As there is a lack of empirical data in this particular field, it was deemed most useful. Within the survey approach four methods are available: questionnaire, interview, analysis of documents and observation.<sup>11</sup> In the present study a combination of three different methods and sources of information will be used: questionnaire, interview and analysis of documents. The three different methods will be explained in more depth now.

#### 1.4.1 Questionnaire

Denscombe<sup>12</sup> considers as advantages of a questionnaire: the wide coverage, the moderate expenses, the elimination of effect of personal interaction with researcher and the ability to design and work with pre-coded data. Disadvantages include a poor response rate, incomplete or poorly completed answers and the limitations in checking the truthfulness of answers. The questionnaire (which can be found in Annex One) was constructed based on the research question and aimed at the perception of leading figures in the human rights movement on

<sup>8</sup> The most recent report is from Todd Landman and Meghna Abraham, *Evaluation of nine non-governmental human rights organisations*, Policy and Operations Evaluation Department of Netherlands Ministry of Foreign Affairs (working document), The Hague, 2004.

<sup>9</sup> David L. Cingranelli and David L. Richards, *Measuring the Impact of Human Rights Organisations*, in Claude Welch, *NGOs and Human Rights: Promise and performance*, Philadelphia, University of Pennsylvania, 2001, p. 225.

<sup>10</sup> Verschuren, Denscombe and Mason, *supra* note 6.

<sup>11</sup> Martyn Denscombe, *The Good Research Guide for small-scale research projects*, Buckingham and Philadelphia, Open University Press, 1998, pp. 6-30 and pp. 87-108.

<sup>12</sup> Idem, pp. 105-107.

professionalisation of human rights NGOs.<sup>13</sup> These leading figures are from the classical human rights NGOs in Europe that *primarily* work on human rights issues. This implies that for example organisations working on human rights as a secondary aim, like environmental NGOs or Fair Trade organisations, are not included in this research because they address human rights issues but not as a primary objective. That is not to underestimate the importance and the significant impact non-primary human rights NGOs can have on improving human rights. The author of this study also acknowledges that there are not always clear separation lines between for example human rights and development aid NGOs. In fact, in a recent report it is concluded that some human rights NGOs perceive implementing activities that are not strictly human rights-related. Particularly those organisations involved in technical assistance felt that at times they were carrying out activities that were more akin to those carried out by development NGOs.<sup>14</sup>

Having made the limitation to focus only on human rights NGOs, I am aware that there are many different kinds of human rights NGOs working on different (international, regional, national and local) levels and different topics. The choice to send the questionnaire to the forty-two member organisations of the International Helsinki Federation (IHF) is based on the fact that the Helsinki Committees are rooted in national and local civil societies in Europe: they are mandated to work in their respective countries of residence<sup>15</sup> which was an important consideration because in this way the NGO relation with the NHRI and the human rights consultancy firm can be compared. The questionnaire was distributed by e-mail with the kind support of the International Secretariat of the IHF in Vienna. The number of returned questionnaires, however, was unfortunately very low: only fourteen percent was returned.<sup>16</sup> However, all respondents are relatively 'high up in the hierarchy' of the respective organisations: except for one respondent, all are (executive) director. This somehow compensated for the low response. The average age of the respondents is forty-six years old

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<sup>13</sup> For a more balanced picture, the present study would have benefited from conducting interviews and distribution of questionnaires to NHRIs and human rights consultancy firms too, but this was time and resource-wise not feasible.

<sup>14</sup> See Todd Landman and Meghna Abraham, *Evaluation of nine non-governmental human rights organisations*, Policy and Operations Evaluation Department of Netherlands Ministry of Foreign Affairs (working document), The Hague, 2004, p. 124.

<sup>15</sup> That is the reason why Amnesty International did not qualify for this research because Amnesty International member organisations do not work in their country of residence.

<sup>16</sup> Six out of forty-two questionnaires were returned. The countries were Latvia, Romania, Bulgaria, Austria, Albania and Azerbaijan. See Annex 1b for more details.

and the respondents have been working averagely thirteen and a half years in human rights civil society at large and nine years in the organisation they currently work for.

The questionnaire contained both open and closed questions as well as statements and was divided in three parts: a first set of general questions on the NGO; a second set of questions on the professionalisation of the respective NGOs and a third set of questions on the professionalisation of human rights civil society at large.<sup>17</sup>

#### 1.4.2 Interviews

In order to get a broader picture and deepen the knowledge on professionalisation, while meeting some of the disadvantages of the questionnaire, in particular the low response, four interviews were conducted. Mason and Denscombe identify the depth of information obtained during an interview as one of the advantages of interviews especially in the case of an explorative research as the present study is.<sup>18</sup> Disadvantages include that it is time and resource consuming, that interviews produce non standard and not pre-coded responses and, finally, that there is an 'interviewer effect' and possibly inhibitions as a tape recorder is used. There are different forms of interviews: structured, semi-structured, unstructured, one-to-one, group and focus groups interviews. In this research, the semi-structured interview method is selected. Denscombe regards as its advantage that "the interviewer is prepared to be flexible in terms of the order in which the topics are considered, and (...) to let the interviewee develop ideas and speak more widely on the issues raised by the researcher."<sup>19</sup> An important disadvantage of the semi-structured interview is that the focus can disappear. The interview in the present study was semi-structured in the sense that four questions were formulated around which the interviewee could express her or himself (see Textbox One).

Given the interdisciplinary character of the study, it was decided to approach four people representing different strata in the human rights movement: a donor, a human rights educator, a staff member of an international human rights organisation and a staff member of a local

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<sup>17</sup> The first draft was adapted based on feed back from my supervisor and fellow students. A thorough pre-testing phase though was not implemented due to time and resources limitations.

<sup>18</sup> Other advantages include the flexibility, validity and the high response rate. See Martyn Denscombe, *The Good Research Guide for small-scale research projects*, Buckingham and Philadelphia, Open University Press, 1998, pp. 109-137; and Jennifer Mason, *Qualitative researching*, London, SAGE, 2003, pp. 38-59.

<sup>19</sup> Martyn Denscombe, *The Good Research Guide for small-scale research projects*, Buckingham and Philadelphia, Open University Press, 1998, p.109.



human rights NGO. The four persons interviewed belonged to the professional network of the author of this report and were expected to add valuable perceptions to the topic of the study.<sup>20</sup>

1. What is your definition of the “professionalisation of the human rights civil society”?
2. Is there, and if so, what is the difference between a human rights activist and a human rights professional. What are the differences, if any?
3. One aspect of professionalisation is human rights as a profession, connected to qualifications that a human rights activist or a human rights professional should have. Which one do you think one needs to have?
4. Can one learn to be(come) a human rights activist/ professional and if so, what do you regard as adequate human rights schools or education?

**Textbox 1: Four questions used in the interview**

The person representing the human rights educator is Ms. Antje Rothmund, Executive Director of the European Youth Centre Budapest of the Council of Europe (CoE). The person representing the donor is Ms. Emily Martinez, Manager of the Human Rights Advocacy Programme of the Open Society Institute Budapest. The international Human Rights NGO is represented by Mr. Scott Long, Director of the Lesbian Gay, Bisexual and Transgender Rights Project of Human Rights Watch (HRW). Finally, the local Human Rights NGO is represented by Ms. Györgyi Tóth, staff member of the Hungarian NGO Nane (women's right NGO).<sup>21</sup> Transcripts were made after each interview and the transcripts have been sent to the respective persons for verification. The transcripts can be found in Annex Two.

### **1.4.3 Documents**

The last method is the analysis of documents such as books and journals, magazines and (inter) governmental publications. The documents are mainly secondary literature on human rights and civil society theory. This includes academic literature but also reports of the International Council of Human Rights Policy (ICHRP), Amnesty International (AI) and other organisations. Some documentation was obtained through references from virtual fora.<sup>22</sup> Whenever materials were found on the Internet utmost efforts were made to verify the

<sup>20</sup> Whereas this fact increased the willingness to participate, it may also have affected the representativeness of the research.

<sup>21</sup> Two interviews were conducted in Budapest, one in Salzburg and one by phone due to the inability to meet in person.

<sup>22</sup> See for example [www.nhri.net](http://www.nhri.net) and [www.globalpolicy.org](http://www.globalpolicy.org).

information obtained. In particular, in the absence of literature on human rights consultancy firms, most information on this particular topic has been retrieved through the Internet and additional email-correspondence with two of the firms. With regard to this data collection method, the researcher has been aware of the different criteria for assessing documentary sources: authenticity, credibility, and representativeness.<sup>23</sup>

### **1.5 Reliability, validity and generalisations**

These three interrelated concepts touch upon the quality of the data collected during this study. Validity refers to “measuring what you say you are measuring”; reliability involves the accuracy of the research methods and techniques, including the combination of different techniques at the same time, whereas generalisability refers to the extent to which one can make wider claims on the basis of the results.<sup>24</sup> As pointed out, the three different research techniques gave some problems as the number of returned questionnaires and the number of interviews conducted is not big enough to make generalizing conclusions. Due to these methodological problems encountered in the data collection phase, the analysis of literature and documents should be regarded as the main source of information in this study. For this reason, quotes and examples given from the questionnaire and interviews are mainly illustrative but cannot be given more authority than that.

### **1.6 Disclaimers**

Though this study does not have a particular geographical focus, it is clearly referring to European, and to a lesser extent, Northern American human rights organisations and institutions. Within the European focus the European Union is in the centre of attention. This geographical limitation has purely pragmatic grounds, though it is not unlikely that the fact that human rights NGOs started in Europe and the USA explains why the professionalisation debate started in this part of the world. A second demarcation is related to the explorative character of the study. Within the time and resources available it was decided not to make a detailed comparative organisational analysis between human rights NGOs, NHRIs and human rights firms. A case study of each one of the three institutions would have offered interesting perspectives. This, however, would go against an important premise of this study, namely to focus on the macro context in which the different institutions operate. Other approaches could

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<sup>23</sup> Martyn Denscombe, *The Good Research Guide for small-scale research projects*, Buckingham and Philadelphia, Open University Press, 1998, p. 167.

<sup>24</sup> Jennifer Mason, *Qualitative researching*, London, Sage, 2003, p. 24.

also have brought interesting aspects to the surface, for example an analysis of the *impact* of different actors in the human rights field. Finally, the professionalisation of human rights *civil society* is the topic of this study. I will thus not look at the professionalisation of intergovernmental human rights organisations such as the UN<sup>25</sup> or developments on the state level<sup>26</sup>, though I acknowledge that there are interesting developments in this area.

### 1.7 Linguistic and other considerations

As Michel Foucault has shown, constructing and using a particular discourse, which I will contribute to with this thesis, is an influential exercise, as discourse can be used in different strategic ways serving a particular group or segment in society. Discourse is understood by Foucault as “a multiplicity of discursive elements that can come into play in various strategies”.<sup>27</sup> For that reason, one constantly has to keep in mind what is said by whom in what particular institutional context. The task of the reader is to question and deconstruct the arguments made and one needs a constant awareness of the power that words, symbols and books have. At the same time Foucault stressed the discursive elements in the things that are *not* said or simply not written down and documented. This ‘silent discourse’ is especially relevant for the present study because professionalisation is, as those who have worked in human rights NGOs know, a frequent topic of conversation amongst non-profit NGOs. It has, however, not yet led to a systematic written discourse. This study attempts to construct this discourse and in that respect, the reader should be aware of the professional and personal discursive background of the author. I come from an activist, NGO background and have lived through the experience myself of *becoming professionalised*, which I tentatively understand as the shift from working as a volunteer to working as a paid employee in the human rights field. My own participation in the discussions on professionalisation undoubtedly has an impact on how I approach this topic in this study.



<sup>25</sup> See, for example, on the UN and professionalisation I. Martin, *A new frontier: the early experience and future of international human rights field operations*, in <<Netherlands Quarterly of Human Rights>>, vol. 16 (2), 1998, pp. 121-139; and A.H. Henkin (ed), *Honoring Human Rights – From peace to Justice*, Washington, the Aspen Institute, 1998, pp. 71-95.

<sup>26</sup> So, for example Austria has a human rights officer in every state-ministry, who keeps a cross-ministerial and cross-sector focus on human rights.

<sup>27</sup> Michel Foucault, *The history of sexuality*, London, Penguin Books, 1978, pp. 100-102.

After this introductory chapter where the problem has been briefly presented, Chapter Two will focus on the concepts civil society and human rights NGOs. The theoretical framework of this study will be elaborated by the use of civil society theory. Chapter Three will discuss professionalisation of human rights NGOs in relation to developments in the (Western European) society they are operating in. The results of the survey and the interviews will be integrated in this section. Chapter Four will focus on NHRIs and human rights consultancy firms and Chapter Five will analyse these findings in the light of the theoretical framework. Chapter Six will present final conclusions, followed by a bibliography and annexes, containing the questionnaire results and the interview transcriptions.

## Chapter 2: Civil society and human rights NGOs

This chapter focuses on two core concepts of this study: civil society and human rights NGOs. Civil society will be the focus in the first paragraph of this chapter with a special emphasis on NGOs as one of the main actors in civil society; in the second section of this chapter the focus will shift to human rights NGOs after which civil society theory will be elaborated upon.

### 2.1 Civil Society: a definition

An almost obligatory excuse that many scholars make before writing on civil society is that there is no commonly agreed definition of civil society. Indeed, as many authors argue, civil society is a very broad term for a wide variety of civil initiatives ranging from community groups, environmental organisations, sport organisations, bowling clubs to religious groups. Some authors argue that the concept has “acquired a strikingly plastic moral and political valence” because it has been used so often.<sup>28</sup> Or, as Long stated during the interview:

“From the late eighties, early nineties on, both at the highly theoretical level in writers like Habermas and on a more practical level of political science, there has been a real *fetishisation* of the concept of civil society as the alternative to the state now that most of the big authoritarian states have collapsed. It is a place where people can continue to be political without being co-opted into the state structures.”<sup>29</sup>

This definitional problem is unlikely to be solved in the present study - nor is it the aim - but the approach advocated in this study may shed some light on the broad range of institutions, organisations and groups in the civil society that are also known as the “non (or: not for) profit”, the “voluntary” or the “third” sector.<sup>30</sup> The latter term expresses the “alternative to the disadvantages associated with both profit maximization and bureaucracy by combining the flexibility and efficiency of markets with the equity and predictability of public bureaucracy.”<sup>31</sup> This phenomenon is also known as the response of civil society to both market and state failure. Though, as I will argue at the end of this chapter, the strict distinction between state, market and civil society is not longer a feasible concept, it is characteristic for

<sup>28</sup> Nancy Rosenblum and Robert C. Post, *Civil Society and Government*, Princeton, Princeton University Press, 2001, p. 1.

<sup>29</sup> Interview with Scott Long of Human Rights Watch. See annex 2.

<sup>30</sup> Compare the different definitions given by, *inter alia*, Nancy Rosenblum and Robert C. Post, *Civil Society and Government*, Princeton, Princeton University Press, 2001; and Simone Chambers and Will Kymlicka, *Alternative conceptions of civil society*, Princeton, Princeton University Press, 2002.

<sup>31</sup> Mary Kaldor, H.K. Anheimer, M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 7.



most civil society literature. For the time being I take the simplest definition possible and define civil society as “the space between the state and the market.” However, the lack of consensus on a definition of civil society cannot be justified by the lack of empirical research on civil society: much has been written on this topic; one can distinguish between quantitative and qualitative research.

### 2.1.1 Quantitative research and publications

With regards to quantitative empirical research the *Index on Civil Society project* and the *John Hopkins Comparative Nonprofit Sector Project* should be mentioned. The latter is a comparative study of civil society in twenty-two, mainly developed and European countries.<sup>32</sup> More recently a global dimension has been added to empirical civil society research and publications. These studies show the economic force of civil society: for example, the non-profit sector in the twenty-two countries examined employs around nineteen million full-time equivalent (fte) paid workers and non-profit expenditures average 4.6% percent of the gross domestic product.<sup>33</sup> This figure does not even include volunteer input: approximately 28% of the population in these countries contributes their time to non-profit organisations, which would add another 10.6 million fte employees. It also presents a wide variety of data on the diversified composition and structure of civil society: two thirds of civil society activity is in the fields of education (30%), health (20%) and social services (18%), closely followed by recreation and culture (14%). Human rights activities and organisations are not specified as such but are part of advocacy activities, which only play a marginal role in the overall civil society activities. Unfortunately, and this is one of the typical weaknesses of this type of global civil society research, the overwhelming amount of figures and tables remains abstract and does not provide a deeper insight in particular issues or types of organisations. So, no specific data can be found in the *Global Civil Society 2003* report on the exact scale of the human rights civil society because human rights NGOs are part of a bigger cluster on law, policy and advocacy.<sup>34</sup>

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<sup>32</sup> More on the John Hopkins Comparative Nonprofit Sector Project can be found in L.M. Salamon, H.K. Anheimer et al, *Global civil society. Dimensions of the Nonprofit Sector*, Baltimore, John Hopkins Center for Civil Society Studies, 1999. More on The Index on Civil Society project can be found at <http://www.civicus.org/new/default.asp>.

<sup>33</sup> L.M. Salamon, H.K. Anheimer et al, *Global civil society. Dimensions of the Nonprofit Sector*, Baltimore, John Hopkins Center for Civil Society Studies, 1999, pp. 8-39.

<sup>34</sup> Mary Kaldor, H. Anheimer, M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 346 (Table 19).

### 2.1.2 Qualitative research and publications

An ever-increasing body of literature is dedicated to civil society. While authors like Edwards and Keane have recently contributed with essayistic reflections on global civil society<sup>35</sup>, others have tried to identify and describe some general trends. For example, the *Global Civil Society 2003* report concludes that the introduction of Internet as a new and efficient way of communication and the new phenomenon of Social Forums are characteristic of an ever-dynamic civil society. The report also explains the immense expansion over the last three decades:

“ The growth and expansion of global civil society seems closely associated with a major shift in cultural and social values that took hold in most developed market economies in the 1970s. (...) These values facilitated the cross-national spread of social movements around common issues that escaped conventional party politics, particularly in Europe and Latin-America, and led to a broad-based mobilisation with the women's, peace, democracy, and environmental movements as the best examples of an increasingly international 'movement industry'.”<sup>36</sup>

The expansion of and importance attached to civil society is also reflected on the level of the UN where Secretary General Kofi Annan appointed a special panel on UN-civil society relations that has recently presented recommendations on how to involve civil society organisations better in UN affairs.<sup>37</sup> Referring to an important premise of the present study, the *Global Civil Society 2003* report moves away from the usual market, state and civil society continuum. Instead the report presents an overview of different *roles* by which civil society manifests itself (see Table One). This angle has its merits and innovation in the sense that it shows the trend that civil society, traditionally perceived as “ Activist ” has diversified over time and also evolved into service provision and subcontracting. This latter manifestation of civil society is characterised by the report as “ New Public Management ”. The other manifestation of civil society, “ Corporatisation ”, applies to NGOs that cooperate with business and they are a growing feature of global civil society during the last decade of the last century. What can be seen here - and relevant for the development of my theoretical framework - is that NGOs belonging to the “Corporatisation ” and “ New Public Management” apply market-oriented methods and work close with companies.

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<sup>35</sup> John Keane, *Global civil society?*, Cambridge, Cambridge University Press, 2003; and Michael Edwards, *Civil Society*, Cambridge, Polity, 2004.

<sup>36</sup> Mary Kaldor, H. Anheier and M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 29.

<sup>37</sup> See United Nations, *Panel on civil society relations sees a networked UN*, press release, UN Department of Public Information, New York, 2004.

Form	Main actor	Example
<i>New Public Management</i> Civil society organisations as sub-contractors to robust national and IGO policy-making	NGOs and devolved government	Oxfam, World Vision, Save the Children
<i>Corporatisation</i> : Civil society organisations partnering with companies	NGOs and TNCs	Nike and GreenPeace; Starbucks and World Wildlife Fund
<i>Social capital or self-organisation</i> : civil society building trust through networking	NGOs and associations; alternatives	Community building organisations, faith-based communities
<i>Activism</i> : civil society monitoring and challenging power-holders	Movements, transnational civic networks	Global Witness; Corporate Watch; Social Forums

Table 1: Manifestations of civil society<sup>38</sup>

There is a clear dividing line between the first two categories on one hand and the second two manifestations of civil society, “Activism” and “Social Capital”, on the other hand. The latter two symbolize the idea of independence from market and state; the “Activism” includes the new phenomenon of social forums that are a “source of dissent, challenge and innovation, a countervailing force to government and the corporate sector.”<sup>39</sup> In fact it could be asked whether social forums are the *response* to the “New Public Management” and “Corporatisation” segments of civil society. Also other authors signal this development: Lewis and Wallace describe this difference as the service contractor’s role some NGOs got in versus the advocacy role of NGOs.<sup>40</sup> Considering civil society in terms of manifestations is a useful concept I will return to.

<sup>38</sup> Mary Kaldor, H.K. Anheier, M. Glasius, (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 8 (table adapted).

<sup>39</sup> Idem, pp. 9-10. On the rising number of people attending social forums see also John Keane, *Global civil society?*, Cambridge, Cambridge University Press, 2003, pp. 57-65.

<sup>40</sup> For example Lewis and Wallace in discussing development NGOs identify NGO as ‘service contractor’ versus NGOs as ‘grassroots organisations and community organising’. See D. Lewis and T. Wallace, *New roles and relevance: Development NGOs and the challenge of Change*, Connecticut, Kumarian Press, 2000, p. x of Introduction.



With regards to other qualitative empirical research on civil society, some literature examines the growing involvement of non-governmental organisations in international organisations like the UN.<sup>41</sup> These publications confirm that NGOs have increased their importance and play an important role in advocacy, drafting of policies and making the civic voice heard. NGOs have also increased their influential role in drafting and monitoring of international legal instruments as was shown by what some consider as “ the ‘excessive’ role played by NGOs at the Rome Conference that in 1998 adopted the Statute of the International Criminal Court. ”<sup>42</sup>

The fastest growing set of publications within civil society research, however, is on *accountability, transparency and legitimacy*. Recent publications in this field include the *Power without accountability* report.<sup>43</sup> This report compares the accountability of eighteen intergovernmental organisations (IGOs), transnational corporations (TNCs) and international NGOs. The report shows that NGOs have long considered themselves exempted from the pressure to be transparent about their organisational structure, their working methods and their results. I will return to this discussion in Chapter Three. Though it would be too limited to argue that civil society only consists of NGOs, taken into account the wide variety of groups, associations and civil initiatives, my main focus in this research is on human rights NGOs. Therefore the focus will now turn to NGOs.

### 2.1.3 NGO: the search for a definition

Like the concept of civil society, it is not easy to define what a NGO is. In fact, it seems that there is a more developed discourse on *fake NGOs* than on real NGOs. An often quoted, though not exhaustive, typology in this respect is provided by Holloway and Fowler<sup>44</sup> who offer the classification as shown in Table Two.

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<sup>41</sup> See, *inter alia*, Thomas G. Weiss, *Beyond UN Subcontracting. Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, 1996.

<sup>42</sup> Menno Kamminga, *The evolving status of NGOs under international law: a threat to the inter-State system?*, in G. Kreijen (ed.), *State, sovereignty and international governance*, Oxford, Oxford University Press, 2000, p. 387.

<sup>43</sup> Hetty Kovach, Caroline Neligan and Simon Burall, *The Global Accountability Report 2003: Power without accountability?*, London, One World Trust, 2003.

<sup>44</sup> Cited in N. Markovic, *The end of history: the beginning of the New Challenge for Civil Society (Post communist versus the Global Perspective)*, in *MA Theses selected for publishing Academic Year 2002-2003*, Sarajevo, The Center for Interdisciplinary Postgraduate Studies of the University of Sarajevo and Istituto per l'Europa Centro-Orientale e Balcanica, University of Bologna, Sarajevo, 2003, p. 314.

