UNIT 19 INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS (INGOs): AN OVERVIEW AND CASE STUDY

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19.1 INTRODUCTION

In Unit 18 you have read about NGOs, their status in law and what they really do. You have also read about NGOs role in conflict and in strengthening of the international humanitarian law (IHL).

If you look at the recent tragedies and conflicts in Haiti, Afghanistan, Congo, Rwanda and Sri Lanka, you will find that a number of international NGOs (INGOs) have been highly visible players in coping with the humanitarian relief activities in these countries. You would be surprised to know that it was a coalition of INGOs, which helped in making an international treaty to ban anti-personnel landmines.

In conflict situations, like in Afghanistan or Congo, where the international aid agencies, military and NGOs are present, the tasks of NGOs becomes more difficult. They may also face security threats according to the intensity and nature of the conflict.
INGOs have been instrumental in strengthening the rule of law and democratic processes in countries with a history of political violence. They have taken a lead in advocating for the respect for human rights and IHL.

19.2 OBJECTIVES

After reading this unit, you should be able to:

- explain the range of activities in which international NGOs are associated with;
- describe the interaction between the military and INGOs in humanitarian emergencies;
- discuss the security concern associated with the activities of INGOs;
- discuss the aims and objectives of selected INGOs working in the field of human rights and IHL; and
- discuss about the success of INGOs in the field of law making, advocacy and bringing reforms in the international criminal law.

19.3 THE INGOs: AN OVERVIEW

On 29 April 1999, the then United Nations Secretary General, Kofi Annan, addressed the NGO Forum on Global Issues in the following terms:

In the United Nations a few decades ago, governments were virtually the sole players. Of course, NGOs helped found the United Nations and are mentioned in the Charter. Even before that, NGOs led the charge in the adoption of the Slavery Convention of 1926. And NGOs have a long and proud history of fighting against tyranny and providing humanitarian assistance to the victims of conflict and natural disaster. NGOs armed with e-mail and Internet have been proved more powerful than landmine. And with that same weapon, and that same intensity, NGOs helped make 1988 the year of the International Criminal Court.

The Nobel Committee has recognized this work, awarding its peace prize to NGOs, the Church and academic groups and others. But NGOs have also come in for a less welcome sort of recognition: you have been denied access to meetings and information; your representatives have been harassed, jailed and exiled, tortured and murdered. It is your credit that such acts have failed to deter you from your chosen causes.

The United Nations and other multilateral international organizations are expected to take a lead role in crisis situations. Too often they prove slow in dealing with an emerging situation. Also, both international organizations and governments have institutional and political limitations that hamper their effectiveness in a complex and delicate situations. INGOs, by contrast, are able to operate in very difficult circumstances.

It is evident from the address of Mr Kofi Annan that INGOs have taken up the responsibility of conflict prevention as the international community failed measurably to deal effectively with situations in many parts of the world. What is different about the INGO activism during the last two decades in zones of conflict is that many groups are now playing a role in trying to defuse nascent or full blown wars, as opposed to just cleaning up the human suffering that results. Today, INGOs have the ability to:
What is the Role of other Institutions?

- function without being restricted by foreign-policy imperatives;
- access areas inaccessible to official actors;
- talk to several parties without losing credibility;
- deal directly with grassroots populations;
- take risks, given their public-advocacy and social justice agendas;
- effectively network, given their long-standing relationships, built on trust;
- draw upon public opinion to arouse political will;
- focus on longer-term perspectives than governments.

International NGOs like the International Crisis Group, International Alert, and the Center for Preventive Action have become involved in a wide range of conflict prevention and resolution activities. These are:

- Monitoring conflict and providing early warning of new violence;
- Opening dialogue between adversarial parties;
- Playing a direct mediating role;
- Strengthening local institutions for conflict resolution;
- Helping to strengthen the rule of law and democratic processes in places of violence.

Because of this, the UN and related international organizations, governments—the international media, and the academic community consult daily with NGOs with a view to incorporating their reports into policy. Amnesty International’s campaign for Soviet prisoners of conscience was so influential that President Gorbachev invited representatives from Amnesty to visit Moscow to discuss reforming the Soviet Union.