Name	Meaning
BRINGO (Briefcase NGO)	An NGO which is no more than a briefcase carrying a well written proposal
Come NVO (Come and Go NGO)	An NGO that appears spasmodically; only used by the owners when the NGO pasture looks greener
CONGO (Commercial NGO)	NGOs set up by businesses in order to participate in bids, help win contracts, and reduce taxation
CRINGO (Criminal NGO)	Organisation established for illegal purposes- especially import-export (smuggling)
FANGO (Fake NGO)	NGO used as a front for something else
MANGO (Mafia NGO)	A criminal NGO providing services of the money laundering and enforcement and protection variety

Table 2: Typology of fake NGOs

The dictionary defines a non-governmental organisation as “an organisation that is independent from governments and their policies”<sup>45</sup>. This definition is hardly useful as it only focuses on the *formal* link between the state and those parts of society that do not belong to the state. Kamminga<sup>46</sup> instead introduces a negative formulation and argues that NGOs are:

1. not established or controlled by states (which distinguishes NGOs from IGOs)
2. not seeking to overthrow governments by force (which distinguishes NGOs from liberation movements and armed opposition groups);
3. not trying to acquire state power themselves (which distinguishes NGOs from political parties);
4. not seeking financial profit for their own sake<sup>47</sup> (which distinguishes them from companies);
5. not disrespecting the law (which distinguishes NGOs from criminal organisations).

<sup>45</sup> See <http://www.wordiq.com>.

<sup>46</sup> Menno Kamminga, *The evolving status of NGOs under international law: a threat to the inter-State system?*, in G. Kreijen (ed.), *State, sovereignty and international governance*, Oxford, Oxford University Press, 2000, p. 90.

<sup>47</sup> In relation to this point the ICHRP specifies that ‘what distinguishes NGOs from businesses is that such activities are expected to be secondary to their social goals; and that any profits they generate should properly be devoted to those goals. Whereas the main purpose of businesses (many of which also support social programmes and objectives) is to make money for those who own or invest in the business concerned, the primary purpose of NGOs is (or should be) the achievement of social change or social objectives; financial interests and activity are secondary.’ See the International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 29.

Though this definition seems attractive, problems arise with the phrase “not controlled by states” because control can be interpreted in many ways. Kamminga probably means direct control but this does not cover the less visible - but nonetheless powerful - *Weberian* forms of control, for example in the way how states rationalise their work<sup>48</sup> and define the relationship with NGOs in terms of funding and decision making processes. This may be harder to determine but is still control. I will return to this point in Chapter Three when the new relations between state and civil society are described. There is thus a need for an alternative description of NGOs. Korten distinguishes between<sup>49</sup>:

- Voluntary Organisations<sup>50</sup> (VO) that pursue a social mission driven by a commitment to shared values;
- Public Service Contractors (PSC) that function as market-oriented non-profit businesses serving public purposes;
- People’s Organisations (PO) that represent their members’ interests, and
- Governmental Organised Non-governmental Organisations (GONGOs).

The shortcoming of this classification is that it is based on the American development aid NGOs only. Referring to the different attempts for definition, all of them have as disadvantage that the classifications rather focus on the organisational format without defining what the actual *role* of NGOs in the wider civil society is. In this study I therefore take the holistic approach of the Global Civil Society Report 2003 that focuses on the different *roles* of NGOs in the triad civil society, market and state, as shown in Table One.<sup>51</sup>



<sup>48</sup> Max Weber’s definition of the rationalization process refers to the practical application of knowledge to achieve a desired end. It leads to efficiency, coordination, and control over both the physical and the social environment. It is a product of ‘scientific specialization and technical differentiation’ that seems to be a characteristic of Western culture. It is the guiding principle behind bureaucracy and the increasing division of labour. It is also associated with secularisation, depersonalisation, and oppressive routine. Increasingly, Weber believed human behaviour is guided by reason to master the natural and social environment to achieve a desired end.

<sup>49</sup> David C. Korten, *Getting to the 21<sup>st</sup> century. Voluntary Action and the Global Agenda*, Connecticut, Kumarian Press, 1990, p. 2.

<sup>50</sup> Or Private Voluntary Organisation (PVO), see Thomas Weiss, *Beyond UN Subcontracting. Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, p. 31.

<sup>51</sup> Mary Kaldor, H. Anheier, M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 8.

#### 2.1.4 The status of NGOs under international law

Despite the prominent role of NGOs in society the position of NGOs under international law remains a subject of debate. Kamminga considers NGOs on the following four dimensions: the capacity of NGOs to conclude treaties, the capacity of NGOs to participate in treaty-making, the capacity of NGOs to bring international claims and the capacity to incur liability under international law. He concludes that the formal status of NGOs under international law is 'extremely weak', which is due to the fact that there are only two relevant legal instruments concerning NGOs with its own peculiar complications.<sup>52</sup> The first one is ECOSOC resolution 1296 (1968)<sup>53</sup> followed up by 1996/31 (1996) by which the consultative status of NGOs at the UN is arranged. This resolution can be considered as an implementation of Article 70 of the UN charter that states that:

"The Economic and Social Council may make suitable arrangements for consulting with non-governmental organisations which are concerned with matters within its competence. Such arrangements may be made with international organisations and, where appropriate, with national organisations after consultation with the member of the United Nations concerned."<sup>54</sup>

Though over 1600 NGOs enjoy consultative status with ECOSOC<sup>55</sup> not all NGOs enjoy the same consultative status: the resolution distinguishes between three categories of NGOs consultative status, which give different (speaking) rights to NGOs. The second instrument is the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations, which entered into force on 1 January 1991.<sup>56</sup> It consists of eleven short articles and arranges that an international NGO duly incorporated in one European country is automatically recognized as such in other European countries. Indeed, as Kamminga points out, those who perceive NGOs as a threat to the inter-state system are overreacting though he acknowledges that there are issues related to the transparency and accountability of NGOs. Moreover, it should be stressed that *domestic* law is much more

<sup>52</sup> Menno Kamminga, *The evolving status of NGOs under international law: a threat to the inter-State system?*, in G. Kreijen (Ed.), *State, sovereignty and international governance*, Oxford, Oxford University Press, 2000, pp. 387-406.

<sup>53</sup> ECOSOC Resolution 1296 (XLIV) - *Arrangements for Consultation with Non-Governmental Organisations*, ECOSOC, 1520th plenary meeting, 23 May 1968, New York, 23-5-1968 UN; and ECOSOC Resolution E/1996/31 - *Consultative relationship between the United Nations and non-governmental organisations*, ECOSOC, New York, 25-7-1996 UN.

<sup>54</sup> United Nations, *United Nations Charter*, San Francisco, 1945.

<sup>55</sup> Menno Kamminga, *The evolving status of NGOs under international law: a threat to the inter-State system?*, in G. Kreijen (ed.), *State, sovereignty and international governance*, Oxford, Oxford University Press, 2000, p. 391.

<sup>56</sup> European Convention No. 124 on the *Recognition of the legal personality of international NGOs*. Adopted 24/04/1986; entry into force 01/01/1991.

relevant for NGOs as those laws determine the legal personality and possibly offer tax exemptions to NGOs in the country of residence.

## **2.2 Human rights NGOs**

Now that the overall context of civil society and NGOs is explored, the following paragraphs will provide a short overview of the history of human rights NGOs, the main actors in the human rights civil society and some related aspects of their work. This will provide the basis for exploring the professionalisation of human rights civil society in the next chapter.

### **2.2.1 History and some facts about human rights NGOs**

The development of the human rights civil society is a recent phenomenon in modern history which is closely connected to the evolution of the international human rights system. In order to understand the development of the human rights movement, it is imperative to consider the different stages in which the international human rights system has evolved.<sup>57</sup> The first stage (the normative foundation, 1945-1948) begins with the adoption of the UN Charter and the proclamation of the Universal Declaration of Human Rights (UDHR). The second stage (1949-1966) was largely dominated by the drafting of the two International Covenants on Human Rights (ICCPR and ICESCR). These covenants defined the basic human rights obligations that states had accepted by ratifying the UN Charter. In this period also the Refugee Convention (1951) and the Convention on the Elimination of Racial Discrimination (1965) were adopted. The third stage (1967-1989) can be categorized as institution building and the consolidation of universal and regional treaty based monitoring mechanisms. They had to ensure state compliance with their international obligations. Also other conventions were adopted in this period like CEDAW in 1979. The fourth and last stage, starting with the decay of communist regimes in the former East bloc in 1989, is characterised by three shifts. The first is the shift in focus from the behaviour and obligations of governments to violations of human rights committed by non-state actors: the concept of international responsibility for human rights is being expanded to include individuals and companies. The second shift is a renewed interest by the international community in the establishment of international norms

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<sup>57</sup> Drzewicki distinguishes the phases Idealization, Conceptualisation, Juridization (with substages Positivization and Normativization) and Realisation. See Krzysztof Drzewicki, *Internationalization of Human Rights and Their Juridization*, in Raija Hanski and Markku Suksi (eds.), *An introduction to the International Protection of Human Rights: A textbook*, Abo, Abo Akademi University, 1999, pp. 25-47. Compare with the more general phases in Thomas Buergenthal, *The normative and institutional evolution of International Human Rights*, in <<Human Rights Quarterly>>, vol. 19, 1997, pp. 703-723.



and institutions for the protection of individuals belonging to minorities. The third element is the action taken by the UN Security Council to deal with large-scale human rights violations by authorizing enforcement measures under the powers of Chapter VII of the UN Charter.

### 2.2.2 Relevant legal documents for human rights NGOs

The ECOSOC resolutions 1296 (1968)<sup>58</sup> and 1996/31 (1996)<sup>59</sup> offer the framework for human rights NGOs to work in the UN structures. Many human rights NGOs are among the over 1600 NGOs that enjoy consultative status with ECOSOC.<sup>60</sup> Moreover, there is also a special UN document in relation to human rights NGOs: the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, usually abbreviated to the *Declaration on human rights defenders*.<sup>61</sup> The drafting process of this Declaration, which was not without political sensitivities, started in 1984. The 1993 World Conference on Human Rights reaffirmed the commitment to promote and protect universal human rights and fundamental freedoms in accordance with the Charter of the United Nations and called for the speedy completion and adoption of the then still draft Declaration.<sup>62</sup> However, it took until 1998 with the adoption of the text by the General Assembly on the occasion of the fiftieth anniversary of the UDHR.

Though the Declaration is not a legally binding instrument, its principles and rights are based on human rights standards enshrined in other international instruments that are legally binding, such as the International Covenant on Civil and Political Rights. The Declaration addresses not just states and human rights defenders, but *everyone* and provides for the support and protection of human rights defenders in their work. The Declaration contains the rights to conduct human rights work individually and in association with others; to form associations and non-governmental organisations; to seek, obtain, receive and hold information relating to human rights and to make complaints about official policies and acts

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<sup>58</sup> ECOSOC Resolution 1296, *supra* note 53.

<sup>59</sup> ECOSOC Resolution E/1996/31, *supra* note 53.

<sup>60</sup> Menno Kamminga, *The evolving status of NGOs under international law: a threat to the inter-State system?*, in G. Kreijen, (ed.), *State, sovereignty and international governance*, Oxford, Oxford University Press, 2000, p. 391.

<sup>61</sup> United Nations General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, GA Resolution 53/144 of 9 December 1998.

<sup>62</sup> *The Vienna Declaration and Programme of Action*, June 1993, Part II, paragraph 94.

relating to human rights and to have such complaints reviewed. It also contains a right to receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad). The Declaration also contains particular references to the role of states, for example the obligation to take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. Importantly, as I will show in Chapter Four, this obligation ensures and supports the creation and development of independent national institutions for the promotion and protection of human rights: National Human Rights Institutions.

However, as the former High Commissioner for Human Rights, Mary Robinson, pointed out, more efforts are needed in order to create an uncompromising commitment to real, adequate, and immediate protection of human rights defenders:

“Adoption (of the Draft Declaration) alone is not enough- declarations need implementation. The assassination of human rights activists is a brutal reminder of the price being paid by those who devote their lives to the protection of human rights.”<sup>63</sup>

### **2.2.3 Structure, mandate and classification of the main human rights NGOs**

The human rights movement developed along the historical lines as described in this chapter. Most human rights NGOs were founded in the post Second World War period and they defined their mandate deriving from the UDHR and its two International Covenants. The main international human rights NGOs are the International League for Human Rights (ILHR), the Lawyers Committee for Human Rights (LCHR), Human Rights Watch<sup>64</sup>, the International Human Rights Law Group (IHLRG), International Commission of Jurists (ICJ) Amnesty International<sup>65</sup> and the International Helsinki Federation.<sup>66</sup> There is not one single

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<sup>63</sup> Statement by Mary Robinson, former High Commissioner for Human Rights at the closing session of the 54<sup>th</sup> session of the Commission on Human Rights, Geneva (24 April 1998).

<sup>64</sup> Human Rights Watch started in 1978 as Helsinki Watch, to monitor the compliance of Soviet bloc countries with the human rights provisions of the Helsinki Accords. In the 1980s, Americas Watch was set up to counter the notion that human rights abuses by one side in the war in Central America were somehow more tolerable than abuses by the other side. The organisation grew to cover other regions of the world, until all the "Watch" committees were united in 1988 to form Human Rights Watch.

<sup>65</sup> Amnesty International was founded in 1961 by a British lawyer and is now the biggest human rights organisation with more than one million members, subscribers and regular donors in more than 140 countries with more than 410 staff members.

<sup>66</sup> In 1983, representatives of a number of the Helsinki committees (who were operating since 1976, first Committee in Moscow) founded the IHF to provide a structure through which independent Helsinki committees could support one another and strengthen the human rights movement.

organisational model or structure that prevails across these organisations: some have a fully international mandate, others have the status of a federation or other regional grouping based in different countries and again others that focus on one or several countries. Some have loose federated structures, like the IHF, while others have more centralised structures.<sup>67</sup> Another way to classify human rights organisations can be on the basis of the following criteria:

1. On the basis of their aims;
2. According to the specific activities they undertake;
3. In terms of their relationships with victims (of human right violations) on the one hand, and sources of power, on the other;
4. In terms of their ideological orientation;
5. According to the degree of their involvement in the work of the United Nations.<sup>68</sup>

Following the manifestations-approach as visualised in Table One, the actual manifestations of human rights NGOs become most obvious in the activities NGOs undertake. For that reason, this second criterion is most relevant for the present study.

#### **2.2.4 Focus points, sort of rights and working methods of human rights NGOs**

Following the state centred approach of human rights law, human rights NGOs until the late 1980s focused on human rights abuses of repressive governments and dictatorships. After 1989 most human rights NGOs started to acknowledge that not only states commit human rights abuses and they started to pay more attention to the role of non-state actors like Trans National Corporations, private businesses and armed (rebel) groups. The second shift refers to the inclusion of social, economical and cultural rights in the work of human rights NGOs. The traditional focus was on civil and political rights and after 1989 one can observe a more inclusive approach to social, economic and cultural rights though HRW did not change its mandate until 1997. This period also witnessed a third shift from a sole emphasis on human rights violations committed in the public to human rights abuses committed in the private sphere, like domestic violence. More recently harmful cultural practices like female genital mutilation are included in the work areas of human rights NGOs. A fourth shift is that human

<sup>67</sup> Todd Landman and Meghna Abraham, *Evaluation of nine non-governmental human rights organisations*, Policy and Operations Evaluation Department of Netherlands Ministry of Foreign Affairs (working document), the Hague, 2004, p. 125.

<sup>68</sup> The International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 25.



rights NGOs started to work on the rights of specific *marginalized groups* like disabled people and lesbians, gays, bisexuals and transgenders (LGBT). Figure One shows the specialised areas human rights organisations are nowadays working on.

A fifth shift refers to the action repertoire of human rights NGOs: in the first phases of the human rights movement this was characterised by researching, monitoring abuses and criticising governments. This *confrontational model* has developed and diversified over time into more *co-operative models* of working, which is shown in the closer cooperation between human rights NGOs and states for example in human rights organisations training police and justice civil servants.<sup>69</sup> Moreover, the acknowledgment that co-operation with the corporate sector is crucial in fighting human rights abuses led human rights NGOs to start working with companies: Amnesty International has a business group<sup>70</sup> and the Danish Institute for Human Rights developed a business human rights assessment tool.<sup>71</sup> In this respect human rights NGOs do not only fit in the “Activism” but also in the “New Public Management” and “Corporatisation” manifestations of civil society. However, researching, advocacy and monitoring human rights abuses remain core activities of human rights NGOs which is also confirmed by the results of the questionnaires and by some interviewees.<sup>72</sup>

Closely related to the above mentioned shifts is the emergence of expertise, research - and competence centers, like the European Training and Research Centre for Human Rights and Democracy (ETC) set up in 1999 in Austria<sup>73</sup> or the Expertise Centre Age and Society since 1994 in the Netherlands, which is solely dealing with age as a human right issue and as an anti-discrimination ground. Both the ETC and the Expertise Centre Age and Society are registered as NGOs and non-for profit by nature but put more emphasis on research and training and less on advocacy and political action in the way how the classical human rights organisations as HRW or Amnesty International work.

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<sup>69</sup> Idem, p. 23.

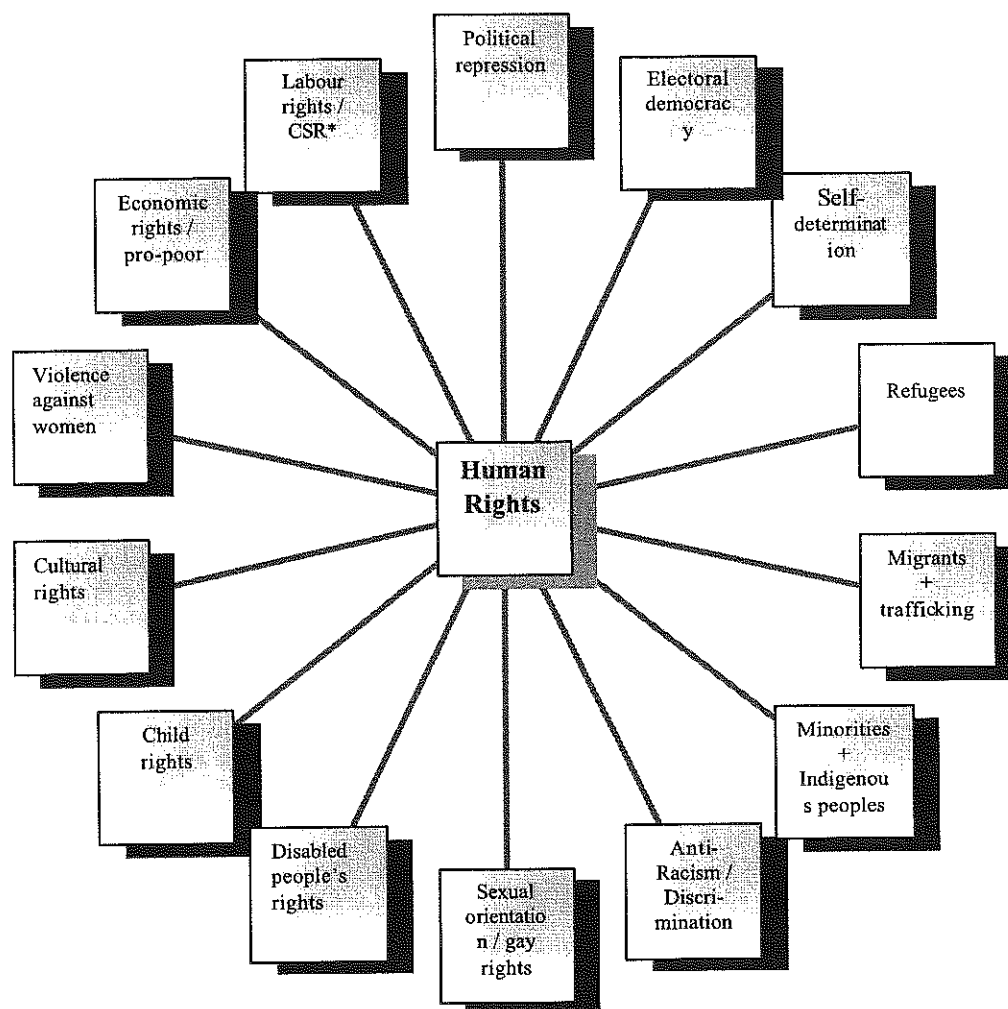
<sup>70</sup> See <http://www.amnesty.org.uk/business/index.shtml>.

<sup>71</sup> See <http://www.humanrightsbusiness.org>.

<sup>72</sup> See Annex One (results of questionnaire) and Annex Two: interview with Scott Long.

<sup>73</sup> More on the *Expertise Centre Age and Society* (formerly known as the National Office against Age Discrimination) can be found at <http://www.leeftijd.nl>. More on the *European Training – and research Centre for Human Rights and Democracy* can be found at <http://www.etc-graz.at>.

Figure 1: The working areas of human rights NGOs<sup>74</sup>



<sup>74</sup> The International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 25.

### 2.2.5 Conclusion

As this paragraph has shown, one can observe a gradual and steady growth of the human rights civil society after the Second World War. Though human rights NGOs are very diverse and went through different developments, one can identify the following working methods they apply in their work<sup>75</sup>: standard setting, research, information gathering, verification and dissemination, lobbying, advocacy, monitoring of legislation, campaigning, providing assistance to victims of human rights abuses, providing other services, legal advice, education and training. Confrontational models were over time complemented by more cooperative ways of working. In this way human rights NGOs found a *modus vivendi* with the challenges of the modern times. However, as will be showed in the subsequent chapters, new 'professional' developments are occurring, for which new responses have to be formulated.

### 2.3 Civil society theories

The previous paragraphs showed that NGOs and civil society are often defined in relation to the state and the market. This defining feature leads the present study to civil society theory, which needs to be described before understanding the professionalisation currently taking place in the human rights civil society. The focus of civil society theory is on the boundaries (or elements) of civil society. The relation between state, market and civil society is the main feature of theories on civil society. These theories pose the question what is part of civil society and what is or ought not to be part of it. Edwards categorizes these kinds of theories as analytical models of civil society.<sup>76</sup> A second characteristic of civil society theory is that it is generally highly normative and poorly empirically based. Or as Long put it during the interview:

"The people who are doing general civil society theory are dealing with the ideal notion of the NGO which is very remote from the facts."<sup>77</sup>

The normative theories pose, according to Edwards<sup>78</sup>, the question for the ideal type of civil society. A purely normative definition of civil society has as disadvantage that it alienates

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<sup>75</sup> Claude Welch, *NGOs and Human Rights: Promise and performance*, Philadelphia, University of Pennsylvania, 2001, p. 3.

<sup>76</sup> Michael Edwards, *Civil Society*, Cambridge, Polity, 2004, p.10.

<sup>77</sup> Interview with Scott Long, see annex 2.

<sup>78</sup> Michael Edwards, *Civil Society*, Cambridge, Polity, 2004, p.10.

itself from the complex and diverse reality by which civil society is characterised. Civil society considered as something that ought to be is likely to be applauded, cherished and seen as something good and leave out violent, anti democratic groups or organisations that are also part of civil society. In contrast, a more empirically based definition of civil society can balance the mere theoretic picture. Still, however, as Glasius rightly points out, the fact that normativity is a character trait of civil society theory, justifies “to conceive of civil society as an empirical category with normative traits.”<sup>79</sup>

Chronologically and roughly speaking one can distinguish between three set of theories: the classical (Greek) theories on civil society; modern theories, the main ones being the classical liberal theory, the critical theory and the liberal egalitarian theory and thirdly and more recently the set of global civil society theories. I do not intend to present the entire range of civil society theories here; that has been done extensively elsewhere.<sup>80</sup> I will focus here on the three modern theories of civil society but it should be noted from the outset that there is not *one* classical liberal or *one* critical theory of civil society. Rather these theories are comprised of streams and paradigms usually connected to certain authors. In the following, the classical liberal, the critical theory and the liberal-egalitarian view on civil society will be briefly discussed. In the last paragraph of this chapter the different theoretical positions will be summarized and assessed on their value for explaining the research question.

### 2.3.1 The classical liberal view

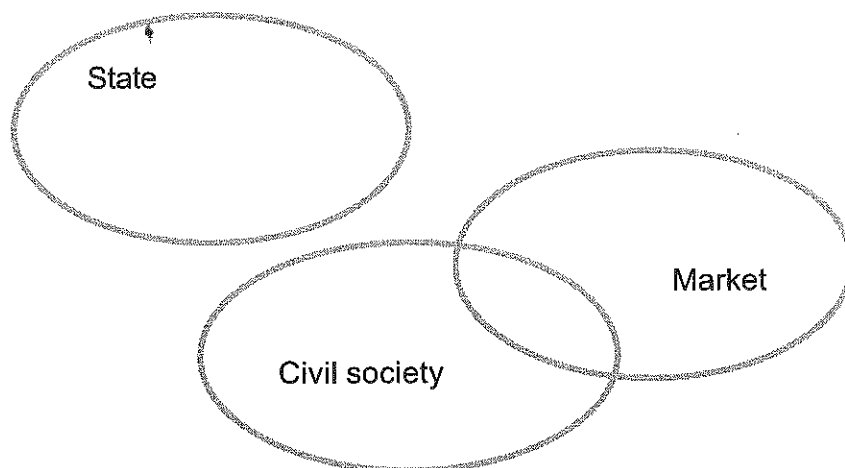
The classical liberal philosophy has been inspired by Aristotle, natural law and utilitarianism. The classical liberal view on civil society derives from the minimalist role these theorists assign to the state: civil society will run itself and the only role the state has, is to provide a basic (legal) framework, including ensuring civil liberties like the freedom of speech and association. For other issues the state should stay out: the state intervention into civil society must be minimal. Civil society is “the community that delegates authority to government, and civil society is the body within which ultimate authority resides.”<sup>81</sup>

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<sup>79</sup> Marlies Glasius, *Civil society: a very brief history*, London, Centre for Civil Society, London School of Economics, 2001, p. 4.

<sup>80</sup> However, it should be noted that other very interesting contributions on civil society have been written from the point of view of feminism, Islam and the Jewish tradition. See Simone Chambers and Will Kymlicka, *Alternative conceptions of civil society*, Princeton, Princeton University Press, 2002; and Nancy L. Rosenblum and Robert C. Post, *Civil Society and Government*, Princeton, Princeton University Press, 2001.

<sup>81</sup> Nancy L. Rosenblum and Robert C. Post, *Civil Society and Government*, Princeton, Princeton University Press, 2001, p. 27.



**Figure 2: The relations between civil society, state and market according to the classical liberal view.**

The classical liberals have thus a very inclusive definition of civil society: churches, media and business are all part of it. Given this inclusive definition it is not surprising that the classical liberals perceive the “market” as part of the civil society. Figure Two shows the relations.

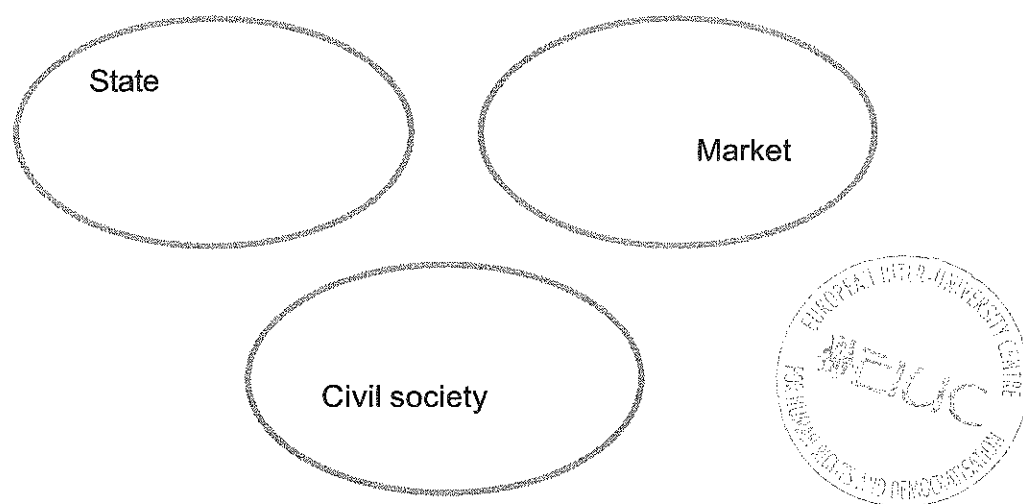
### 2.3.2 Critical theory

The critical theory of civil society is part of a longer tradition of social and political criticism usually identified with the *Frankfurt School*, as it comprises a group of left wing intellectuals from different disciplines who worked in the Frankfurt Institute for Social Research.<sup>82</sup> The qualification ‘critical’ refers to Kant’s idea of a *critique*, whereby a certain phenomenon is analysed from within that phenomenon itself. Applied to civil society it thus means that the (acts of) institutions, the organisations that together compose civil society, are under scrutiny. Habermas, one of the most famous critical theorists, identified civil society as “the locus of communicative action and reason”.<sup>83</sup> For Habermas civil society is a pluralistic network of associations, organisations and movements that emerge from the “lifeworld” of a society, which he defined as “the background against which all social interaction takes place.” Civil society functions as a threshold against the two systems of state and economy. Civil society, state and market are strictly separated in the line of thinking of the critical theorists because “

<sup>82</sup> Protagonists of the first generation of the Frankfurt School include Adorno and Horkheimer. Critical theorists of the second generation include Habermas.

<sup>83</sup> Detlef Horster, *Habermas zur Einführung*, Habermas, Hamburg, Junius Verlag, 1990, pp. 80-87.

these systems operate according to a different logic.”<sup>84</sup> As *power* rather than *communication* is the medium through which the state operates, *profit* is the medium through which the market operates. Figure Three shows the relation according to the critical theory.



**Figure 3: The relations between civil society, state and market according to the critical theory.**

For Habermas a central role of civil society is to alleviate while resisting the “colonizing tendencies” of state and economy. Habermas views civil society as the purest expression of the values of rational dialogue; he believes that free communication will be the catalyst of self-chosen interest. A central role is assigned to *communication* that he believes is the guarantee for a free and healthy civil society and thus democracy. One of Habermas’ basic ideas is that, in our (Western) societies, there is an ambiguous tension. On the one hand there is the ideal of rational and unlimited communication, embodied in the freedom of speech which is realised, to a bigger or smaller extent, in the public sphere: people publishing books and writing for newspapers, professors enjoying academic freedom, NGOs and other people criticising the government. On the other hand, however, there is the way other social spheres function: the market economy, which has profit, and not communication as its principle of functioning, and the state bureaucracy where *power*, and not communication, is the driving force. Habermas has often expressed his fear that the public sphere, where communication and dialogue are still the main values could soon be taken over by or absorbed into the other spheres.<sup>85</sup> The current trends of media concentration in the hands of a few

<sup>84</sup> Simone Chambers and Will Kymlicka, *Alternative conceptions of civil society*, Princeton, Princeton University Press, 2002, p. 93.

<sup>85</sup> Jürgen Habermas, *Further Reflections on the Public Sphere*, in C. Calhoun (ed.), *Habermas and the Public Sphere*, Cambridge, MIT Press, 1992, p. 444.

powerful persons, as recently shown in a report adopted by the European Parliament<sup>86</sup>, and more newspapers and media channels obeying principles of the greatest profit rather than contributing to the information and political-civic formation of the citizens confirm Habermas' fear.

Habermas proposes to erect a dam against the encroachment of system imperatives on the area of the 'lifeworld'. This requires maintaining a functional separation of state and society and the institutionalisation of a political public sphere in the 'lifeworld' that is autonomous from the organisation of political and economic power. In that way, communication and discourses are not confined to any particular organisational space but open to a diversity of public debates. Habermas' views converge on this point with those who advocate a revitalisation of civil society as a space of democratic self-organisation where countervailing responses to government and the corporate sector are to be formulated.<sup>87</sup>

However, Habermas also realises that NGOs can be bureaucratic organisations and to some extent driven by power and hierarchic or driven by money. Or as Long put it:

"There is certain reluctance with the idea that NGOs can actually be more authoritarian than many existing state structures. You can have state structures that are highly participatory and you have NGOs that are not participatory at all."<sup>88</sup>

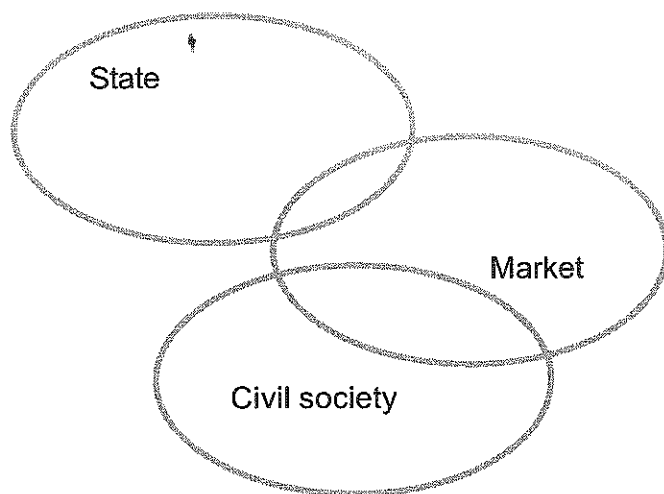
### 2.3.3 Liberal egalitarianism

The third and last theory on civil society to be presented is the liberal egalitarian theory. Liberal egalitarianists, of whom John Rawls is the main contemporary representative, can be considered as a kind of middle form between liberal and socialist principles. The liberal egalitarianists combine a liberal commitment to individual freedom with an egalitarian commitment to ensuring a fair distribution of resources and opportunities. The market is considered as a part of civil society but the forces that bring about inequalities should be corrected, restrained and controlled by the state.

<sup>86</sup> Johanna Boogaard, *Report on the risks of the violation in the European Union and in particular Italy of the freedom of expression and information* (article 11, paragraph 2 of the Charter of Fundamental Rights), 2003/2237 (INI), Committee on Freedoms and Rights of Citizens, Justice and Internal Affairs, 2004.

<sup>87</sup> See the links with the Manifestations of Civil Society in Table One.

<sup>88</sup> Interview with Scott Long, see Annex Two.



**Figure 4: The relations between civil society, state and market according to liberal egalitarianism.**

The state and civil society are two separated spheres but they operate for the same common objective, namely social justice and the public good. The strong drive for a fair and egalitarian (civil) society allows the state to interfere in civil society and the market but both have their own dynamic and responsibilities.

#### **2.4 Conclusion: discussion of the different theories**

This overview outlined different views within civil society theory on the relations between state, civil society and market. All three theories offer interesting perspectives for analysing human rights civil society. The classical liberal theory offers the most realistic description in terms of current existing relations between the state, civil society and the market. The classical liberals diverge from the more normatively loaded critical theory that separates state, civil society and the market which is an unrealistic picture of life. However, that is not to say that the present study positions itself unconditionally in the tradition of the classical liberal theory. While acknowledging this point of the classical liberal theory, I liase myself with the critical theory with regards to its positive appreciation of the communicative strength of civil society, and its potential to play a catalyst role in bringing about change in society, which is not led by political power or the drive for profit maximization. I consciously use the word *potential* here because some segments of civil society are not characterized by this idealistic and communicative feature, like fake NGOs. However, by stressing, or revitalising, the social capital and activist roles that civil society can play, new societal and 'professional'



developments can be assessed. It leads too far, nor is it realistic, to completely separate the three sectors as critical theory tends to do.

In the next chapter, I will focus on a particular development in human rights civil society: professionalisation. After outlining the context in which professionalisation has evolved and identification of the linguistic and conceptual roots of this term, dimensions of professionalisation in human rights civil society will be highlighted. It is exactly here where the discussion on the relations between market, state and civil society will return in the analysis: by analysing the roots and the perceptions of professionalisation one can understand the *colonising* influence the state and the market have had on professionalisation of human rights civil society.

## Chapter 3: Professionalisation

### 3.1 Introduction: the context of a 'professionalising' human rights civil society

Only recently, the term professionalisation is mentioned in academic publications on civil society. Though the focus in this study is on human rights civil society, it should be emphasized that other civil society segments have touched upon this issue before, as have intergovernmental organisations like the UN. Particularly in comparison with humanitarian and development aid NGOs<sup>89</sup>, the amount on academic literature on professionalisation of human rights civil society is very limited.<sup>90</sup> An explanation for this could be that human rights NGOs have long considered that the very mandate of their work and the impact of their work will be reduced if their ways of working are made public and that they thus require certain discretion - with the result that human rights NGOs remain a *tabula rasa* for scientific scrutiny. This is also pointed out by Martinez who, while referring to human rights NGOs in their role as 'watchdog', stated:

"I think human rights groups have different constraints compared to other NGOs: they are not necessarily in a good relationship with their government and can face more constraints and can be kicked around in the media because of controversial reports they release about the human rights organisations in their country."<sup>91</sup>

In contrast, however, this point should not be exaggerated and is not the same for a human rights NGO working in Africa compared to human rights NGO working in (Western) Europe for whom it is probably a useful *smoke screen* not to open up. In any case, as the term is randomly used without a clear definition in place, there is a need to clarify the different definitions of professionalisation as found in the literature, complemented by definitions identified in the questionnaires and provided by the four interviewees.<sup>92</sup>

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<sup>89</sup> In general, see D. Lewis and T. Wallace, *New roles and relevance: Development NGOs and the challenge of Change*, Connecticut, Kumarian Press, 2000.

<sup>90</sup> Refer generally to The International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003; and to a lesser extent Claude Welch, *NGOs and Human Rights: Promise and performance*, Philadelphia, University of Pennsylvania, 2000.

<sup>91</sup> Interview with Emily Martinez, see annex 2.

<sup>92</sup> See annex 1 and 2 for a summary of the results of the questionnaires and the interview transcriptions. Note that the first two working hypotheses as formulated Chapter One refer to this chapter.

Before focusing on the definition, I take into account some of the contextualising factors that influenced civil society. This is necessary because NGOs do not develop in a vacuum but are influenced by changing concepts of governance, donor requirements and accountability.

### **3.1.1 The impact of changing relations between the state, market and civil society**

In the last twenty years, changing perspectives on the role of the state in many (Western) European societies led to rolling back the role of the state, privatisation of state companies and a reform of the welfare system. Initially, optimistic expectations of the market made people believe that dynamic market imperatives would be successful in taking over many of the state's tasks. However, and necessarily in a nutshell, the big financial crisis in Asia in the last decade and some disappointing privatisation projects made political leaders worldwide question this neo-liberal consensus and the problem-solving capacity of and blind trust in 'invisible market forces'. As French Prime Minister Lionel Jospin once said: "Yes to a market economy, no to a market society".<sup>93</sup> The well known Middle or Third Way, endorsed by social democrats, opened up a new perspective for civil society to play a strategic role in between market forces and a previously automatic reliance on the state. The result is, as shown before, that the economic role and functions of civil society have increased.

At the same time, and as a corollary of (public) management reforms, new arrangements between state and civil society were set up. The state developed the concept of *partnership* with civil society which enabled the state to privatise public services and address the problems of public administration while mobilising civil society in sharing its expertise and knowledge and giving it a say in decision-making. From the 1980s onwards one observes a substantial number of NGOs moving from advocacy to service delivery.<sup>94</sup> Long perceives this as follows:

"This is part of larger phenomena that the market has become our dominant model for everything. (...) One of the results is that more and more NGOs are going into service provision because it is a realm that works in a way that so 'many clients come in, so many clients come out, and we have done this to them in the meantime'. It happens because it is easier for NGOs to justify oneself by service provision than by the more manipulative benchmarks of trying to achieve political change. However, it also suits the goal of a certain neo-liberal agenda. And you start to see that under Thatcher in Britain and during Reagan where progressive groups were told that they could get money if they change their agendas from political action to

<sup>93</sup> Quoted in Mary Kaldor, H.K. Anheier, M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p 5.

<sup>94</sup> Despite that this development is mentioned in many articles, there are no hard figures on actual numbers of NGOs, let alone human rights NGOs that made this move.

providing services. It was great for governments that were already cutting back on services because you could sort of bribe civil society and provide all the welfare benefits that previously the state had been accustomed to provide. That is becoming a general model.”<sup>95</sup>

This move from political (advocacy) action to service provision is one of the characteristics of the neoliberal impact on NGOs in the 1980s and 1990s where state policy has manoeuvred NGOs into specific patterns of organising. Examples include Ireland, where HIV/AIDS advocacy groups developed into service provision<sup>96</sup> and the Netherlands, where expertise centers like the Expertise Center Age and Society were set up as NGOs in the 1990s in order to provide special expertise to the government. This shift from advocacy to service provision is critically assessed by the ICHRP: “Human rights organisations are not merely agencies providing technical expertise that can be evaluated according to how efficiently they meet their targets.”<sup>97</sup> And Long again:

“Human rights are not service provision. We are trying to serve people but we are not trying to serve them in this philanthropic, therapeutic sense. We are, I presume, trying to serve them in the sense of also changing the contexts and the situations, which result in their vulnerability and in their victimisation, and trying to empower them. And you cannot put that into a service provision model.”<sup>98</sup>

However, from the point of view of the state, an advantage of this partnership approach is that the previously centralistic way of working of governments is now reversed by an approach characterised by more cooperation, using civil society’s expertise, which is also an acknowledgement of and an appreciation for the work of NGOs. Some, however, point out that there is a big gap between rhetoric and reality in relation to the extent in which civil society is really involved in decision-making processes. As Otaka points out:

“Partnership is frequently seen as a device used by the state for ‘buck passing’ its role, de-radicalising community protest, privatising poverty and a ‘trading-off’ between partnership and participation.”<sup>99</sup>

Also other authors<sup>100</sup> point to the reverse effects that partnership arrangements can have for co-opting the radical potential of civil society.

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<sup>95</sup> Interview with Scott Long, see annex 2.

<sup>96</sup> For example Section 75 of the Northern Ireland Act obliges northern NGOs to adopt explicit policy expertise, which serves the state more than the NGOs. See also footnote 73 on these expertise centers.

<sup>97</sup> The International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p.1.

<sup>98</sup> Interview with Scott Long, see annex 2.

<sup>99</sup> Kendo Otaka, *Partnership: A New Mechanism of Local Governance?*, Ulster, University of Ulster, 2001, p. 4.

The donor requirements and funding framework that go hand in hand with the partnership approach consists of governments and intergovernmental organisations “contracting out” specific work to NGOs. This phenomenon is also known as “subcontracting” or “outsourcing” governmental policy. It implies that the state chooses to implement policies and deliver services through contractual partnership relationships with agencies and NGOs. Instead of giving a grant for idealistic work, as was the case in the 1970s and beginning of the 1980s, NGOs are nowadays increasingly obliged to show in detailed project applications and budgets, using *Logical Frameworks*, what they perform for the funds they receive.<sup>101</sup> Competitive grant proposal procedures are sometimes part of the procedures to obtain funding, especially for European Union projects. For example, the European Initiative for Democracy and Human Rights (EIDHR) regularly releases ‘call for proposals’ in the field of human rights. These EIDHR funds are intended to finance NGO projects up to 1.500.000 Euro. An interesting aspect in this regard is the *different* procedures the EU has in place for funding ‘own’ EU actions (political priorities for the EU). For this, a so-called ‘call for tenders’ for projects up to 200.000 Euro is in place, mainly simplified tendering procedures for consultancy firms in order to speed up the implementation of small-scale projects worldwide. I will return to this topic in the discussion on human rights consultancy firms.

Weiss raises the question whether subcontracting NGOs for service delivery is a useful and accurate model. Though Weiss approaches this question from the UN’s perspective, what is at stake for the present study is his position on NGOs in their new role as subcontractor. Weiss argues that “increased public financing through contracts may weaken the NGO capacity for independent initiative.”<sup>102</sup> The same warning can be found in an Irish research; while pointing out that an industry of competitive tendering of services has come up, Boyle points out that:

“From the perspective of voluntary and community organisations, there is a balance to be maintained between their increasing direct role in policy development and implementation (...) and maintaining an independent advocacy voice for the individuals and groups they represent.”<sup>103</sup>

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<sup>100</sup> D. Lewis and T. Wallace, *New roles and relevance: Development NGOs and the challenge of Change*, Connecticut, Kumarian Press, 2000, p. xvi.

<sup>101</sup> All major funding agencies including the European Commission oblige NGOs to include a detailed Logical Framework in their application. Logical Frameworks are detailed tables in which overall aims, methodology, budget and activity plans have to be outlined. Special software has been developed for this end.

<sup>102</sup> Weiss, Thomas G., *Beyond UN Subcontracting: Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, 1996, p. 32.

<sup>103</sup> Boyle, R., *Maintaining voluntary sector autonomy while promoting public accountability: managing government funding of voluntary organisations. Working paper No. 1: The evolution of funding, accountability*

A recent evaluation report of the Dutch Ministry of Foreign Affairs, in which nine human rights NGOs are compared, provides some empirical evidence for Boyle's allegation:

"All the organisations have been able to maintain their independence *vis à vis* donors, governments, and IGOs, but the international advocacy work of some organisations and technical assistance projects of others have started to transform them from NGOs into quasi-autonomous NGOs (QUANGOs)."<sup>104</sup>

### 3.1.2 Accountability

In a climate of changing donor requirements, it comes as no surprise that also new demands in relation to accountability for (not only) funds are introduced. Three related concepts usually appear in this discussion: *accountability*, *transparency* and *legitimacy* of NGOs<sup>105</sup> - concepts not unique for the NGO sector, as accountability has become an issue for TNCs and IGOs before. Accountability can simply be described as the duty to provide (not only) a financial account or reckoning of those actions for which one is held responsible.<sup>106</sup> Internal accountability and external accountability are usually distinguished which is clearly shown in Table Three: the *Global Accountability Project's (GAP) model of accountability* which outlines eight dimensions of accountability. Actors to whom NGOs are accountable include executive board or trustees, staff and volunteers, consultants, members, funding agencies, governments, beneficiaries, other human rights organisations and agencies. Moreover, organisations are accountable for observing international human rights standards, respecting their by-laws and mission or mandate and respecting legal and fiscal laws.

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*and contractual relationships between the government and the voluntary and community sector*, Royal Irish Academy Third Sector Research Programme, 2002, Dublin, p.5.

<sup>104</sup> Landman, Todd, Meghna Abraham, *Evaluation of nine non-governmental human rights organisations*, Policy and Operations Evaluation Department of Netherlands Ministry of Foreign Affairs (working document), the Hague, 2004, p. 125.

<sup>105</sup> In general see the International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003; and Hetty Kovach, Caroline Neligan and Simon Burall, *The Global Accountability Report 2003: Power without accountability?*, London, One World Trust, 2003. Also see <http://www.transparency.org>.

<sup>106</sup> See International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p.12.



Internal Stakeholder Accountability	External Stakeholder Accountability
<b>Dimension 1 Member Control</b> Reflected by how an organisation is governed and the degree of control members have over its actions	<b>Dimension 5 External Stakeholder Consultation</b> Reflected by how an organisation involves external stakeholders in its decision-making processes
<b>Dimension 2 Appointment of Senior Staff</b> Reflected by the procedures for recruiting and retaining senior staff within an organisation	<b>Dimension 6 Complaints Mechanisms</b> Reflected by how an organisation enables those most affected by its decisions to register their complaints about its actions and the follow-up mechanisms in place to ensure that these complaints are acted upon
<b>Dimension 3 Compliance Mechanisms</b> Applies only to IGOs and is reflected by the power an organisation has to enforce its decisions on member states	<b>Dimension 7 Corporate Social Responsibility</b> Reflected by how an organisation manages, evaluates and reports on its social and environmental impact
<b>Dimension 4 Evaluation Processes</b> Reflected by what aspects of an organisation's work are evaluated, how this is done and reported to the public	<b>Dimension 8 Access to Information</b> Reflected by the degree of information provided by the organisation to the public

Table 3: The GAP Accountability framework<sup>107</sup>



One of the main conclusions of the *Power without Accountability* report is that NGOs are less accountable and transparent than IGOs and TNCs: "International NGOs provide less online information about their activities than IGOs and TNCs."<sup>108</sup> For some, in particular those who liase with the anti-globalist movement, this conclusion may come as a surprise, especially taken into account that organisations, such as the World Bank and the WTO, often portrayed as non-transparent, score much better than organisations as Amnesty International and Oxfam. It should be stressed however that this conclusion is based on the criterion 'access to online'

<sup>107</sup> Hetty Kovach, Caroline Neligan and Simon Burall, *The Global Accountability Report 2003: Power without accountability?*, London, One World Trust, 2003, p.3.

<sup>108</sup> Idem, p. iv.

information sources' whereas inclusion of other criteria such as 'quality of decision-making processes' may give a different or at least more complete picture.

Though public scrutiny and accountability of human rights NGOs are to be applauded, the literature on accountability of NGOs has hardly recognized that these concepts are "borrowed uncritically from the corporate sector" as Lewis and Wallace describe it.<sup>109</sup> As such it could be seen as an expression of the *colonisation* of market logic into civil society, as Habermas would argue.

### 3.2 Professionalisation of the human rights civil society

Taking into consideration the context as just described, I will now explore the different meanings given to this often used, but poorly defined term which carries many ambiguities and interpretations in itself. After some linguistic considerations I will turn to relevant literature and integrate the results of the interviews and questionnaires in the analysis.

#### 3.2.1 Linguistic considerations

An important starting remark with regard to the literature on professionalisation is that the word often appears in *quotation marks*. For example in a discussion on development NGOs and their staff Samuel states that "the need to create professionally competent and efficient NGOs led to the 'professionalisation' of development work, by creating a new labour market for development professionals."<sup>110</sup> In another context Korten refers to "the pressure from donors and others to 'professionalise' the staff."<sup>111</sup> This is a general discursive characteristic in the use of the word professionalisation. A second important linguistic aspect of the use of the word professionalism is put forwarded by Rothmund, who refers to the way how discourse is constructed:

"I think that human rights activism is a word that is much more present in public language knowledge than human rights professionalism."<sup>112</sup>

<sup>109</sup> D. Lewis, T. Wallace, *New roles and relevance: Development NGOs and the challenge of Change*, Connecticut, Kumarian Press, 2000, p. 12.

<sup>110</sup> John Samuel, *Changing Development Discourse* (draft discussion paper), National Centre for Advocacy Studies, 2003, p. 7 (accessed through <http://www.ncasindia.org/>).

<sup>111</sup> David C. Korten, *Getting to the 21<sup>st</sup> century. Voluntary Action and the Global Agenda*, Connecticut, Kumarian Press, 1990, p.103.

<sup>112</sup> Interview with Antje Rothmund, see annex 2.



Referring to Foucault, this point shows the necessity for constant awareness of and the need to deconstruct discourses in order to objectively scrutinize a subject. Having said that, I start the journey with the dictionary which is a safe point of departure. As some dictionaries do not have a definition of the noun professionalisation itself it can be derived from the verb "to professionalise" or the noun "professional."<sup>113</sup> The Open Dictionary defines the verb "to professionalise" as "to become professional or proceed in a professional manner or in an activity for pay or as a means of livelihood." The second definition is: "to make professional or give a professional character to." The Cambridge dictionary provides a definition of the adjective "professional" as (1) related to work that needs special training or education; (2) having the qualities that you connect with trained and skilled people, such as effectiveness, skill, organisation and seriousness of manner; (3) describes someone who does as a job what people usually do as a hobby; (4) having the type of job that is respected because it involves a high level of education and training. From the dictionary it can be concluded that professionalisation somehow refers to work or a job for which one is paid, distinguished from work one does in her or his free time as a volunteer (not paid), an activist or as a hobby. Or as Rothemund put it:

"In my sort of boxes of definitions I would always make a difference between people who do things as volunteers and people that do things as profession, earn money."<sup>114</sup>

Secondly, professionalisation seems to be connected with specialised skills, training, education and competencies. These and other aspects will return in the following paragraphs. However, it should be emphasized that this is not an exhaustive list of meanings and dimensions though it is the most comprehensive and structural effort made so far in systematizing professionalisation of human rights civil society.

### **3.2.2 First dimension: professionalisation versus volunteerism and activism**

The expressions "human rights professionalism" and "human rights activism" are sometimes contrasted though all four interviewees pointed out that the two concepts do not necessarily exclude one another. Referring to the first observation Martinez points out that

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<sup>113</sup> Compare <http://dictionary.cambridge.org>, <http://www.m-w.com> and the Open Dictionary.

<sup>114</sup> Interview with Antje Rothemund, see annex 2.

“ To me those two concepts are not necessarily different. You can have human rights activist who are very professional in their efforts and you have human rights professionals who are not very professional in their work. It is all a matter of experience, skills and training. And in my mind the best combination is professional well trained activists working on promoting human rights values.”<sup>115</sup>

Tóth expresses herself in similar terms:

“ I wish that all professionals were also activists- and I would not have to, but I often see that professionals believe that, and this probably has to do with the message that comes from society, that being involved and actually taking a stand rather than just being very scientific, and being very academic about the issue, would lower their level of expertise in the eyes of others. I think it starts the other way around. It is not that activists do not want to become professionals but rather that somehow some professionals at least are afraid to show some signs of activism. Because unfortunately many of them come and/or are directly related to that the part of society that is often also responsible for human rights abuses.”<sup>116</sup>

While referring to the *Global Accountability Project's model of accountability* Long points out that ideally:

“ The activist is someone who is responsible and accountable outside of the immediate structure of the organisation in which he works. Whereas a professional is someone who is accountable and responsible within that that structure.”<sup>117</sup>

Other differences between a human rights activist and a human rights professional mentioned are the *time factor*: “ a human rights activist is temporary or part time involved in human rights work whereas professionals work permanently or full time”; and the *idealism versus realism* aspect: “ a human rights activist is idealist and enthusiast, committed, well intended but not always well-versed on the professional arguments and theory; they are courageous, radical and maximalist in their demands.” Rothemund adds to this the historical dimension of the word activism:

“ I believe that the word activist is stemming from the time that when people that worked in civil society and sort of felt very strong about something, committed themselves to something engaged themselves into the combat against injustice be it human rights violations or others. They were particularly activist but volunteers.”<sup>118</sup>

The dichotomy between a voluntary, unpaid activist and those who get paid for work is also closely connected to the process of institutionalisation, understood as “ the transformation of informally organised groups or communities into formalised, structured NGOs.” Samuel, who wrote on development aid and relief NGOs in this respect stated:

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<sup>115</sup> Interview with Emily Martinez, see annex 2.

<sup>116</sup> Interview with Györgyi Tóth, see annex 2.

<sup>117</sup> Interview with Scott Long, see annex 2.

<sup>118</sup> Interview with Antje Rothemund, see annex 2.

“ This process of institutionalisation and professionalisation created tension between the spirit of voluntarism and the paid professionalism in the development field. While the new institutionalisation attracted a lot committed and competent professionals within the NGOs, it also created fundamental ethical contradictions within the voluntary development sector.”<sup>119</sup>

Whereas Long (an activist), representing an international human rights NGO, disapproves of this institutionalization as a “ funder driven development ” as it ensures the accountability the donor wants, Martinez (a donor) considers it as an expression of professionalisation:

“ When I think of a professional group I think of a group that has a strong institutional base (...); a developed enough funding base, so that they are able to work (...) and have an effective management, institutionalisation.”<sup>120</sup>

However, as I emphasized before, the activist and the professional are considered to be of a complementary nature. It cannot be argued that voluntary work is equated with *non*-professional and paid with professional. The four interviewees pointed out that the two concepts do not necessarily exclude each other; they are not necessarily different as Rothemund expresses:

“ Professionalism means that something has become a profession but it also means that you have skills and competences which make you specialist in a field or somebody who is more competent on a certain item than somebody else. And I believe you find nowadays lots of professionalism in the NGOs. This is where this idea of a volunteer, activist and professionalism working are blending, merging again.”<sup>121</sup>

That leads to the second dimension of professionalisation: competencies, training and skills.

### 3.2.3 Second dimension: skills, competencies and training

On this second dimension, professionalisation is linked with competencies and skills a human rights professional or a human rights organisation, has or should have in order to perform his or her task well, be it researching human rights abuses or providing a human rights education course. The outcomes of the survey suggest a distinction between formal qualifications (1), supportive skills and knowledge that one would need (2) and meta cognitive skills (3). The list is exhaustive but there are some general trends.

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<sup>119</sup> John Samuel, *Changing Development Discourse* (draft discussion Paper), National Centre for Advocacy Studies, 2003 (accessed through <http://www.ncasindia.org/>), p. 7.

<sup>120</sup> Interview with Emily Martinez, see annex 2.

<sup>121</sup> Interview with Antje Rothemund, see annex 2.

With regard to *formal qualifications* there is a wide consensus that having a law degree or at least a rudimentary understanding of the legal human rights system (domestically and internationally) is a strong prerequisite. However, a law degree only is not enough. One respondent expressed that a law degree could be substituted by a social science diploma, while another said that substantive experience with research and methodology can make up for the lack of a degree. Two respondents also stressed that they see it as a sign of professionalisation to “move away from pure advocacy to a policy of consciously basing the advocacy stances on professional analysis, using standard legal and social science (sociology, political science) methodologies.”<sup>122</sup>

In terms of *skills supportive for human rights work* the following skills were mentioned: project management skills, efficiency, field experience, languages or knowledge of certain countries. Moreover, sensitivity to (and cross cultural understanding of) other cultures, research and lobby skills as well as vision were mentioned. Long refers in this respect to the talents of an anthropologist or an ethnographer:

“For me, good human rights work and writing is a form of ethnography: it is listening to people’s story, recounting them in a way that makes them understandable to other people. It also contextualises, it is faithful to what they say and frames it.”<sup>123</sup>

Turning from the individual to the organisational level, a professional human rights NGO should according to Martinez have a researcher, a communicator and a good manager. While Long recognizes that human rights NGOs nowadays are staffed by lawyers or if not by lawyers by intellectuals with specialised expertise in, for example, communication, information technology or media communication, Rothemund remarks with regards to these professions being used by human rights NGOs that:

“Where I find it questionable is when this type of profession takes over the human rights activist profession, meaning a human rights NGO should be governed by the guide of human rights, not by pr or project management methodology, not by lobbying structures but all these means or specialist professions should be seen as a tool to reach human rights objectives.”<sup>124</sup>

The third set of skills are the *meta cognitive skills*, like commitment to the human rights cause, empathy and having a very strong set of human rights values also as an individual

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<sup>122</sup> See annex 1, summarized questionnaire results.

<sup>123</sup> Interview with Scott Long, see annex 2.

<sup>124</sup> Interview with Antje Rothemund, see annex 2.

person. Though it not the aim of the present study, it would be interesting to analyse to what extent the three different sets of skills, knowledge and qualifications as presented here, are actually taught in human rights (legal) training and educational programmes. It is not unlikely, given the domination of law in the human rights discourse, that there is an overfocus on legal skills and knowledge, and within that legal field a focus on standard setting and legislation rather than on the methods by which respect for human rights can be encouraged, for example campaigning and lobbying. As some respondents stressed interdisciplinarity in the human rights educational programmes, it is encouraging to observe that the philosophy of the European Master's Degree in Human Rights and Democratisation reflects this approach. Moreover, as some pointed out, the constant qualification improvement of staff<sup>125</sup>, or even to set aside a budget for staff qualification improvement points to an acknowledgement of *lifelong learning* in the human rights civil society sector, one of the main features of European educational policy.<sup>126</sup>

#### 3.2.4 Third dimension: market oriented methods and donor requirements

Referring to the different changes in the relation between the market, state and civil society, it appears that human rights NGOs have been affected and influenced by the new neo-liberal paradigm. The third dimension of professionalisation refers to some specific market principles and donor requirements that affect human rights civil society.

In trying to reach their goals some NGOs have adapted their action pattern from a confrontational approach to more cooperative models. As the *Global Civil Society 2003* report observes: "NGOs 'professionalise': under pressure from management gurus they increasingly adopt corporate strategies, as well as being increasingly open to partnerships with businesses."<sup>127</sup> A second aspect refers to the fundraising strategies of NGOs and the ability to meet and conform to donor requirements. Besides the well-known problems related to donor dependency and "projectization" of human rights work, NGOs are now facing increasing demands on donor accountability and rigid formats on how to obtain funds. Whereas

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<sup>125</sup> Although only professionalisation of staff of human rights NGOs is considered here, the professionalisation of board or trustees of NGOs should not be underestimated especially in relation to the ongoing 'managementization' of human rights NGOs, where managers and board members are not necessarily familiar with human rights issues.

<sup>126</sup> Though life long learning has not been thematized in relation to human rights, it is an area of interest for the future, given the dynamics of the human rights field.

<sup>127</sup> Mary Kaldor, H.K. Anheier, M. Glasius (ed), *Global civil society 2003*, Oxford, Oxford University Press, 2003, p. 9.

tendering procedures for human rights projects was a novelty a few years ago, nowadays human rights NGOs have to compete with others in a fashion that is run in a purely market driven way. These donor-imposed standards subsequently created a new profession of NGO fundraisers who consequently started to apply other market methods like public relations and marketing in order to increase the NGOs profile and improve the external communications of an NGO and its appeal to the public and to donors. The ICHRP report gives an example on a "moral dilemma" this can turn into:

"The press office considers that a high level of media coverage is necessarily desirable. The fund-raising department will agree, because media coverage generates profile, which generates income. In some cases, however, victims of abuse will benefit more from the absence of publicity- or a level of attention that is sufficient to spark their own government's interest, but will not be visible in the NGO's home country. Profile will fall as a result, and income will not be earned. Who, in the NGO, will take care to make such judgements?"<sup>128</sup>

This leads, according to Markovic, to

"A situation where a vast proportion of the NGO sphere is oriented towards the adequate response to the donors, and not to the vital interests of the society as a complex organism. Since some are better connected and adapted to the requirements of the sponsors, they gain more financial assets, unlike the weaker ones that do not enjoy such privileges. In this manner, regardless of how much an NGO might have identified a critical interest of a certain society, the simple non-compliance with plain administrative rules and often very rigid requirements, appears as a barrier. This leaves social space for the 'elite' civil sphere that in its professionalisation time and again forgets the very interests of the sphere that it should represent."<sup>129</sup>

In fact, as I will argue in the next chapters, the imposed donor requirements and state led colonising of civil society did not only facilitate the creation of new professions in human rights NGOs but even *new organisations*. In this regard, Edwards warns for the trend that NGOs alienate from their constituencies:

"There has been a worldwide professionalisation of the non-profit sector and a gradual distancing of associations from their social base - in part the result of foreign aid and government funding that is driven by strong neo-Tocquevillian tendencies among donors."<sup>130</sup>

<sup>128</sup> International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 137.

<sup>129</sup> N. Markovic, *The end of history: the beginning of the New Challenge for Civil Society (Post communist versus the Global Perspective)*, in *MA Theses selected for publishing Academic Year 2002-2003*, Sarajevo, The Center for Interdisciplinary Postgraduate Studies of the University of Sarajevo and Istituto per l'Europa Centro-Orientale e Balcanica, University of Bologna, 2003, Sarajevo, p. 312.

<sup>130</sup> Michael Edwards, *Civil Society*, Cambridge, Polity, 2004, p. 35.

Long therefore calls for *donors* to be educated in terms of using other benchmarks and indicators for measuring success of human rights projects: whereas most donors emphasize measurable *outputs* and *results*, the much wider and meaningful concept of *impact* is often neglected, because of the fact that it is less measurable and more long-term, or underestimated. Or as Long put it:

“ If I have to say where you tackle the problem start by educating the funders into respecting different benchmarks of success or failure than what they accept now. And being better and more creative better funders (...) because there is a difference between the way how you measure output in the corporate world versus the way to produce and measure output in the political world which is a strategic matter, evaluating the possible outcome, the situation, in order to get the best goal towards the best outcome and constantly revaluating that.”<sup>131</sup>

A final aspect under this heading is expressed by Weiss, who links the professionalisation debate with the (sub)contractor's role NGOs get into. He studied, as was mentioned before, the UN subcontracting work to NGOs as part of what he considers the “privatising” of world politics. While outlining the advantages that NGOs have in implementing UN policy (proximity to the field, flexibility and experience) he also draws the attention to the side effects of NGOs as subcontractees:

“ While the ‘contracting’ of NGOs by multilateral and bilateral agencies makes sense up to a point, it can undermine the essence of what makes them attractive and what makes them a genuine alternative to the public sector. Their priorities in terms of countries and locations within countries, their target groups, their approach and their choice of sectors can all be manipulated with generous contracting terms” which may lead to a situation in which “it may be expected that NGO directors will seriously weigh the benefits and costs of contracts to determine whether their terms of agreement as primary contractors for donors result in an unacceptable loss of autonomy or of flexibility to play a catalytic role.”<sup>132</sup>

In other words: Weiss points out that the much ascribed role of NGO as agents of change may be jeopardized if NGOs agree to become simple executors of (inter) governmental policies.<sup>133</sup> In that light Weiss suggests that NGOs whose core functions are advocacy for particular *controversial* issues are less likely to be selected as subcontractors of the UN. A final point

<sup>131</sup> Interview with Scott Long, see annex 2. See also International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 130.

<sup>132</sup> Thomas G. Weiss, *Beyond UN Subcontracting. Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, 1996, p. 38.

<sup>133</sup> Another example is expressed in a (criticised) paper of Kennedy where he calls ‘professional human rights performances (...) exercises in de-solidarization’, in D. Kennedy, *The International Human Rights Movement: part of the problem?*, in <<Harvard Human Rights Journal>>, Volume 15, 2002, p. 23.



Weiss refers to is the fact that "contracting NGOs has become a substantial business, but this market is now essentially unregulated."<sup>134</sup> This is an aspect I will return to.

### **3.2.5 Fourth dimension: the impact of the actions of human rights NGOs**

Internal organisational professionalisation can be interpreted as the introduction and application of internal regulations, screening of new volunteers, codes of conduct<sup>135</sup> and codes of ethics. As Tóth put it:

"I believe one point for us of professionalisation is to look at how to be more effective, how to avoid certain things; how to be more responsible towards an issue and also toward the individual that comes in contact with us, and towards the groups, towards whom we feel responsible and we are funded to help these groups. That is very important for us."<sup>136</sup>

On an external level, this dimension refers to the impact human rights NGOs have with their work and activities on the (victims of) human rights violations and the wider community they represent. This is the question to what extent NGOs verify that their actions do not lead to unintended harmful practices. In this context, and this is in a way an accountability issue, a relevant question to be asked is, is there a difference between staff of a NGO who are responsible for the consequences of their actions, versus (free lance) human rights consultants, who do not bear responsibility for what they write and consequently the decisions that an IGO for example takes on the basis of their report?

### **3.2.6 Fifth dimension: integrating human rights in mission statement**

As explained before, though this study concentrates on classical human rights NGOs, it can be considered an indicator of professionalisation when not primary human rights NGOs reformulate or incorporate human rights concerns in their mission statement. So, for example, if environmental NGOs or Fair Trade organisations address the human rights issues in their work or, as Martinez points out:

"For example a Roma ngo, a Roma community centre that comes to appreciate their work as having a number of human rights concerns within it. (...) those kinds of transformation in mission are welcome and useful where they are relevant. I also think that it is refreshing to see

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<sup>134</sup> Thomas G. Weiss, *Beyond UN Subcontracting. Task sharing with Regional Security Arrangements and Service-Providing NGOs*, Providence, Brown University, 1996, p. 40.

<sup>135</sup> For example the International Red Cross, *The Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*. See [www.ifrc.org](http://www.ifrc.org) for the full text.

<sup>136</sup> Interview with Györgyi Tóth, see annex 2.



that more and more organisations understand that human rights values are important and deserve attention.”<sup>137</sup>

This is also put forward by Tóth who considers professionalisation in the Hungarian NGO she is working for as including:

“ Training exchanges with other organisations that are in other fields. I believe that a Roma rights organisations should know a lot about violence against women and in vice versa we should know more about Roma issues.”<sup>138</sup>

This is an important dimension of human rights professionalisation as it reinforces the responsibility at all levels by multiple actors and not only of human rights organisations to fight for improvement of human rights, as also acknowledged by the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights.<sup>139</sup>

### **3.2.7 Sixth dimension: focusing and narrowing scope of human rights concerns**

A final dimension mentioned by some is focusing and setting priorities when dealing with human rights. As Martinez points out:

“ It is important that a group is focused what they are dealing with and if activities are building upon themselves. If a group is working on discrimination then it would be nice to see that that anti discrimination effort is coming out of all things done. So building the block into place. That is something that has come with time that not all groups know from the outset where they are really want to have most impact.”<sup>140</sup>

## **3.3 Conclusion and revisiting the research question**

This *tour d'horizon* reveals the multiple problems surrounding the term professionalisation. The ICHRP report points out to the fact that the term is derogatory<sup>141</sup> because it is often used in an antagonising fashion. Professionalisation has a wide variety of meanings and there is no common definition as this explorative research showed. The six dimensions as distinguished show that professionalisation of human rights civil society can

<sup>137</sup> Interview with Emily Martine, see annex 2.

<sup>138</sup> Interview with Györgyi Tóth, see annex 2.

<sup>139</sup> The Vienna Declaration and Programme of Action refers not only to human rights NGOs but also to *all* non-governmental organisations needed for the promotion of all human rights. *Vienna Declaration and Programme of Action*, UN Doc. A/ CONF.157/23, Part. 1, paragraph 38.

<sup>140</sup> Interview with Emily Martine, see annex 2.

<sup>141</sup> International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003, p. 101.

1. be contrasted with volunteerism and activism;
2. be considered as values, skills and competencies, qualifications staff should have;
3. be linked with the introduction and application of market methods (public relations, management) and requirements from donors (funding/planning/budgeting methodology) thereby influencing the autonomy and activist/catalyst versus service provisioner's role of NGOs;
4. be understood as the impact of the actions of human rights NGOs internally and externally;
5. refer to non human rights NGOs integrating human rights concerns in their mission statement and activities, and
6. be understood as focusing and narrowing the human rights one works on.

Despite the often normative conceptualisations of professionalisation and the poor empirical justification I consider these different dimensions in a broad, holistic conceptual framework in which to continue the present study. As this chapter has provided part of the still preliminary answers to the first part of the research question, I now take the research question one step further and argue that some of these dimensions of professionalisation *have directly led to and caused a change in* the organisational landscape where human rights civil society organisations are working in.

Not only have human rights NGOs been (positively and negatively) affected by the different market imperatives, also entirely *new ways of organising* and *organisational formats* have emerged. These are now operating in the thematic domain previously the domain of human rights NGOs. In particular the third dimension of professionalisation (that referred to the introduction and use of market methods and donor imposed funding requirements) have not only encouraged NGOs to increase their expertise on fundraising. It also led to the creation of human rights consultancy firms. In fact, what happens on the single organisational level is also reflected on the civil society level at large. In the next part of this study I will thus *lift* this third dimension of professionalisation on a higher level and define professionalisation of human rights civil society as "the occurrence of new types of human rights organisational formats in (and in the space between) the civil society, the market and the state."

I will not only consider human rights consultancy firms but also National Human Rights Institutions (NHRIs), which I consider as an expression of the ongoing institutionalisation of

human rights. In Figure 5 one can observe in a schematic way the “old and new” actors in the human rights field. In this overview, the human rights NGOs symbolize civil society, human rights firms are understood as the market and the NHRI as an independent institution located in between state and civil society.<sup>142</sup> This scheme can thus be interpreted as a concretisation of the schemes as presented in the previous Chapter on civil society theory.

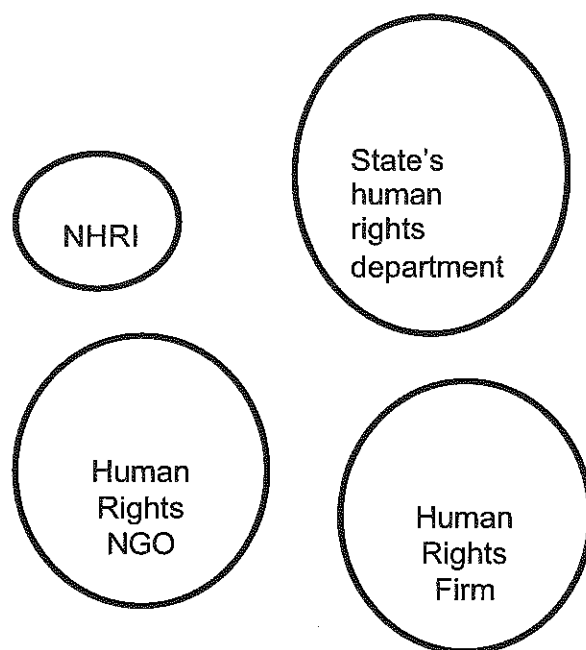


Figure 5: “Old” and “new” actors in the human rights field.

In the remainder of this study I will now discuss the third hypothesis which stated that the thematic domain that traditionally belonged to human rights NGOs is gradually extending to other and new types of human rights organisations, like NHRIs and human rights consultancy firms. The occurrence of these new types of organisations has caused diffusing lines between civil society, state and market with as result that the classical distinctions between civil society, state and market are no longer applicable. The “new human rights civil society” is a highly unexplored and unregulated area.

<sup>142</sup> The human rights department of the state will not be taken into account but is indicated in order to show the ‘semi state’ position of the NHRI.

## Chapter 4: National human rights institutions and human rights consultancy firms

National Human Rights Institutions and human rights consultancy firms are in this study considered under the premise of a professionalising human rights civil society defined in the last chapter as “the occurrence of new types of human rights organisational formats in (the space between) the civil society, the market and the state.” The gradual expansion of NHRIs can be considered as a professional next step in the process of institutionalisation of human rights, building upon the institution-building phase (1967-1989) as described by Buerghenthal.<sup>143</sup> Human rights consultancy firms, however, are the *direct* result of a human rights civil society increasingly confronted with market and donor imposed requirements, as elaborated in the previous chapter. The aim of this chapter is to describe these two institutions under these viewpoints. I will first focus on human rights consultancy firms and then on National Human Rights Institutions.

### 4.1 Consultancy firms working in the field of human rights

Whereas human rights NGOs and NHRIs have been subject of some academic research, hardly the same can be said about consultancy firms that work in the field of human rights. This is a serious hindrance in describing them and subjecting human rights consultancy firms to academic scrutiny. It should be stressed that despite the following attempt to present a definition of a human rights consultancy firm, there is a wide variety in this sector, which makes categorization problematic.<sup>144</sup>

#### 4.1.1 Definition

Tentatively, when I refer in this study to human rights consultancy firms I mean “market-oriented organisations with expertise in fundraising, providing consultancy and project management in human rights issues and projects.” However, this is still a very general definition, in need for more clarification. Like the NGO-definition approach of Kamminga, it is easier to define what a human rights consultancy firm is not. The human rights firm is not governmental, not a NGO<sup>145</sup> and not a National Human Rights Institution. At the same time

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<sup>143</sup> Buerghenthal, *supra* note 57.

<sup>144</sup> Moreover, the analysis is purely based on an explorative search on the Internet with some follow up e-mail correspondence, which lowers the validity of the results.

<sup>145</sup> So, for example I leave out here the consultancy services that NGOs offer, for example the Netherlands Humanist Committee on Human Rights. Though it seems like a market-oriented initiative this organisation is a NGO ([www.hom.nl](http://www.hom.nl)).

the human rights firm is more than just one individual human rights professional, or *consultant* as is nowadays a more fashionable term. I will thus not focus on individual consultants that work (free lance) in the field of human rights though the human rights consultant is an extremely interesting phenomenon. For example, when can somebody legitimately use the prestigious and promising title of being a human rights professional? What qualifications should a human rights professional have and is there any "diploma recognition mechanism" in place checking who is allowed to assign this title to her or himself, like doctors or lawyers? The answer to the last question is most likely *no*; the lack of a monitoring mechanism should be an incentive to start developing one.

The human rights firms should also not be confused with expertise and research centers as described in chapter two because these have been set up as non-for profit associations.<sup>146</sup> Though these expertise and competence centers operate in a different way than the classical human rights NGOs, they do not fall within the definition of human rights firms in this study. And finally, the human rights firms are also not to be confused with CONGOs for the simple reason that CONGOs are "businesses in disguise" and that cannot be said of human rights consultancy firms.<sup>147</sup> More certainty can be given on the positioning of the consultancy firms on the civil society-state-market scale: the human rights consultancy firms belong to the market, though it is not always clear to what extent profit maximisation is the most important aim. The choice to operate as a firm on the market may, however, assume that it could be an important consideration. As such these firms are a separate and new category in the human rights organisational landscape and they are, as any firm, registered under private (business) law.

In contrast with NHRIs and human rights NGOs, there is no special legal human rights document that applies to human rights consultancy firms. Both ECOSOC and, as will be argued in the next paragraph, the *Paris Principles* do not mention human rights consultancy firms, probably because the occurrence of these firms was not anticipated. However, the *Declaration on Human Rights Defenders* offers some perspective. Though the drafters of this Declaration clearly had governmental, non governmental and NHRIs in mind while referring to "groups and organs promoting and respecting human rights", human rights consultancy

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<sup>146</sup> See footnote 73.

<sup>147</sup> CONGOs are NGOs set up by businesses in order to participate in bids, help win contracts, and reduce taxation. See Table Two in Chapter Two.

firms are not necessarily excluded from the Declaration. A wide interpretation of the Declaration leaves room for inclusion of human rights consultancy firms as it refers to “everyone, individually and in association with others” (Article 5) having a right and duty to promote and protect human rights. This wide interpretation can also be justified given the spirit in which the Declaration was drafted. These are probably the only generalisations one can make about human rights firms.

#### 4.1.2 Attempts for categorization of human rights consultancy firms

Though no figures are available, one can tentatively distinguish between:

1. law firms that have developed a special human rights branch in their firms;
2. consultancy firms that have human rights projects and consultancies as *one of* their working areas, and
3. consultancy firms that *solely* focus on human rights.

There is neither research on this new emerging kind of organisation, nor are there any figures on the scale on which these firms operate or how many of them exist. Table Four shows the results of an explorative search on the Internet (in brackets the founding date of the firm).<sup>148</sup> This is a non-exhaustive list and at least four other consultancy firms dealing with human rights have been identified.<sup>149</sup> One can observe that these firms started late 1980s and are usually based in North (Western) Europe. Some of the firms are law firms with a human rights specialisation (type one, for example McGrigors), some of them are consulting firms with human rights as one of the areas (type two, for example ECO) and some of them are ‘100%’ human rights consultancy firm (type three, for example HRC). Though there are no facts, it is most likely that there are less ‘human rights only’ consultancy firms (type three) than ‘general consultancy firms’ (type two). As law firms are not considered to be new organisations, the focus in the remaining part of this chapter is on type two and three.

<sup>148</sup> The Table is based on an Internet/Google Search on April 22, 2004. Despite this attempt for categorization it should be stressed however, that there are big differences between the respective firms.

<sup>149</sup> These four firms are Ars Progetti, B&S Europe, Sema Belgium and Tea Cegos. See [http://europa.eu.int/comm/europeaid/tender/cadre01/firmes\\_ext.pdf](http://europa.eu.int/comm/europeaid/tender/cadre01/firmes_ext.pdf).



Name	Based in	Legal basis	Mandate/activities	Funding/clients
McGrigors International Human Rights Consultancy <sup>150</sup>	London, Belfast, Edinburgh	private partnership	Offering human rights services is one of the 17 specialised areas; activities include training, assessment of human rights compliance (companies)	From clients (mainly corporations like McDonalds)
MEDE European Consultancy <sup>151</sup> (1986)	The Netherlands		Provides consultancy to NGOs, governments, IGOs in the areas of health care, social protection, labour relations and human rights	European Commission (EIDHR), Dutch Ministry of Foreign Affairs etcetera
Human Rights Law Consultancy <sup>152</sup> (1986)			Legal advice and representation, legal opinions on specific implications of the Scotland Act and the Human Rights Act; auditing of policies, procedures and structures.	
European Consultants Organisation <sup>153</sup> (1992)	Belgium	private company "established to win and implement EC projects"	Consulting firm specialised in management and monitoring of technical assistance programmes; focus on services contracts	From their clients, mainly European Commission (service contracts)
Human Rights Consultants <sup>154</sup>	Ireland	sole trader since 2001, and as a partnership since 2003; Independent consultancy firm under Private partnership	Provides human rights consultancy services like training, project and programme evaluations, national human rights audits and human rights monitoring	From their clients, be it governments, IGOs or NGOs

Table 4: Human rights consultancy firms

In the following, the firm European Consultants Organisation (ECO) is taken as an example of a consultancy firm with human rights projects as *one of* the working areas whereas. Human Rights Consultants (HRC) is taken as an example of a consultancy firm that *solely* focuses on human rights.

<sup>150</sup> [http://www.mcgrigors.com/practice/human\\_rights/](http://www.mcgrigors.com/practice/human_rights/)

<sup>151</sup> <http://www.europeanconsultancy.nl/equality.htm>

<sup>152</sup> <http://www.btinternet.com/~humanrightsconsultancy-lambie>

<sup>153</sup> <http://www.eco3.be>

<sup>154</sup> [www.humanrightsconsultants.org](http://www.humanrightsconsultants.org)

Approximately 10% of all projects and consultancies of the ECO is in the field of human rights. In 2000, ECO has been selected as one of the "Framework Contractors" to the European Commission, which makes ECO the leading firm in Democracy, Human Rights and Institution Building projects (Lot 7).<sup>155</sup> Concrete recent activities include a combating women trafficking project in Russia. Being a Framework Contractor does not imply that ECO is implementing all projects on its own. ECO rather (sub)contracts experts of human rights NGOs for the implementation. Referring to the market-state-civil society continuum, ECO described the positioning on this scale as "*We are 'market', working for 'state', often in cooperation with 'civil society'.*" The mandate of ECO was described as follows:

"I do not know exactly what you mean with mandate in this context. (...) This is more a question for the NGO sector. We are a consulting firm, established to win and implement EC projects."<sup>156</sup>

An example of the second type of firm is Human Rights Consultants (HRC), set up in 2001 and directed by a Mr. M. Kelly, a former E.MA student. This firm provides human rights consultancy to companies, states or intergovernmental organisations. Recent activities of HRC include an evaluation of a human rights training for new police officers in Northern Ireland, coordination of an EU-funded resettlement project, visits with the European Committee For the Prevention of Torture and Inhuman and Degrading Treatment or Punishment and an Audit of Human Rights Policy in Ireland. Clients of HRC include the Council of Europe, Amnesty International and funding for some projects is obtained from the European Union. Kelly elaborated on the relation of his firm to human rights NGOs. While acknowledging that human rights work has its roots in the voluntary sector, he notes that

"In contrast to human rights NGOs our role is not that of campaigning or activism, but rather to provide specific expertise to individual clients, much in the way that a firm of lawyers would do. What we do is by definition professional human rights work, of a sort which was perhaps less common some years ago. Although individual academic or legal specialists have traditionally provided human rights expertise, it is comparatively recent that the field of human rights has been recognized as a discrete area of multi-disciplinary professional activity. HRC is one of the only specialized human rights consultancy firms in the world, and as such we provide a type of dedicated thematic assistance which was not previously available."<sup>157</sup>

Both firms have never collaborated with a NHRI and there is not an explanation for that. It should also be noted that both ECO and HRC do not have an (external) annual report

<sup>155</sup> Framework Contracts are contracts for projects under 200.000 €, signed following a simplified tendering procedure in order to speed up the implementation of small-scale projects worldwide.

<sup>156</sup> Written reply from Mr. E. Heldring of ECO to an e-mail.

<sup>157</sup> Written reply from Mr. A. Kelly of Human Rights Consultants to an e-mail.



available, though their websites contain a lot of information. This raises the question of accountability. To whom is the firm accountable when it releases a report on a certain human rights topic? Both firms however, emphasize that they implement their projects in (close) cooperation with human rights NGOs, which may raise their legitimacy. Usually this cooperation is not *directly with the NGO* but on an individual expert basis: a human rights NGO experts is (sub)contracted for the duration of a certain assignment. This would imply that human rights consultancy firms thus act as a kind of *intermediary* between donors (or clients) and NGOs. Instead that the NGO itself applies for a certain project, the NGO or an individual expert is in this construction being contracted by the human rights consultancy firm that itself is contracted by the donor! This raises a number of questions. First of all, why is a consultancy firm needed as an intermediary between a donor (in particular the EU) and a human rights NGO (or an expert within a NGO), in particular when subsequently the NGO is being subcontracted by the firm and thus implementing the actual job. How much money is spent on this intermediary (read: fundraising) work of the firm. Despite some sample-wise inquiries, facts and figures were not available on the actual amounts that go to consultancy firms.<sup>158</sup> Conversely, it also raises the question whether the NGOs are unable to fundraise; are they not able to deal with the often complicating and intensive procedures?

On a civil society theoretical level this would be a development which one could describe as the permeability of market forces in civil society. Or in Habermas' words as "the colonisation of the lifeworld" as NGOs are being 'pulled' by subcontracting into the market system. More neutrally it can be interpreted as the merging of market and civil society: the market (human rights firms) applying for funds and then subcontracting a human rights NGO (civil society). Concluding one can state that it is hard to assess the scale on which the (human rights) consultancy firms operate, nor how many firms actually exist. However, it is clear that European Union is an important donor for consultancy firms in this field.<sup>159</sup> The many unanswered questions show the need for more research in this field.

<sup>158</sup> See an e-mail from Mr. A.Dreanic, European Commission, EuropAid Co-operation Office, Democracy and human rights Unit F3.

<sup>159</sup> See [http://europa.eu.int/comm/europeaid/tender/cadre01/firmes\\_ext.pdf](http://europa.eu.int/comm/europeaid/tender/cadre01/firmes_ext.pdf) for a list of tendereers for LOT 7/Human Rights and Democratisation.

The history of NHRIs, unlike human rights consultancy firms, goes back to 1946 when the topic was first discussed by the ECOSOC, though the terminology did not include the word NHRI. At this session, the ECOSOC invited member states to consider establishing "groups or local human rights committees within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights."<sup>160</sup> This was done in the belief that the international state-centred human rights system was inadequate to safeguard the rights of individuals in every society and that NHRIs could play an essential role in the promotion and protection of human rights at the national level. In the next years the question of NHRIs has been repeatedly considered by the General Assembly of the UN, ECOSOC and the Commission on Human Rights and a series of resolutions were adopted on this issue. It should be stressed that the UN organs, together with NGOs have been the key players in developing the international standards and guidelines that now regulate the work of NHRIs. The *Principles relating to the status of national institutions*, better known as the *Paris Principles*, were adopted by the UN General Assembly in December 1993.<sup>161</sup> In this non-binding, though influential document, a NHRI is defined as "a domestic organisation that has the following five elements:

- (1) is established by state;
- (2) acts in accordance with the constitution or other legislation;
- (3) is independent;
- (4) provides advisory opinions;
- (5) has a mandate to promote and protect human rights."<sup>162</sup>

In the year 2002 forty-two national human rights institutions worldwide were registered<sup>163</sup>, twelve of which in the pre-enlarged European Union. The *Paris Principles* are decisive for determining the accreditation and recognition as NHRI. The International Co-ordinating

<sup>160</sup> More on the history of NHRIs can be found in Mu'taz Quafisheh, *Defining the role of national human rights institutions with regard to the United Nations*, PICCR, Geneva, 2004; and Valentin Aichele, *Nationale Menschenrechtsinstitutionen: ein Beitrag zur nationalen Implementierung von Menschenrechten*, Frankfurt am Main, Peter Lang GmbH, 2003.

<sup>161</sup> *Principles relating to the status of national institutions*, G.A. Resolution 48/134 of December 20, 1993, Annex, GAOR, 48th session, Supplement 49 (A/48/49), p. 252f.

<sup>162</sup> Mu'taz Quafisheh, *Defining the role of national human rights institutions with regard to the United Nations*, PICCR, 2004, Geneva, p. 18.

<sup>163</sup> Valentin Aichele, *Nationale Menschenrechtsinstitutionen: ein Beitrag zur nationalen Implementierung von Menschenrechten*, Frankfurt am Main, Peter Lang GmbH, 2003, p. 39

Committee of national institutions for the promotion and protection of human rights (ICC) is in charge of this task. The ICC's other role is to co-ordinate activities of national institutions, organise workshops, maintain contact with the Office of the UN High Commissioner for Human Rights, and, when requested, assist governments in establishing new national institutions.

#### 4.2.1 Organisational formats

The NHRI does not exist and there is a great variety in organisational formats. Based on an international comparison Aichele<sup>164</sup> distinguishes four types of NHRIs and gives one example of each type: the Advisory Committee (France), the Institute (Denmark)<sup>165</sup>, the Ombudsperson (Spain) and the Commission (Australia). Quafisheh<sup>166</sup> however limits the categorization to the Commission and the Ombudsperson. Table Five compares the four types as examined by Aichele. This classification and the variety of organisational formats is not without complications. For example, what could be recognised as a NHRI in one country, the Ombudsperson in Spain, is not a NHRI in Denmark, where not the Ombudsperson but the Danish Institute for Human Rights is recognised as the NHRI.

As this overview shows, the NHRIs are in two cases (Denmark and Australia) closely linked with and financially highly dependent on the Executive, sometimes fully part of the state (France). This raises serious questions with regard to the independence and the objectiveness of NHRIs. Aichele considers the independence of the French and Australian systems as very low, whereas the Danish and especially the Spanish systems are more independent. This is also signalled by the ICHRP that points to the danger of relations between state and NHRI relations that may become too amicable.<sup>167</sup>

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<sup>164</sup> Idem, pp. 110-132.

<sup>165</sup> Denmark hosts not only the Danish Institute for Human Rights but also the Institute of the Danish Ombudsperson.

<sup>166</sup> Mu'taz Quafisheh, *Defining the role of national human rights institutions with regard to the United Nations*, PICCR, Geneva, 2004, p. 18.

<sup>167</sup> The International Council on Human Rights Policy, *Performance & legitimacy: national human rights institutions - Main Report*, Geneva, 2000, pp. 57-82.

	<b>France:</b> <i>Commission nationale consultative des droits de l'homme (CNCDH)</i>	<b>Denmark:</b> <i>Det Danske Center for Menneskerettigheder</i>	<b>Spain:</b> <i>El Defensor del Pueblo</i>	<b>Australia:</b> <i>Human Rights and Equal Opportunity Commission</i>
<b>Type of NHRI</b>	Advisory Committee	Institute	Ombudsperson	Commission
<b>Legal basis</b>	Prime Minister's Decree (not Presidential nor Parliamentary Act!)	Parliamentary law (since 2003)	Based on the Constitution plus organic law	Based on a parliamentary law
<b>Mandate/tasks and activities</b>	To advise the government	Education, research (incl. commentaries on proposed laws), projects and handling complaints of racial discrimination	Inquiries into individual matters, thematic investigations and complaint handling	Wide, includes examining of laws and bills, handling complaints, education, investigation.
<b>Relation to the government</b>	Part of the Executive, closely linked to Prime Minister's office	Self governing institution with public support; linked to ministry	Independent	Linked to ministry
<b>Funding</b>	100% state	82% (2000) from state; this was lowered with a third in 2003	By decision of Parliament	Strongly depends on government
<b>Relation to Human Rights NGOs</b>	No cooperation and exchange	Cooperation in projects	Yes	Yes

Table 5: National Human Rights Institutions

A second observation directs to the fact that NHRIs perform different tasks and activities based on a wider or narrower mandate. Though the functions are clearly outlined by the Paris Principles, some NHRIs focus more on research, reporting, handling complaints in the field of (racial) discrimination<sup>168</sup>, others on human rights educational activities. Not all NHRIs handle (individual) complaints though, as the ICHRP emphasizes, it would be recommendable as "it is in their handling of complaints that national human rights institutions stand or fall in terms of public legitimacy." The report continues:

"The public judges them in terms of their willingness to tackle violations of human rights. They may do so by resolving individual complaints or by publicly exposing and challenging wrongdoing by the government or other powerful institutions. But these are the measures by which the world judges whether a human rights institution is serious about human rights."<sup>169</sup>

<sup>168</sup> In the Paris Principles, handling of complaints is seen as an optional function of a national human rights institution, although in practice most implement this task.

<sup>169</sup> The International Council on Human Rights Policy, *Performance & legitimacy: national human rights institutions - Main Report*, Geneva, 2000, pp. 57-82.

#### 4.2.2 NHRIs on the continuum state-civil society-market

NHRIs are unique institutions because they are positioned between civil society and the state. This is what distinguishes it from human rights NGOs on the one hand and the organs of government on the other. NHRIs are thus located between civil society and the state and in fact *add a new dimension* to the state, civil society and market continuum because it cannot be put under any of the three main headings state, civil society or market. NHRIs operate in a kind of *in between zone*, which make them potentially well suited for collaboration with NGOs and the state, without necessarily jeopardizing the independence of any of the two. With the exception of France the NHRIs examined by Aichele all have links with civil society. That this relation is interdependent (but not without complications) is signalled by recent meetings of the UN and the Council of Europe<sup>170</sup>. Similar concerns were expressed by the ICHRP:

“Collaboration among NHRIs and NGOs and other civil society organisations is a two-way process. Human rights NGOs are a source of knowledge, expertise and public legitimacy that can be of benefit to a national institution. Yet too often the relationship is wary – if not downright hostile – because NGOs consider that a national institution has been set up to apologise for government abuses and discredit their own work. Nonetheless, even in these circumstances, national institutions and NGOs almost inevitably develop a working relationship.”<sup>171</sup>

However, it should also be pointed out that human rights NGOs sometimes seem to neglect the fact that NHRIs have a fundamental different role than NGOs. In this respect it is imperative to note the conditions under which the relationship between NHRIs and NGOs can be successful according to ICHRP:

“The relationship can be most fruitful if it dates from the inception of a national Institution. If the expertise and experience of NGOs and other civil society organisations are consulted when an NHRI is being constructed, a better Institution is likely to result and one with greater public legitimacy. It often appears to be a source of some frustration to NHRIs that NGO activists have a closer and more trusting relationship with grassroots communities than do national

<sup>170</sup> UN Commission on Human Rights, fifty ninth session, Geneva 17 March- 25 April 2003, agenda-item 18b: National institutions and regional arrangements/ meeting titled “The effectiveness of National Human Rights Institutions in the promotion and protection of human rights” (see <http://www.ngocongo.org/ngonew/comhr2003.htm>) and a meeting organised by the CoE’s Commissioner for Human Rights jointly with the Human Rights Grouping of NGOs (held on 1<sup>st</sup> of October 2003), see: [http://www.coe.int/T/E/NGO/Public/Groupings/Human\\_rights/Documents/2003/20031001\\_workshop\\_report.asp](http://www.coe.int/T/E/NGO/Public/Groupings/Human_rights/Documents/2003/20031001_workshop_report.asp)

<sup>171</sup> The International Council on Human Rights Policy, *Performance & legitimacy: national human rights institutions - Main Report*, Geneva, 2000, p. 98.

institutions. But the canny ones recognise that this is in the nature of the different types of organisation and try to capitalise on their respective strengths.”<sup>172</sup>

Some respondents in the present study pointed out the difference between human right NGOs and the National Human Rights Institution in the sense that the latter lacks the capacity and independence to deal with more politically sensitive issues. One respondent stated for example that the NHRI in her country has never dealt with (ethnic) minority issues at all<sup>173</sup> whereas another respondent stated that the NHRI is pro-governmental, with the primary function to prove that government's work on human rights is sufficient. One respondent stated:

“It never exposes human rights violations, never criticizes the government, never supports victims, never protests against threats to human rights included in draft bills.”<sup>174</sup>

And again another respondent stated that the NHRI deals only with theoretical aspects, including translations of the most important UN and European human rights instruments. The sensitivity human rights NGOs express towards NHRIs may also derive from the donor policy for national institutions:

“Donors who (rightly) favour ‘institution-building’ are tending to shift support away from the voluntary sector towards national institutions. This may also be less politically controversial in their relations with governments. Yet a strong NGO sector - and a strong civil society more broadly - is necessary for national institutions to be effective.”<sup>175</sup>

This is a very interesting point, but the ICHRP however does not base the allegation on figures. Sample-wise inquiries made in the framework of the present study could not find empirical evidence for this statement because the donors approached do not distinguish between funding that goes to NHRIs or NGOs.<sup>176</sup>

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<sup>172</sup> Idem, p. 98.

<sup>173</sup> Results of questionnaire, see annex 1b.

<sup>174</sup> Idem.

<sup>175</sup> The International Council on Human Rights Policy, *Performance & legitimacy: national human rights institutions - Main Report*, 2000, Geneva, p. 103.

<sup>176</sup> The Dutch fund HIVOS as well as the European Commission (EIDHR) were requested to provide comparative figures on funding granted to NHRIs and human rights NGOs. Both were unable to provide these figures. Refer to e-mails sent to T. Hansma (HIVOS) and Mr. A. Dreanic (European Commission).

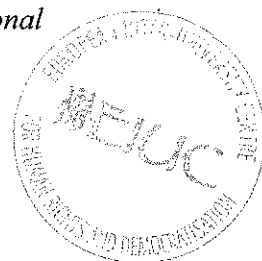


In the present study National Human Rights Institutions and human rights consultancy firms are considered as *new organisational formats* that have emerged as a result of the professionalisation of the human rights civil society. Whereas NHRIs and the consultancy firms are different types of institutions, they have in common that they have entered the human rights field and perform tasks partly overlapping with (or: taking over from) those of human rights NGOs, though it should be emphasized that with the introduction of the NHRI also *new* functions, previously non-existing, were introduced, for example the Office of the Ombudsperson.

The occurrence of human rights firms can be regarded as the permeating of the market in civil society or as "human rights without activism and advocacy" as HRC spokesperson Kelly phrased it. The NHRI on the other hand can be considered as a further institutionalisation of human rights and one can conclude that they operate in the unexplored space *between state and civil society*. Compared with the definition of civil society as *the space between state and market* one can conclude that NHRIs do not fit in the traditional triad state-civil society-market continuum which shows the shortcomings of civil society theory. As their numbers increase, national institutions are becoming more prominent actors in the national, regional and international human rights. Though no hard facts available, the ICHRP's (not proven) assumption that donors are tending to shift support away from the voluntary sector towards national human rights institutions because of the latter's less political controversiality, should be critically scrutinized in relation to the other developments described in this study.

## Chapter 5: Human rights NGOs, NHRIs and firms: struggle for contested space?

New organisations challenge the human rights field. In the previous chapters three empirical objects have been analysed: human rights NGOs, human rights firms and NHRIs. The purpose of this chapter is now to consider the similarities and differences between these organisations under the premise that NHRIs and firms are *new ways of organising and organisational formats* as well as the third hypothesis as posed in Chapter One.



### 5.1 Comparison on formal criteria

Table Six summarizes the main findings on three formal criteria.

	Relevant legal documents	Mandate and activities	Accreditation and registration criteria
<b>Human rights NGO</b>	<p>UN:</p> <p>UN Charter Art. 71</p> <p>ECOSOC resolution 1296 (1968) and 1996/31 on consultative status for NGOs</p> <p>Declaration on Human Rights Defenders</p> <p>CoE:</p> <p>European Convention on the Recognition of the Legal Personality of International NGOs</p>	<p>Standard setting;</p> <p>Research;</p> <p>information gathering;</p> <p>verification and dissemination;</p> <p>lobbying and advocacy;</p> <p>monitoring of legislation;</p> <p>campaigning;</p> <p>assistance to victims of human rights abuses;</p> <p>legal advice;</p> <p>education and training.</p>	<p>No international accrediting agency for <i>all</i> human rights NGOs: accreditation criteria differ per organisation (Amnesty International, International Helsinki Federation etcetera)</p> <p>Domestic legislation regulates registration of NGO on a local, regional or national level</p>
<b>National Human Rights Institution</b>	<p>UN:</p> <p>Paris Principles</p> <p>Declaration on Human Rights Defenders</p>	<ol style="list-style-type: none"> <li>(1) Submit to the Government opinions, recommendations, proposals;</li> <li>(2) examining legislation and proposals;</li> <li>(3) recommend adoption of new legislation or amendment of legislation in force;</li> <li>(4) preparation of reports on the national hr situation;</li> <li>(5) promote harmonization national legislation with international instruments;</li> <li>(6) assist in human rights education;</li> <li>(7) increasing public awareness</li> </ol>	<p>International Coordination Committee (installed in 1993, in 2000 formalised). Minimum criteria include:</p> <ul style="list-style-type: none"> <li>• independence guaranteed by statute or constitution</li> <li>• autonomy from government</li> <li>• pluralism, including in membership</li> <li>• a broad mandate based on universal human rights standards</li> <li>• adequate powers of investigation</li> <li>• sufficient resources</li> </ul>
<b>Human rights firm</b>	<p>No specific human rights document</p> <p>Declaration on Human Rights Defenders ?</p>	<p>Consultancy, projects; no advocacy and individual complaint handling</p>	<p>No accrediting agency but "control" by market mechanisms.</p> <p>Firms are registered under (domestic) private law</p>

Table 6: Similarities and differences between human rights NGOs, NHRIs and human rights firms on three formal criteria: legal documents, mandate, accreditation and registration criteria



A few preliminary observations can be drawn from this comparison:

1. Human rights consultancy firms are not subjected to specific legal human rights instruments nor to accreditation criteria: firms can be set up at any time by anyone, even by those with no background whatsoever in human rights;
2. In comparison with NHRIs, human rights NGOs have a self defined (and thus: wider) mandate whereas the NHRI's mandate is strictly defined by the Paris Principles. There is less manoeuvre space for NHRIs whereas human rights NGOs are more flexible in their actions;
3. Both the ECOSOC resolutions and the Paris Principles do not specifically refer to human rights consultancy firms, though the Paris Principles mandate the NHRIs to work with "qualified experts" which can be interpreted as a human rights firm;
4. Though the Declaration on Human Rights Defenders does not refer to human rights consultancy firms, they *could* fall within the scope of the Declaration's application;
5. There is a certain duplication in activities between NHRIs and human rights NGOs and human rights consultancy firms because they all engage in human rights educational activities, monitor existing legislation as well as draft or comment on proposals for new legislation;
6. The NHRIs have the strongest accreditation requirements on international level, whereas human rights firms do not have any as such; for human rights NGOs it differs per organisation.

## 5.2 Other comparative considerations

However, these formal criteria only provide part of the picture. Visualised, and returning to the scheme as introduced before, Figure Six shows the real existing relations between the three entities.<sup>177</sup> One can conclude that, firstly, *the relation between human rights NGOs and human rights consultancy firms* is based on mutual consent whereas there is no obligation to cooperate. Firms can select an expert from a human rights NGO and (sub)contract her or him. The human rights consultancy firm in a way depends on the expertise available in human rights NGOs as it "legitimises" its existence. Hence it appears that human rights NGOs are experts for the consultancy firms but they can also be clients.

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<sup>177</sup> I leave out here the relations with the human rights state department, as they are not subject of attention now.

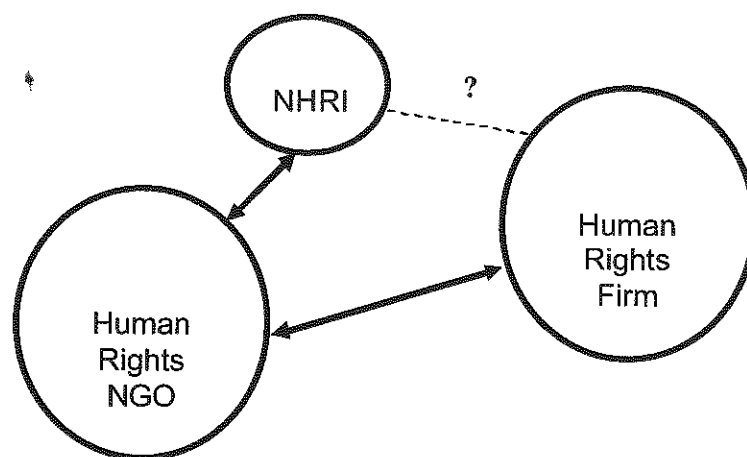


Figure 6: Relations between the different actors in the human rights field

Secondly, the *relations between human rights NGOs and NHRIs* can be tense whereas they are juridically set by the Paris Principles in terms of representation of civil society in NHRIs. There is cooperation and consultation but the relationship seems to be rather distanced in many cases. Thirdly, least is known about the *relations between human rights consultancy firms and NHRIs*; limited research suggests that there are no relations between these two entities.

### 5.3 Conclusions

The comparisons between the three different institutions lead to a few interesting observations as well as (unanswered) questions. Firstly, National Human Rights Institutions, human rights NGOs and human rights firms operate in the same thematic field while they operate under different legal regulations and institutional frameworks. Whereas some relations between the three are (to a certain extent) formalised, some relations are unclear. For example, a human rights firm faces no obligation whatsoever to include human rights NGO's expertise in the implementation of a project which raises the question about the legitimacy of its work. In other words: what is the authority and the legitimacy of a human rights consultancy firm? What does it represent?

Secondly, and related to this, human rights NGOs, NHRI and human rights consultancy firms face different levels accountability. While human rights NGOs are faced by increasing

accountability requirements, reflected in a steadily growing body of literature on this topic, this does not apply to human rights consultancy firms. The two firms scrutinized in the present study could not provide an annual report whereas human rights NGOs usually are statute-wise obliged towards their beneficiaries, members. Moreover human rights NGOs have been made subject of several studies on effectiveness and accountability whereas a similar study has not been performed on human rights firms.<sup>178</sup> This is a worrying development as firms work in the same area as human rights NGOs (with the difference that human rights NGOs usually have clear constituencies and members whereas firms not) and in their work they both face challenges in terms of responsibility to the individuals, donors and organisations they work with. Why would accountability mechanisms for human rights firms be different than those for NGOs?

Thirdly, this study showed that donors do not have a policy on the division of funding between human rights NGOs, human rights consultancy firms and NHRIs. In other words: the positioning on the civil society-state-market scale is not relevant for donors in their grant-division decision-making process. There is no comparative analysis of funding that donor agencies provide to NHRI, human rights NGOs and firms respectively.<sup>179</sup> It seems that "the one who performs best" in submitting the application receives the funding. Following this line of thinking that could imply that human rights consultancy firms (at least the segment whose very *raison d'être* exists for fundraising) manages to get most funding, whereas their legitimacy and accountability is lower than that of NHRIs and NGOs. Do donors, who never hesitate to emphasize that NGOs should be representative for their communities, want to take this responsibility? This (limited) research suggests donors are not even aware of it.

These are urgent issues that need to be clarified in order to assess the *added value* of the existence of the three different institutions. Only then can the question be answered whether this occurrence of NHRIs and firms will strengthen the human rights work or, in reverse, just increases the competitiveness between human rights NGOs, firms and NHRIs. The struggle for contested space has only just begun. And nothing is even known about the impact on the actual human rights work and projects that should be the core of all efforts.

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<sup>178</sup> See Todd Landman and Meghna Abraham, *Evaluation of nine non-governmental human rights organisations*, Policy and Operations Evaluation Department of Netherlands Ministry of Foreign Affairs (working document), the Hague, 2004; and International Council on Human Rights Policy, *Deserving Trust. Issues of accountability for human rights NGOs. Draft report for consultation*, Geneva, 2003.

<sup>179</sup> Contact persons from the Dutch fund HIVOS; the European Initiative for Democracy and Human Rights and the Institute for Danish Human Rights (representing the NHRI) confirmed that these data are not available.

## Chapter 6: Final conclusions

The object of research in this study was the professionalisation of human rights civil society.

The research question was:

*What are the characteristics and implications of the professionalisation of human rights civil society in Europe?*

Based on a theoretical and empirical exploration of the concept, it can be concluded that *no standard definition of professionalisation* is in place, whereas the word is used in a positive as well as in a negative context. The fact that quotation marks are often put around the word professionalisation can be interpreted that academics, human rights activists and others dealing with this issue, kind of bracket themselves from the full awareness of what professionalisation means. However, the exploration identified six different dimensions of the (use of the) word professionalisation, which answers the first part of the research question. Those dimensions consider professionalisation as a concept as opposed to volunteerism and activism (1), as the wide range of skills, competencies and training (2), as an expression of the use of market oriented methods and donor requirements in human rights civil society (3), as the impact of the actions of human rights NGOs (4), as non human rights NGOs integrating human rights concerns in their mission statement and activities (5), and finally professionalisation understood as NGOs focusing and narrowing their scope of human rights concerns. Though this list is not exhaustive, it provides a reliable overview on the various ways in which professionalisation is used in the human rights discourse.

### Usefulness

The wide range of meanings raises the question of the usefulness of the concept, in particular because professionalisation is not seldom positioned in opposition to something else, for example volunteerism and activism. Rather than dichotomising it would be useful to divert this discourse to define the *positive* and *constructive* elements of professionalisation like some respondents in the present study have done. For this purpose, and phrasing Foucault once more, in order to understand the meaning of professionalisation, one has to deconstruct the discourse and start from scratch. That leads to the first hypothesis as formulated in the beginning of this study:

1. The discourse on professionalisation of human rights civil society is underdeveloped and there is little analysis on the phenomenon within human rights civil society: neither human rights NGOs nor academics problematise this topic sufficiently.

This hypothesis can be accepted to the extent that the concept of professionalisation of human rights civil society has never been scrutinized in a systematic academic fashion. While some inspiration has been drawn from the professionalisation discourse in development aid NGOs, the very limited and premature discourse in human rights civil society on this topic is characterized by a normative, fragmented and almost anecdotic conceptualisation of professionalisation. In that respect it can be called underdeveloped. Referring to the central role Habermas attaches to open and unlimited communication in civil society, the very lack of a constructive and systematic *communication* on professionalisation, is worrisome.

This conclusion does not imply that there are no 'professional' developments; on the contrary, as I argued, and this study identified an urgent need to analyse those developments. One particular dimension of professionalisation that I highlighted, is the introduction, use, and application of market-oriented methodology and donor requirements in human rights civil society. The related hypothesis that I proposed was:

2. The imposition of donor requirements on human rights NGOs (like output oriented benchmarks and *Logical Frameworks*) and the subsequent use of market-oriented methods in human rights NGOs (like marketing and public relations) is presented as a logic to human rights civil society; the very discourse on *accountability*, *legitimacy* and *transparency* of human rights NGOs is an expression of the hegemony of neo-liberalism.

The hypothesis can be accepted to the extent that the neo-liberal hegemony in the last two decades of the last century redefined the relations between the state, the civil society and the market. Donors imposed new procedures on (human rights) NGOs that were straightaway copied from the market sector. Examples shown in the present study included the introduction of tendering and competitive grant procedures and output oriented Logical Frameworks as well as increasing demands for NGOs to be more accountable. These imposed demands *created* new professions, such as fundraisers, marketing and public relations specialists in human rights NGOs.

The occurrence of these new professions can be considered as the permeating impact of the market in civil society. Or, in a more neutral way: it means that human rights are mainstreamed in (and with the support of) other professions. However, the parameters of many of these donor and market innovations are *defined* by the market; it is a form of professionalisation that is copied from and closely follows the demands of the market. That also applies to the current focus in civil society literature on accountability, legitimacy and transparency, which accelerated in an ever-growing industry of academics and organisations publishing on these issues. While recognising the merits of discussing accountability issues related to human rights NGOs, because human rights NGOs fulfil highly responsible work for which they must be held accountable, what is strikingly missing is the acknowledgment that the accountability discussion is a *market-initiated* discussion. Related to that, a coherent, innovative and strong *genuine* civil society view on some of the controversial (accountability) challenges that are imposed by the market and threaten the independent role NGOs, is lacking. Rather than challenging the system imperatives, human rights NGOs seem to 'give in' and accept the new donor reality while at the same time continuing the 'informal complaining' discourse *in the field*, which does not develop in a serious critique.

However, even given the underdeveloped discourse, some attempts have been made to introduce criteria or guidelines for *the possible directions in which* professionalisation of human rights civil society could alternatively develop to. Professionalisation of human rights civil society could for example be considered along the dimensions of professionalisation *defined by human rights civil society itself* as this study has attempted to show. So, this study showed the wide range of skills, competencies and training human rights professionals should have; in this respect there is a challenge for those designing training and educational programmes for human rights lawyers, human rights field workers and educators to include some of the outcomes of this research. Related to this, there is a need to define criteria and a coherent set of qualifications for those in the field who have assigned themselves the prestigious title "human rights professional".

### **Professionalisation on the inter-organisational level**

Some of the professionalisation phenomena described in this study have *directly* led to and caused a change in the *organisational landscape* where human rights NGOs are working in. In particular donor-orchestrated encouragements to institutionalise and use market oriented methods, have not only pushed NGOs to develop more service-delivery and output oriented



projects, but also led to the very *creation of human rights consultancy firms and NHRIs*.

These 'new actors' were scrutinized in this study. The hypothesis formulated was:

3. The thematic domain that traditionally belonged to human rights NGOs is gradually extending to other and new types of human rights organisations, as influenced by the neo-liberal hegemony. The occurrence of these new types of organisations has caused diffusing lines between civil society, state and market with the result that the classical distinctions between the civil society, state and the market are no longer applicable. The 'new human rights civil society' is a highly unexplored and unregulated area.

Whereas the NHRIs can be considered as a further institutionalisation of the international human rights system, human rights consultancy firms emerged as a result of a society in which donors introduced rigid and complex funding procedures. This demand has created in the late eighties and early nineties a market for consultancy firms, some of which have developed a human rights branch, others that solely focus on human rights projects. The sole aim of some of those firms is to 'win projects'. Though there is a wide variation of human rights consultancy firms, one of the observations is, that human rights consultancy firms (sub)contract experts *from within human rights NGOs* for implementation of projects the firms has raised funds for.

The comparative analysis of human rights NGOs, human rights consultancy firms and NHRIs (whereas recognizing the somehow artificial distinction as there are big differences within the three categories) showed that different legal documents and institutional frameworks apply to human rights consultancy firms, NGOs and NHRIs respectively. Besides the formal differences between the three organisations, it can also be concluded that there is an overlap in thematic working areas between NHRIs, human rights NGO and human rights consultancy firms. While recognizing the merits of having an increased number of institutions dealing with human rights, the question should be posed, what the "added value" of their different institutional embedment is. Or to be concrete: what is the difference between a NGO providing human rights education and human rights consultancy firm doing so?

#### **Does civil society theory have the answers?**

Civil society theory does not have sufficient answers to the professionalisation issue, as it does not foresee in, nor explains the occurrence of human rights firms and NHRIs. However,



a flexible interpretation of the three different theories described in this study suggests the following.

The *classical liberals* would conceive of the gradual expansion of the thematic human rights work to institutions like NHRIs and consultancy firms in the following way. Scalet and Schmidt in their description of classical liberalism, refer to the term *corporatism* which they describe as the blurring of boundaries between civil society and the state.<sup>180</sup> If one, like in this study, considers the NHRI as the blurring of these boundaries (because it is not state and not civil society) the classical liberal perspective is that corporatism is an attempt to remake society which the classical liberals would be against. Though classical liberals have never written on NHRIs, they would likely argue that "the functions usurped by state" should be returned to civil society. As shown the role of NHRIs *partly* overlaps with human rights NGOs and hence the classical liberals would say that these overlapping parts (so excluding the innovative roles of NHRI like handling complaints of citizens against state institutions) should go to where it belongs, namely civil society because "there is no longer a truly voluntary sector when civil associations merge with government." At the same time however, the classical liberals acknowledge that state and civil society "interpenetrate each other because civil society is funded by state."<sup>181</sup> The classical liberals would not object to human rights consultancy firms nor to the introduction of market oriented methods in human rights NGOs because firms are part of civil society in the classical liberal ideology. Classical liberal ideology does not oppose initiatives as long as they derive from the market itself and not imposed by the state.

The protagonists of *liberal egalitarianism* would not object to market oriented methods being employed in human rights NGOs, as the market is considered to be part of civil society. Their main concern would be to ensure that human rights NGOs stay close to their mandate and play their role in bringing about an egalitarian society, where resources are equally shared. If market methods take over this goal the liberal egalitarianisms would object. The liberal egalitarians would consider human rights consultancy firms to be part of civil society so human rights firms would not object. Nor will NHRIs be an obstacle as human rights protection is an issue that both state and civil society are supposed to work on.

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<sup>180</sup> Nancy L. Rosenblum and Robert C. Post, *Civil Society and Government*, Princeton, Princeton University Press, 2001, p. 37.

<sup>181</sup> Idem, p. 38.

*Critical theory*, of which I particularly highlighted Habermas, would strongly object to the application of corporate principles into civil society. Critical theorists would instead favour a definition and elaboration of professionalism *by civil society itself* – and there is, as I have shown, very premature progress on this. The dominance of market initiated discussions on accountability and transparency of human rights NGOs is disregarded by critical theory and the lack of an own constructive discourse would be pitied. Critical theory is against human rights firms if the leading mechanism is the logic of money: human rights belong to the category of ideals where profit maximization should not dominate the flow of events. With regard to NHRIs it is more ambiguous to identify what the critical theorists would argue. NHRIs can be considered as the state *colonising* civil society; on the other hand critical theory acknowledges the interdependence of the state and civil society and that it has a role in human rights protection. As Rosenblum states: “At an institutional level, it implies that a critical theory of society must remain open to new possibilities for institutional design and innovation that will work to foster and maintain a balance of strong and weak publics that together secure the public and private autonomy of citizens.”<sup>182</sup> A NHRI may then be regarded as an example of such an innovation.

Again, this is a very flexible interpretation of how civil society theory would perceive of professionalisation. However, it does not offer clear explanations for the *variety within* the three distinguished categories. This study showed that it cannot be argued that human rights firms are only after money and civil society represents the “pure” communication: there is an imminent danger of ideological mystification in describing the “good” civil society and the “bad” market. Indeed, as the third hypothesis posed, human rights civil society is a highly confusing and an even more unregulated mixture of (fake) non-governmental, governmental and for profit organizations working all in the same thematic field.

### Open questions

While acknowledging the strengths of the classical liberals theory, I reiterate the crucial point of critical theory in the sense that the uniqueness of civil society lies in its communicative character and its ability to play a catalyst role in bringing about change in society, which is not led by political power or by money. NGOs need to (re)define their role of innovator in the

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<sup>182</sup> Idem, p. 140.

human rights civil society and (re)position themselves towards their new 'partners' (or 'competitors'): the NHRI and the human rights consultancy firm.

The inability of civil society theory to provide sufficient answers reveals the need for a new theoretical framework that can describe and effectively classify the reality of civil society including the overlap, cooperation and 'tense' issues with those parts of civil society that are merging with the market. This requires moving away from a rigid civil society-state-market thinking. One should rather consider the desired *roles* and *manifestations* of the (different) human rights organisations, whether they are NHRI, firm or human rights NGO. Here I (re)turn to the "manifestations of civil society" as discussed before. By considering the manifestations of civil society, one can stress the balance between both the social capital and activist roles on one hand and the Corporatisation and New Public Management on the other hand. Donors of human rights projects should integrate this Manifestation approach more in their assessment procedures.

The final question remains what the implications of the professionalisation of civil society, and in particular the occurrence of new human rights actors are? Are they competitors for the same and scarce funding or are they strengthening the struggle for human rights? Are human rights consultancy firms new partners in the fight for improving human rights? If so, why have they never been considered as such?<sup>183</sup> Will the human rights firms and NHRI be beneficial or detrimental to the human rights project? Should one be tranquil about the shift signalled by the ICHRP that funding for NHRIs increases at the expense of human rights NGOs whereas human rights consultancy firms get more experienced in satisfying the funders' needs for *Logical Frameworks* and obtaining funding for human rights projects?

At this point of time, based on this explorative study, final answers cannot be given. However, the fact that this issue has never been seriously addressed should be an incentive for all who value the genuine character of human rights civil society to start taking action. In the absence of a definition on professionalisation and a lack of a satisfactory theoretical framework, there is a craving need for clarification.

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<sup>183</sup> See for example Ann Gallagher, *Making Human Rights Treaty Obligations a Reality: Working with New Actors and Partners*, in Philip Alston and James Crawford (eds.), *The Future of the UN Human Rights Treaty Monitoring*, Cambridge, Cambridge University Press, 2000, p. 203.

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<http://www.ngowatch.org>

<http://www.transparency.org>

<http://www.globalpolicy.org>

<http://www.nhri.net>

<http://www.civicus.org/new/default.asp>

<http://www.hivos.nl>

[http://europa.eu.int/comm/europeaid/projects/eidhr/index\\_en.htm](http://europa.eu.int/comm/europeaid/projects/eidhr/index_en.htm)

## Annex 1a: Questionnaire

Dear Madam/Sir,

My name is Dennis van der Veur and I am a student in a postgraduate programme on "Human Rights and Democratisation" and currently enrolled at the Karl Franzens University in Graz (Austria) under supervision of Professor Wolfgang Benedek.

The questionnaire you find enclosed is part of a research project on "professionalisation of human rights (civil) society". The **purpose** of the questionnaire is to find out what your perception is on the professionalisation of human rights and consequently on professionalisation of human rights NGOs and the human rights system at large.

The questionnaire consists of three parts:

1. a first set of general questions on the NGO you work for/in,
2. a second set of questions on professionalisation in/of your NGO;
3. a third set of questions on the "professionalisation" of human rights (civil) society at large.

Filling in the questionnaire **won't take more than 20 minutes**. The information you provide will be treated confidentially. Please note the following instructions before you start filling in the questionnaire:

- a) Some questions offer you a choice of possible answers, but the majority of questions are "open questions" where you can reply what and how much you prefer.
- b) Some questions refer to "professionalisation" of human rights NGOs. I do not explain this concept of "professionalisation" as I am interested to hear your definition!
- c) There are no good or wrong answers!

While realising the short notice I would like to ask you if you can return the questionnaire **BEFORE MAY 29<sup>184</sup>** by email to [thesisgraz@yahoo.co.uk](mailto:thesisgraz@yahoo.co.uk). At this stage I would like to take the opportunity to thank you for your cooperation. If you have any additional questions do not hesitate to contact me.

Yours sincerely,

Dennis van der Veur

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<sup>184</sup> Due to the low response this deadline was extended till June 10.

## Questionnaire

### PART 1: General information about your NGO

1a. In which of the following field(s) is/was your NGO working?

now

past

Collecting information on human rights violations

Lobbying

Education

Standard setting

Providing direct assistance/ legal advice to victims of human rights abuses

Service provision to donors and/or other organisations

Consultancy to donors, IGOs or government

Training

Evaluation (of human rights projects)

1b) Has the focus changed over time? (if so indicate and explain why).

Yes, namely from .....to.....because

No, it has remained the same.

2. What are your organisation's sources of funding?

Yes

No

State/Government funding in my country:

State/government funding from abroad (incl European funding):

Foundations/Funds in my country:

Foundations/Funds from abroad:

(private) donations from individuals:

donations from business/ corporations:

others:

3. Some background data:

What is your position in the organisation?

What is your age?

In which country do you live?

How long have you been working in human rights civil society at large?

How long have you been working in this organisation?

## **PART 2: Professionalisation of your human rights NGO**

4.a) Is professionalisation an issue of attention for your organisation?

Yes

No

4.b) If yes, is there a policy on professionalisation in your NGO? How would you describe this policy?

5. How do you define "professionalisation" of human rights NGOs?

6. What are the main elements of professionalisation in your opinion?

7. In what field do you see a need for your NGO to professionalise?

8a. Do you use or consult resources for professionalising your human rights NGO.

No

Yes

8b. *If yes:*

a) What is the name of the resource you use (book, manual, training etcetera):

b) What is the name of the Author of the book?

c) What is the title?

d) Who provided the resource/how did you find it?

e) What are the main subjects (and the main "philosophy") of the resource?

9. To what extent is professionalisation of your NGO encouraged by

yes

no

your board of directors

your donors

your staff

your beneficiaries

others....

10. Do you feel that professionalisation has an impact on your human rights work? If so, how? If not, why not?

Yes, .....

No,

### PART 3: Professionalisation of human rights (civil) society at large

11. Do you consider that there is a difference between a *human rights activist* and *human rights professional*? If so, what are the differences in your opinion? If not, why not.

Yes, the difference between a human rights professional and a human rights activist is....

No, there are no differences because...

12. One possible way of considering professionalisation is human rights as a *profession*, for which you need *qualifications*. Which three qualifications do you consider somebody working in the field of human rights should definitely have? Please comment on your choice. Please pick no more than three qualifications:

- Law degree or background in law
- European Master's Degree in Human Rights
- Commitment/ idealism
- Project management skills
- Research skills
- (University) Degree in Human Rights
- Lobby skills
- Vision
- Efficiency
- Sensitivity/awareness of (inter) cultural issues
- Commercial skills
- Others...

Please, explain your choice(s):

13. Do you think that one can become a human rights professional and if so, what do you regard as an adequate "human rights school(s)/education".

Yes, and an adequate "human rights school/education" is...

No, because...

14a) Are you aware of (private) firms or consultancy offices that work in the field of human rights on a commercial basis? If so, how many do you know (if possible include references to internet website)

No

Yes, I know ....(number), with following references:

14b) What is in your opinion the most important distinction/difference between your human rights NGO and (private) firms or consultancy offices that are active in the human rights field?

14c) How is the cooperation between your NGO and this/these firms?

15a) Is there a National Human Rights Institution (NHRI) in your country?

Yes

No

15b) What is in your opinion the most important distinction/difference between your human rights NGO and the National Human Rights Institution?

15c) How is the cooperation between your human rights NGO and the NHRI?

16. Please position your NGO, the NHRI and (if present) the commercial consultancy firm on the spectrum civil society-state- market (please indicate on the line)

civil society

state

market

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17. Please react to the following statements by indicating whether you agree, disagree or whether you are neutral to the given statement. Do not hesitate to give any additional comments if you wish so.

**a) Human rights NGOs are agencies providing technical expertise in the field of human rights.**

Agree

Disagree

Neutral

Additional comments:

**b) "Tools" and principles of the (commercial) market are good and useful for the functioning of human rights NGOs**

Agree

Disagree

Neutral

Additional comments:

**c) Human rights activism is something else than human rights professionalism**

Agree

Disagree

Neutral

Additional comments:

**d) Personal commitment to the cause of human rights is a necessary prerequisite for working in this field**

Agree

Disagree

Neutral

Additional comments:

**e) Availability of funding defines the actual work and focus of my NGO**

Agree

Disagree

Neutral

Additional comments:

**f) There are human rights fora/discussion groups (on the internet or in "real life") where professionalisation of human rights NGOs is discussed.**

Yes, namely..

No,

Thank you for your cooperation.

Please e-mail the questionnaire to [thesisgraz@yahoo.co.uk](mailto:thesisgraz@yahoo.co.uk). If you have any additional comments (or recommendations for further reading) about this questionnaire please do not hesitate to mention them here.



# Annex 1b: Summarized results questionnaire (selected parts/ quantitative part)

Total number of sent-out questionnaires: 42

Total number of returned questionnaires: 6

## Background data:

Country	Latvia	Romania	Bulgaria	Austria	Albania	Azerbaijan
Position	ED	(former) chair	Administrative Director	ED	ED	ED
Age	43	60	31	55	44	43
Nr of years working experience	10	15	10	20	14	12

## Working field(s) of the NGOs:

	now	in the past
Collecting information on human rights violations	100%	83%
Lobbying	100%	83%
Education	67%	50%
Standard setting	50%	16%
Providing direct assistance/ legal advice to victims of human rights abuses	100%	67%
Service provision to donors and/or other organisations	16%	33%
Consultancy to donors, IGOs or government	33%	50%
Training	67%	50%
Evaluation (of human rights projects)	50%	50%

## Focus change over time?

16%	Yes, (namely from protests to court cases because of efficiency)
68%	No, it has remained the same.
16%	No answer

## Organisation's sources of funding

	Yes	No
State/Government funding in my country:	16%	50%
State/government funding from abroad:	83%	0%
Foundations/Funds in my country:	16%	50%
Foundations/Funds from abroad:	83%	16%
(private) donations from individuals:	16%	33%
donations from business/ corporations:	0%	67%
others:	16%	16%

**Is Professionalisation an issue of attention for the NGO?**

83% Yes  
17% No

**Use of resources for professionalising the human rights NGO.**

17% No  
83% Yes

**Extent to which professionalisation of NGO is encouraged by**

	yes	no
your board of directors	83%	0%
your donors	50%	0%
your staff	67%	16%
your beneficiaries	33%	33%
others – outside observers	16%	33%

**Is there is a difference between a *human rights activist* and *human rights professional*?**

83% Yes  
0 % No  
17% Not sure

**The three main qualifications somebody working in the field of human rights should have?**

67% Commitment/ idealism  
50% Law degree or background in law  
33% Project management skills  
33% Efficiency  
33% Sensitivity/awareness of (inter)cultural issues  
16% Research skills  
16% (University) Degree in Human Rights  
16% Lobby skills  
16% Vision  
16% Others: social science university degree.  
0% European Master's Degree in Human Rights  
0% Commercial skills

**Presence of a National Human Rights Institute (NHRI) in the respective countries?**

50% Yes  
50% No

## Statements

- 1. Human rights NGOs are agencies providing technical expertise in the field of human rights.**

68% Agree                                      16% Disagree                                      16% Neutral

- 2. "Tools" and principles of the (commercial) market are good and useful for the functioning of Human Rights NGOs**

16% Agree                                      16% Disagree                                      68% Neutral

- 3. Human rights activism is something else than human rights professionalism**

83% Agree                                      17% Disagree                                      0% Neutral

- 4. Personal commitment to the cause of human rights is a necessary prerequisite for working in this field**

83% Agree                                      0% Disagree                                      17% Neutral

- 5. Availability of funding defines the actual work and focus of my NGO**

33% Agree                                      33% Disagree                                      34% Neutral

- 6. There are human rights fora/discussion groups (on the internet or in "real life") where professionalisation of Human Rights NGOs is discussed.**

16%              Yes  
33%              No  
16%              Not sure  
35%              No answer

## **Annex 2: Transcripts of the four interviews conducted**

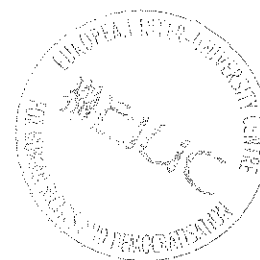
### **INTERVIEW 1**

**Name organisation:** NANE;

**Name person:** Györgyi Tóth;

**Location interview:** Budapest at EYCB;

**Date:** Wednesday April 7, 2004.



**What is your definition of the “professionalisation” of the human rights civil society?**

I have to be very subjective about it, because I really have our experience, that basically coming from a full and pure activism to professional activism because I very much hope that these are not excluding each other. It means to have, especially because we deal a lot with people personally, as well, a certain standard of work. With issues we have to take care of it is very important that all active members act in a similar fashion. We started to create internal rules in the organisation. Surely not completely rigid rules but basically we created rules learning from our mistakes and learning from good outcomes as well. I believe one point for us of professionalisation in this field is to look at “how to be more effective”, how to avoid certain things ....how to be more responsible towards an issue and also toward the individual that comes in contact with us, and towards the groups, towards whom we feel responsible and we are funded to help these groups. That is very important for us.

**What kind of professional instruments or methods do you use?**

For example the screening of new volunteers, which we started basically in the last two years. We made a lot of experiences, some of whom were useful and others not useful. And basically the usefulness or the unusefulness is strongly related to our human rights activism. So it is the issue that weighs more, not so much the internal things. Although it has an effect on that.

So first of all the screening of people and working out a much more accurate code of conduct and code of ethics. And we are (re)forming our internal training, because it is one important thing that has been around from the beginning but has been professionalised for sure. To be active in our organisation, you have to go through an internal training, that is the basis. There I cannot talk about a process because it has always been there, not part of professionalisation. But I think that a sign of professionalism from the start that we use a training to hegemonise and to share knowledge, information and attitudes.

**You said something interesting in the beginning: I hope that human rights activism and human rights professionalism do not exclude each other. Can you elaborate on that sentence?**

That is coming from the experience of knowing these high profile, well known famous, sometimes international sometimes national human rights organisations that are or have an image of being very professional, often this image comes from having a lot of money and having high paid professionals, so people who are highly qualified. As a small grassroots organisation with volunteers, we often encounter unfortunately that being a volunteer is often equalled as not being trained and not being professional. It surely has to do with our definition of activism, which has strongly a lot to do with how you actually conduct your own life and your own living. And how you actually do things that are not just about, but also with and for the groups you are concerned with.

**Is there, and if so, what is the difference between a human rights activist and a human rights professional. What are the differences, if any?**

I wish that all professionals were also activists- and I would not have to, but I often see that professionals believe that, and this probably has to do with the message that comes from society, that being involved and actually taking a stand rather than just being very scientific, and being very academic about the issue, would lower their level of expertise in the eyes of others.

I think it starts the other way around. It is not that activists do not want to become professionals but rather that somehow some professionals at least are afraid to show some signs of activism. Because unfortunately many of them are directly related to that the part of society that is also often responsible for human rights abuses. That they are trying to cater to this part of society. To me it shows a lack of awareness, which then again if you consider that being aware of the issues should be part of the knowledge that you have on the issue then you know, questions the whole basis of professionalism.

**One aspect of professionalisation is human rights as a profession, connected to qualifications that a human rights activist/human rights professional should have. Which one do you think one needs to have?**

In theory I would say that some kind of training in working with people is helpful because even if you are not directly connected to helping, human rights abuses are usually about people's lives and if you are dealing with socially controversial topics again you will get into clashes with the oppressing part of society. It could be very useful if you have trainings that have to do with deal with people, whether it is education as a teacher, trainer or psychologists or something. This is the theory.

Unfortunately, the experience of our organisation is that in this point if you have any kind so called acknowledged professional training in any of disciplines, directions we are touching upon, then it is worse than you have nothing and you come with a free an open mind. Because people are trained in the system and if you get your training in the power system from the power groups, now you have *trained* attitudes that accept human rights abuses. Most likely you end up having worse attitudes (This is generalizing.) but even people who are willing to act for change, have been trained over years in a very different system and it is really hard to change all those bad attitudes that exist. So it very typical our experience. That professions like psychologists, social workers, teachers, sociologists and whoever they have been trained in an authoritarian system and in a system that is very oppressive to minorities and individualistic and macho, put this "you can achieve anything if you want to" and thus problems are personal problems and not political problems.

This background is so strongly in the formal education system in our country that this makes the work harder. You have to actually start further away than with someone who does not have this kind of training.

Otherwise, I believe that an internal training is useful. The more controversial the issue, the less social support there is, the more important it is to have an internal training so that there are shared concepts from the beginning. Because in our line of work and in some other lines of work, it is simply too risky to assume that people walk in to your organisation just because they want to join it.

**Basically you are saying "it is better if somebody comes with big motivation with low or no qualification that he would have got in the system than somebody would come completely "qualified"?"**

Yes, the formal education comes from the system that you are trying to change. It is really difficult to expect from the system to give the attitudes that are appropriate for the work and certainly if you have proofs that you are qualified, you may be less ready to learn from others or learn a new.

**Besides the internal trainings that you mention- do you know of any external places where you can learn these qualifications, where you can learn to become a human rights professional?**

Yes, one important thing is what we call the -isms that are very interdependent. So I believe that it is also part of to put sexism in context of racism and heterosexism. But I believe that if there is a chance to get training from other organisations on these issues, this is very important. For example we seek to have training exchanges with other organisations that are in other fields so to say. I believe that a Roma rights organisations should know a lot about violence against women and in vice versa we should know more about Roma issues. I believe that being trained and educated in other issues can be very important if there are, I am sure there is, higher education with attitudes that are helpful. Anything of that - I cant make a long list- is helpful. Again, none of these training is a guarantee. I'd say, screening is always very important because they do not screen at the university for example. How you are integrating what you learned is still a personal process.

**The example you gave about Roma rights organisation training your organisation and vice versa, did that actually happen?**

It is planned right now. We did some exchanges before. And we have now an exchange plan with an organisation on the issue of migration. They are working with refugees and there is a lot of sexual violence there. At the same time my colleagues and me should have basic knowledge on migration issues in Hungary.

**Can you give an example of your own work, violence against women, where the difference becomes very clear between what you consider as "bad professionalism" and grassroots work?**

It is very difficult. It is just starting at all that these big human rights organisation pick up these topic. One reason for it might be that many of these big respected are very strong on the first generation of human rights, which is about keeping the state out of our (private) affairs. Violence against women is typical the issue where you do it the other way around. So, we have cases where the Helsinki Committee provided the lawyer to the abuser because that person was a foreigner, you know. I do believe that everyone needs a lawyer but the HC's resources are very limited so I find it a strange statement if they spend an awful lot of money providing a lawyer to somebody who has been extremely violent physically.

What can be an example or an issue of bad professionalism is not seeing the context and not considering that everything you do is a value statement or a moral statement about what you find right or wrong. Apart from that. When it comes to some of these international organisations many of them have the practice of contacting an academic in Hungary and making that person writing a report. And then we learn one year later you see this report in which there is a lot on what is the women's situation and that person wrote all these things sitting in a nice office, never interviewed us or something.

What partners the international organisations seek. I do not know whether it is wanting to be more respectable by being able to write that "this information is provided by someone with 3 Phds rather than writing that this information comes from / sound more objective than as grassroots organisations. This example is from the Council of Europe Department on Gender Equality. They exclusively work with academics in Hungary and pay an awful lot of money to write these reports about our work and of course with lots of mistakes in it. At least, I do not envy the money or the work, but if these international organisations contact academics for this work, they should make it a prerequisite that part of the work should be about going around and interviewing the NGOs. Some people do that and we give a lot of our unpaid time for telling other people then who are then writing reports for lots of money what is going on.

There are other examples. Sometimes we see reports written by people who are really not doing anything in this field apart from writing reports every now and then. It is embarrassing. And represent this issue abroad quite all right, you know, at least they read a few books and do not say anything ugly. But never dare to represent this issue IN the country because either personally or professionally would find it dangerous for themselves. That is what I mean; there is a strong lack of consistency that should at least be questionable to me.

**Do you have any reference/ links to advice?**

US women's movement gives much better example in terms of their academics being grounded in activism.



## INTERVIEW 2

**Name organisation:** Council of Europe, European Youth Center Budapest

**Name person:** Antje Rothmund, ED;

**Location interview:** Budapest at EYCB;

**Date:** Wednesday April 8, 2004.

**What is your definition of the "professionalisation" of the human rights civil society and what are the differences, if any between human rights activism and human rights professionalism?**

I never thought about it like that before. That is the introductory statement. I do not think it is so easy to separate. (...) I think that human rights activism is a word that is much more present in public language knowledge than human rights professionalism. In my sort of boxes of definitions I would always make a difference between people who do things as volunteers and people that do things as profession, earn money.

I believe that the word activist is stemming from the time that when people that worked in civil society and sort of felt very strongly about something, committed themselves to something engaged themselves into the combat against injustice be it human rights violations or others. They were particularly activist but volunteers. The NGO sector has developed madly over the last twenty, thirty years. This is why many of what was called activist now are full timers for their NGOs, meaning they are paid for activism because they are employed for the fight for a certain purpose.

**Is the difference then money?**

No, that is too easy. I mean, I go on with this professionalism dimension. Professionalism means that something has become a profession but it also means that you have skills and competences which make you specialist in a field or somebody who is more competent on a certain item than somebody else. And I believe you find nowadays lots of professionalism in the NGOs. This is where this idea of a volunteer, activist, professionalism working are blending, merging again. Why I think, the money plays a role of course in that respect, because people need to work for their lives. I think that a lot of people that work in NGOs that are fighting for whatever social cause are very happy about the fact that they can follow a work that is very close to their own personal values like an activist and at the same time make a living out of it.

**One aspect of professionalisation is human rights as a profession, connected to qualifications that a human rights activist/human rights professional should have. Which one do you think one needs to have?**

That is connected to the question what is a human rights professional? And I believe there are a lot of different dimensions to it- also historically seen (...). In the 20<sup>th</sup> century we have seen a development of human rights debate that goes much beyond this idea of people having to be equal and this has been anchored in the constitution of a certain country. Human rights have become an international issue, a founding stone of democratic countries and the rule of law that means human rights have become also a legal issue, which means that there were two types of human rights professionals.

The lawyers that looked where the law applied and I do not have to explain what is the need how to become a lawyer, that is studies. But also the second category is human rights activist who saw it as their obligations (and later on it became their profession) to work much more on this awareness-raising dimension. I think this is the biggest development in 20<sup>th</sup> century, campaigning, human rights awareness raising to education.

### **Where do you learn this?**

I talked about education about human rights, their human rights and the human rights of others. I would mention a number of competencies. General Knowledge about legal issues; also knowledge about dimension of human rights violations which goes beyond the things one is aware of. One is aware of discrimination according to race, that people should not be tortured. That there is a right to live, right to fair trial, but this goes much further. If you just take the legal conditions, then it includes much more. It is freedom of speech, freedom of assembly, which is not so obvious as it seems. But there are also the other generations of rights, social rights which are not at all publicly, generally accepted.

I think one competence would be that somebody feels very strongly that human rights are something that needs further development. And that certain human rights are legally inscribed into the constitutions or laws of national states doesn't mean it is complete. That there is still lack of further development or ratification of rights.

Another competency in my opinion is empathy, the capacity to be able to think about how another person feels and that is probably the most difficult about human rights violations because it would be too easy to say that someone who has been a victim of human rights violations might find it easier to empathise. I do not think that it is necessarily true but it could be true. I believe it is permanently a challenge for everybody in the human rights field to keep truthful to oneself and the work one is doing. Particularly in the education field, one has to have a very strong set of values also as a person. These values would include a sort of strong belief in equality for everyone. That also means equality for people who are probably not the nicest. Human rights also apply to people who are not nice, which is a big challenge.

It is also important to think about the capacity to formulate human rights violations and that goes in the field of monitoring in such a way that it is understandable to a wider public: to make people understand that what any human rights violation to anyone also violates their own rights. Because if you let it go by this one person that may mean the next day 100 people are concerned by the same treatment. It also concerns a development of this question of tolerance of ambiguity, to give oneself the time to think about what is right or wrong. Not believe that one always has the answer. It also includes the readiness of (personal) change. Personal change, which is easily said but difficult to do. You will find it often also human rights activist have their specialities... you have those who fight for victims of torture, those who fight for sustainable development etcetera. You have other who fights for minorities but they do not at the same time worth to fight for other discriminated groups, like homosexuals or the disabled. You have to permanently think about the fact that human rights are inalienable, indivisible, universal, and that is a challenge to every one in the world because you can also get very blind.

**I'd like to know your opinion about human rights consultancy firms that are entering the human rights market developing some projects. Are you aware of this trend?**

I do not know very much about the work of this organisation;

**Let me give you the broader context: do you believe that a market driven way can be used in the human rights field?**

That also has to do with the professionalisation of NGOs whereby – these are professions like fundraising, marketing, pr that are also being used by NGOs which I find a legitimate approach... Where I find it questionable is when this type of profession takes over the human rights activist profession, meaning a human rights NGO should be governed by the guide of human rights, not by pr or project management methodology, not by lobbying structures but all these means or specialist professions should be seen as a tool to reach human rights objectives. I think you would find in the organisations a number of black sheep that use their profession in a professional technical way without really carrying with them the set of human rights values, which may lead to losing credibility.

**Can you indicate in your own work the scale of this phenomena or the in/decrease of this kind of organisation?**

It is not so easy. I would not know an organisation as such. It is not a question of organisation but more an issue of individuals. Because in organisations are individuals and association are very much flexible organisms: every organisation undergoes a huge fluctuation in staff, volunteer leaders and at the same time as a result of that they undergo big fluctuation in what type of policies and politics they follow. And what the interpretation of objectives are.

I would think it has much more to do with individuals. Because the objectives are very general. Can be interpreted in a very different manner. People can always hide under the objectives of the organisation. So. When I take my experience. I think what we have nowadays in civil society is a little bit the same development as in the economy as far as structures are concerned. The big internationals, which have very clearly defined structures, very well operating mechanism, pr policy. And then you have the small and middle size enterprises, which are the local, smaller organisations that act according to the best knowledge, honesty for the same purposes without necessarily knowing all the political implications of what they do. And probably the result of variety of structural appearance is the same as in economy... the big organisations are much more visible, which does not necessarily mean that they are more competent. It could be. If it is well known it doesn't mean it is more competent. But it also means that the access to the decision makers, the center of power, is easier for bigger organisations as they have an advantage of.

**One final question: how do you explain that you never thought about professionalisation.**

I never thought because I would never have connected human rights with profession. A lot of professions are needed in order to make human rights work relevant. So you need lawyers, pr people, educators, fundraisers, and all sorts of people in order to contribute to battle human rights. I do not know if there can be something like human rights professional without having one of one of the other professions. You can be a lawyer, educator or pr manager specialised in human rights education. But I do not know if sb can claim that he is a professional in human rights because human rights is just an incredible dimension of things. I know there are many faculties and university that offer Human rights studies but usually they are post

graduate studies.... which built up on other professions. It is important, particularly important because human rights are a very transversal issue that goes through all professions in one-way or the other. I believe it is very good. If you ask me now today in April 2004.... I do not know what it would be to have a MA in Human Rights. Based on education studies and somebody else does it in juridical field. You are specialised in a certain area. What does it mean studying 10 semesters of human rights? I do not know (...). Nobody has an island. Human rights in particular are not an island.

**So, what is a human rights professional?**

As far as the CoE is concerned: legal emphasis and education. F.e. Human rights training for professional groups *f.e. human rights training for* lawyers, police, judges. (...). I find it as a supplementary competence for lot of professionals an extremely relevant approach. Coe started this a long time ago. The Coe is an organisation that tries to do things by legislation through Member states. Law is not sufficient to create public knowledge. It is important that public authorities that implement a law do know why, and do feel partly responsible for the respect of the law. If a policeman doesn't know anything about human rights, treating them badly in prison. Then this person is representing the state, which is supposed to respect the law. To train everybody who is public authority is most important. I think the first obligation of a state if they want to implement a human rights law.

### INTERVIEW 3

**Name organisation:** Open Society Budapest (OSI)

**Name person:** Emily Martinez, Grants Manager Human Rights Advocacy Programme

**Location interview:** telephone

**Date:** Wednesday April 20, 2004

**What is your definition of the "professionalisation" of the human rights civil society?**

It depends what region you talk about, Central and Eastern Europe (CEE) - acceding countries or South Eastern Europe or the Former Soviet Union. There are big differences.

**Let's say CEE. Could you give a definition based on that region?**

I think that in CEE there has been an incredible professionalisation over time. Many of these groups when they started were relatively, perhaps still small, people who cared. And now these staff changed to professionals: lawyers who actually went through human rights law school and so on. So, the new staff consists of professionals in a way.

I do not think that is true yet in SEE and the Former Soviet Union. Still there, it is not as filtered out... Though also in central Europe, we'd expected that many of these groups would have figured out their funding situation. It is still a critical question with regard to professionalisation because being able to pay your bills and not worrying how to pay your pay roll each month is an important element for groups to allow them to professionalise and strategize, institutionalise. While many of the groups in Central and Eastern Europe have institutionalised, funding has not ceased to be a problem. I do not anticipate that that will change because some of the funders leave CEE. But many of the groups in the accession countries have at this point seriously have considered what their strategy and what their role is and really specialised...or narrowed their field. In SEE and the Former Soviet Union many of these groups are still funding available for a wide variety of projects; groups are still working on a wide number of projects and haven't gone through a process force to consider where their speciality is, where they can really add value.

**You mention a few words that I would like to come back to. What do you consider as criteria for professionalisation. You mention you the funding issue, the professionalisation, and strategisation. Are these issues you connect with the word of professionalisation?**

When I think of a professional group I think of a group that has a strong institutional base, meaning effective management, which does not depend on one individual. A charismatic leader is always an important element of an organisation, because leadership does matter and even the most profess organisation can be brought off track but I think if you have a good management structure in place with a good governing board with a strong Senior staff, in place, individuals will matter less. One element of professionalisation: development of a strong professional NGO.

Secondly it is important to see the group has a developed enough funding base, that they are able to work. Too often they work from project to project, sometimes on one moment they work on prisons, the next minute they work on human rights education, then on

discrimination. It is important that a group is focused what they are dealing with and if activities are building upon themselves. If a group is working on discrimination then it would be nice to see that that anti discrimination effort is coming out of all things done. So building the block into place. That is something that has come with time that not all groups know from the outset where they are really want to have most impact.

And I guess that management, institutionalisation, I think staff is very important. Having a strong staff, surely you are going to have some turnover, a relatively stable staff in the environment. Some groups I went to every visit you meet a whole new group. It is important to have some continuity in senior staff.

**You mentioned the word activism once. Is there, and if so, what is the difference between a human rights activist and a human rights professional. What are the differences, if any?**

To me those two concepts are not necessarily different. You can have human rights activist that are very professional in their efforts and you have human rights professionals that are not very professional in their work. It is all a matter of experience, skills and training. And in my mind the best combination is professional well-trained activists working on promoting human rights values. But having said that let me add that possible exception...in cases where in real emergency...sometimes you have people who really care about these issues but do not know what they are doing...those people are very good, bringing attention to new issues. You need a combination of the two. But ,if my rights were violated I'd want a human rights professional with a good legal training who can really assist me and rectifying the wrong.

**One aspect of professionalisation is human rights as a profession, connected to qualifications that a human rights activist/human rights professional should have. Which one do you think one needs to have?**

It depends on the issue you are working on. Most good human rights NGOs have at least one lawyer on staff; it is important who understands the law and who in the best-case scenario can represent clients before the court. But I do not necessarily think all staff should be lawyers. But you also need individuals with researching skills, preferably in the issue area you are working. But that is not mandatory. It is nice to have somebody who has been developing his or her skills in a particular area. It is important to have a good communicator who can write and speaker well. Those people are not necessarily the same people. Sometimes it is one person but sometimes it is three people. Depends on the NGO and the structure and how you do it. You need people who are representative of their community they are representing. It is not imperative that only Roma can work on roam rights but if you are working with different groups, it is important to have at least have staff that understand the issues they are working on.

**Do you feel that those three people are well represented in the NGOs you fund?**

I would say, all three of those people are in their best form are not always easy to combine. It is difficult to find dedicated lawyers who can represent clients before court and work full time for a human rights NGO because a lot has to do with financial capacity of NGO to pay a lawyer...But also the structure of laws in many countries in the region. . In a lot of places a lawyer can't be employed by an NGO and therefore they have to be employed elsewhere or private firms that are contracting their services. It is always an awkward construction.





I think finding a good researcher who can articulate their conclusions well and develop strong. I think that is not easy to find. A lot of people and other organisations suffer from groups not having a good researching team. And obviously communication is incredibly important how you articulate those ideas, how you write press releases, how you respond to questions.

It needs all three equally important and equally scarce. I do not know if ngo's put as much emphasis/effort on getting a lawyer on staff as on their other staff. One thing I forgot is that NGOs need a good manager. NGOs often look for specialists but any organisation needs a good manager. If organisations have problems they hire a fundraiser and I wonder do you need a fundraiser?

**Do you feel materials and resources for NGO management are well developed?**

NGOs are different. It is difficult to work with all-purpose to work management-training programmes for civil society. As for human rights NGOs...they may face different problems with the media. I believe management training is best done on an individual level. We generally do put a lot of resources on generic management, we focus more on Advocacy and one on one evaluation. We also believe that when you upgrade people's skills that will open up their views.

**I'd like to know your opinion about human rights consultancy firms that are entering the human rights market developing some projects. Are you aware of this trend?**

I do not see that as a professionalisation of the field. I do not know what that is. (...) What I do think is a sign of professionalisation is that not primary human rights NGOs reformulate, incorporate human rights concerns in their mission statement. For example a Roma ngo, a Roma community centre that comes to appreciate their work as having a number of human rights concerns within it. (.) Those kinds of transformations in mission are welcome and useful where they are relevant. I also think that it is refreshing to see that more and more organisations understand that human rights values are important and deserve attention.

So maybe to come back to your question about consulting groups. You know...looking at organisations like UNDP and World Bank who do increasingly making references about human rights in their work and talking about the value of human rights in other fields. So the human rights component in economical development. But whether that leaves open for KPMG to come in and do something about human rights or other kind of consulting company to do something...I do not see a role in there. By the same token NGOs need protect themselves overextending their own projects. I think with this growth and push of the movement into inserting human rights values into more and more areas...too frequently NGOs are reaching out and working out into more and more areas.

**Do you know of discussion groups, periodicals, where issues like this are discussed?**

A lot of donors have on their websites civil society development programmes. Visit donor websites. They might have done something. Freedom house has done quite some work on putting together handbooks for human rights defenders and I think somebody else or other groups have done on donor sites. There is a lot of work done on civil society, not so much on human rights NGOs; I think watchdog groups have the different constraints compared to other ngo's. They have faced more constraints: Not necessarily a good



relationship with their government. That can really add up if a NGO spends a lot of time being kicked around in the media because of controversial reports you release. It makes it a bit tougher.

#### INTERVIEW 4

**Name organisation:** Human Rights Watch LGBT Advocacy Programme

**Name person:** Scott Long

**Location interview:** Salzburg

**Date:** Easter Monday, 2004

#### **What is your definition of the "professionalisation" of the human rights civil society?**

I think there are 3 things. One has to do with the kind of people that are into doing human rights work, and here I can give an Eastern European example that is probably relevant. The movement that we would call human rights movement now though in the 70 and 80ies would be called dissident movements were unprofessional in the extreme.

They were staffed by intellectuals and populated by ordinary people who wanted to take part in movement. In fact, even by the standards of social movement theory, they often were a few isolated people doing isolated work. But transformation of those groups into organisations that today are largely staffed by lawyers or if not by lawyers by intellectuals with specialised expertise in f.e communication, information technology or media communication. That is one mayor shift.

Secondly, connected to that. But has to do structure of organisation assigning specialised functions within the organisation. And that is a barbarian of sense of bureaucracy. Instead of a group where tasks are shared out, basically according to who wants to do them at any moment, where there are loosely assigned permanent roles, everybody has its own niche in contrast. Everybody knows in the morning...what to do. That is something not just human rights ngos but activists and grassroots activist around the world face in the course of becoming larger and older. It is not just funders driven. If an organisation gets older, you get people in it who show expertise in particular areas. If you want to stick or need to stick to those, other people need to stick to jobs that are left over. Also as an organisation are becoming larger you cant have people shifting in and out of roles; they need what they are expected to do.

The third thing which I find most ominous but it is also structural but it is to a large extend funder driven: the Transformation of structure of community based organisations into ngos in a rather more formal sense. And the mayor difference is that community based organisations see themselves and structurally set up mode of Governance, where their Primary accountability is to Constituencies outside of the organisation per se. (.) In that sense they see themselves as democratic in the literary sense community based.

But an NGO which is set up on corporate model is and the board is usually self-selecting or if not self-selected elected by the broader constituency on terms that do not allow steady monitoring on what you are doing. But the main idea of board accountability is so that the funders know when if funds are misused. Who is responsible for it.

It is basically a corporate model. I think it has been promoted by funders around the world as a way to ensure the accountability THEY want when they give away money. The accountability, which they are used to. A lot of funders come from the corporate world in the West. Even if the foundations Ford, Soros, Rockefeller. Their roots are in the corporate world

and board driven management is what they understand. It certainly has the effect of making organisations less conscience of its as well less responsible to the communities they claim to represent. In some cases it does serve rather more sinister purposes of funders.

For example I remember 4/5 years ago the World Bank hired this small organisation in Washington DC called the Center for non-profit management to produce a manual on non-profit governance and it was not meant for not profits...but for governments in newly emerging democracies and other countries to come up with legal systems to regulate non-profit (what we call non-profit in US). The center has been set up by a bunch of US Non-profit lawyers and all their materials were based on US non-profit law what we call non-profit in the US, which is restrictive. And they had already produced a manual for Soros. Which the OSI looked at a first draft and said, "this is impossible." It is basically a manual for governments to shut down non-profits.

And they insisted on a heavy revision. What these guys did was what they took the first draft and marketed it to the World Bank who is sitting on it for a long while now. They have been reluctant to release it. But drafts have been available on available on smaller group websites. It really is a manual for governments to regulate non-profits in such a way that community based organisation would become impossible. (.) It is so inapplicable to situations in f.e. India, Zambia, Ordinary board members would be very easy to shut down.

I am convinced there was an agenda of the World Bank trying to make life difficult for instance the community based organisations that are genuinely community based. In places like rural India that have been fighting against big World Bank projects. You know. It is a way to either turn them into board driven organisations, which are not responsive to village communities or to close them down altogether.

**In most cases the word "professionalisation" is put in quotation marks. Why do you think that is?**

I do not know. It reluctance to come to terms with how the most NGOs work. I mean from the early nineties on, late 80ies, both at the highly theoretical level in writers like Habermas and on a more practical level of political science, there has been a real fetishiation of concept of civil society as the alternative to the state now that most of the big authoritarian states have collapsed. And it is a place where people can continue to be Political without being co-opted into the state structures.

There is certain reluctance with the idea that NGOs can actually be more authoritarian than many Existing state structures. You can head state structures that are highly participatory and you can have a lot NGOs that are not participatory at all. Particularly in the third sense I was talking about where it means Setting up a structure that is not accountable to any one except to a small select group of its own leadership.

**If you look at the word profession literally you can consider it as "human rights as a profession", a professional. My question is do you see a difference between human rights professional and human rights activist. And if so what is the difference?**

If I had to come with an ideal type for each term I would say: The activist is someone who is responsible and accountable outside of the immediate structure of the organisation in which he works. Whereas a professional is someone who is accountable and responsible within that

that structure. But in the specific terms of human rights work, it often has to do with a different relation to what human rights as law means.

When the modern human rights system began with the UDHR, it was not perceived as a legal system in the sense of other normative systems of positive law. It was used as a set of ideal principles to be used as critique existing systems of positive law where they were inadequate. Increasingly it has become another system of positive law. Whereas you had two or three human rights lawyers in the world in 1948, primary emphasis human rights as law, they were trying to create something. Now you do have covenants and a body of jurisprudence and part of it is professionally inflated... I mean we have now 20, 25 international covenants. The jurisprudence associated with it is very small. The Notion that you need to go to law schools for three years in the same way that you learn US law, common law or civil law is kind of silly, but serves an interest for a subsection of the legal profession.

I do not mean to say not a bad thing. The normativisation of human rights, the development of Enforcement mechanisms, or Naming and shaming which function like enforcement mechanisms (say not only "Bad country, we are judging you ... against an ideal principle but bad government we are judging you against a set of principles which are embodied like formal law, it changes. But one thing you lose is the kind of Critical energy which is also a utopian energy.... of the ideas of human rights before they were codified as normative principles when they were much more open in their meaning but at the same time much more enveloping in their critique. I think we (=a lot of Activists who are working in the framework of human rights and positive law) regret that loss, and are looking into ways to contain that sense of Utopia. It has become mainstreaming and codified. Less open to interpretation and this is particularly damaging to introduce new issues, some kind of identities and new human rights issues. Paradoxically some roles have expanded in the last 10, 15 years.

**One aspect of professionalisation is human rights as a profession, connected to qualifications that a human rights activist/human rights professional should have. Which one do you think one needs to have?**

For me researching, documenting and producing information is the core of human rights. From my perspective the talents needed are those of a good anthropologist or an ethnographer.... For me good human rights work and writing is a form of ethnography. It is listening to people's story, recounting them in a way that makes them Understandable to other people. It also contextualises, it is faithful to what they say and frames it. It is a hard thing to do. It is not what you learn in law school. What is unfortunate is that there is a presumption that human rights has Law as backbone, that it doesn't need any Flash and then there is a having a law degree is enough.

Having a law degree doesn't train you to frame stories. in cultural context with social and political context outside the law. It doesn't train you to perform a cross-cultural understanding.... In fact in some way it may disqualify. There is a Notion in some human rights organisations that the ideal human rights activist (international) is a lawyer with a couple of languages. And that is really unfortunate.

There is an extensive accountability discussion going on. About professionalisation one hears less. The question is about structure of NGOs and accountability within NGOs. I do not know if it is raised very systematically anywhere. Certainly not in relation to human rights ngo's. If it is, it has been raised in relation to NGOs general. Not in the context of a

general theory of civil society or the people who are doing general civil society theory are dealing with the ideal notion of the NGO, which is very remote from the facts.

**Why do you think human rights NGOs not deal with this issue?**

I do not know. It is the odd phenomena that human rights NGOs which are committed to equity and the external sphere, and which internally can work as an immacula dora. At the same time you do want human rights activists because they dedicate their life for causes outside themselves not to be obsessed continually with the process of how the organisation works. You do not want a Democratic process that prevents it from responding to Urgent situations outside. At the same time you do not want a totally totalitarian world in NGO. I do not know how to solve it, but I do not know that if anyone is thinking about how to solve it.

Partly it is theorist do not deal with things like management theory. And all the management theories come from corporate world. Nobody understands, nobody is in the position to articulate that there is a difference between the way how you produce output in the corporate world ...versus the way to produce output in the political world ...a strategic matter, evaluate the possible outcome, the situation, in order to get the best goal towards the best outcome and constantly revaluating that...

**I'd like to know your opinion about human rights consultancy firms that are entering the human rights market developing some projects. Are you aware of this trend?**

It is...it is devastating for a general involvement of NGOs in the political sphere. They are asked to work by a Model by which the political sphere doesn't work to put it bluntly. It is partly donor driven. The way donors work. They want to get reports that say if you give us 100 thousand dollars, and then you give us a report in which you say how you spent the 100 thousand dollars. But it is also driven by management theory in the way that management theory responds to market. I think no one has come up with an adequate theory on how NGOs can operate politically that is grounded in practicalities the way management theory is grounded in the way co-operations can operate according to the market. ...This is part of larger phenomena that the market has become our dominant model for everything. Nobody believes that the political sphere is separate from the market anymore and if politicians do not believe that, and political theorist do not believe that...so why should NGOs?

I tell you one of the results which is that more and more NGOs are going into service provision because it is a realm that...works in a way that... so many clients come in, so many clients come out, and we done this to them in the meantime. It happens because it is easier for NGOs to justify oneself by service provision than by the more manipulative Benchmarks of trying to achieve political change.

It also however, suits the goal of a certain neo-liberal agenda. And you start to see that under Thatcher in Britain and during Reagan where progressive groups who were told that they can get money if they change their agendas from political action to providing services. It was great for governments that were already cutting back on services because you could sort of bribe civil society and provide all the welfare benefits that previously the state had been accustomed to provide. That is becoming a General model. But Human rights are not service provision. We are trying to serve people but we are not trying to serve them in this philanthropic, therapeutic sense. We are, I presume, trying to serve them in the sense of also changing the contexts and the situations, which result in their vulnerability and in their

victimisation, and trying to empower them. And you can't put that into a service provision model.

### **Are these values shared by human rights movement?**

Well I do not know where the core of the problem lies. (...) Most human rights NGOs at least give lip service, which continues to be a hopeful sign. If I have to say where you tackle the problems start by educating the funders...into respecting different benchmarks of success or failure than what they accept now. And being better and more creative better funders. They care less about the institutions paradoxically. Funders get very attached to institution that are failing because they have a vested interest in not saying that they throw their own money away.

They are less concerned about causes and prospects of political change, in particular NGO life. In my perspective...(...) Look at books NGO management theory in particular. Peter Drucker. This 90 year old who corporate management guru in US who has been working on NGOs, as well I do not know it intimately? But models come from corporate world.

They work with both corporations and NGOs. But they try to convince you that authority is not authority, and centralisation is not centralisation...and that you can have professionalism and still be kind and caring and sensitive to each other's soul if not each other's needs for salaries at the end of the day. And that is the point specific to NGOs. Ideological mystification where you are still working within a particular system of authority but because you are working the side of goodness...it does not matter.

### **Playing advocate of devil: do we have reason to say and to advocate that an ngo should not be run in business way style. It is good for the cause of human rights. More efficient. What can one say to that critique?**

Well I can mainly speak of international ngos. I do not think that in most cases grassroots activists in Guatemala who need smth from an IGLHRC or HRW whether it is democratic or authoritarian. They care whether it is efficient; whether what they need they get it quickly.

In that sense they may be more comfortable with an authoritarian ngo in the north because they will get it more quickly. The point where they get into trouble where the people they talk to in HRW say want to help them but are prevented to do so by the authority of the overall agenda of the organisation which stipulates their initiative or capacity to act on your imitative.

It is more an issue on grassroots level. Where y you have small structures of power. For example my friend in Egypt. Who started out as an idealistic activist and was fired by the head of a human rights ngo because he spoke out on gay issues. Now he is a running his own human rights ngo and his staff are afraid of him. You do not want that to happen... Changing the way how people relate to systems of power you can't do it by replicating the system of power.