19.3.1 Could INGOs be Classified into Different Categories Based on their Role?

INGOs operate in as many different areas as life itself and defy easy classification. INGOs generally concentrate on four quite distinct kinds of activities:

1) The ‘thinking’ NGOs—for example International Commission of Jurists—are by and large the research institutes and think tanks, whose product is books and papers, and who engage in data gathering, idea generating, network building, paper publishing and conference organizing. Their rationale tends to be contributing to the ideas pool and general debate, though some are more sharply focused.

2) The ‘talking’ or advocacy NGOs—for example Asia Watch and Amnesty International—engage in research and analysis, but their primary emphasis is on spotlighting governmental abuses.

3) The ‘doing’ NGOs—and Search for Common Ground, International Alert and the Community of San Egidio are examples—tend to focus on field operations which bring people together, build confidence, and mediate disputes; they also tend to be much involved in improving governance through training and general capacity building programs.
4) The ‘aid and humanitarian’ NGOs are associated with humanitarian relief work in places of conflict.

Today, INGOs have emerged as a vital part of international intervention. They are highly visible participants with significant influence in the world scene and are essential players in the international response to humanitarian emergencies, human rights abuse, and nation-building and reconstruction. The Union of International Association reported in its “Yearbook of International Organizations (1998-99)” that there were 16,586 NGOs, with 50% existing in the Western countries working in developing countries and supporting indigenous organizations. According to another estimate, about 25,000 now qualify as international NGOs. A variety of organizations now serve as coordinating mechanisms between government/international organization representatives, the military, and NGOs, among NGOs themselves, and between NGOs and the military.

Self Assessment Question

1) List the activities which INGOs can undertake in the place of conflict.

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19.4 IS THERE ANY SIMILARITY IN WORK CULTURE OF MILITARY AND INGOS?

In conflict situations NGOs and the military have different cultures but work towards the same goal of establishing peace and stability in war-torn societies. The military’s role in conflict situations is to ensure a secure environment and carry out its operational goals. The military is just one component of a broader response to humanitarian crisis. NGOs hold strong values of neutrality, independence, and impartiality. Their line of command is consensual and decentralized. On the other hand the military is a structured, hierarchical, and rule-based organization. Each component in its chain of command has specific functions. There is extensive pre-deployment training in the military where NGO training primarily takes place on the job. There is a great need for both organizations to bridge their cultural and institutional gaps, and this feat can be accomplished through mutual respect and joint training.

19.4.1 What is the Relationship between the Military and NGOs in Humanitarian Emergencies?

In a conflict situations, like in Afghanistan, the states armed forces, the UN intergovernmental agencies and the INGOs all may be present. The task of military forces in such situations become diverse and adds many new dimensions. The military need to take advantage of the skills NGOs posses such as their tremendous understanding of the sensitivities of the local culture and the immediate needs of the populace. However, dealing with NGOs can be a complicated task.
What is the Role of other Institutions?

There is little leadership and division of labour in the NGO community as each NGO and UN agency has its own immediate interests and mandate. As well, since NGOs protect their neutrality and impartiality long-term planning is difficult. Both sides, the military and NGO have little familiarity with each other. In order to meet the challenges, a Civil-Military Operations Centre (CMOC) need to be established promptly to ensure military forces complement humanitarian assistance with NGOs efficiently. Personal relationships should be made with NGOs who are willing and able to operate with military forces during crisis. The militaries should work together with NGOs to recognize existing problems, advocate workable solutions, and promote these solutions before crises occur. The activity of the CMOC may include:

- Daily security briefings provided by the military;
- Security for convoys;
- General security and safety, including emergency response;
- Sector planning, coordination, and classification of different participants’ mandates;
- Technical assistance, communications and small machine repair; and
- Access to critical facilities under military control, such as ports and airfields.

The experiences in Iraq, Somalia, Haiti, and Rwanda have proven that closer coordination among INGOs and the military can more effectively serve the goal of delivering humanitarian assistance in complex humanitarian emergencies. A variety of organizations now serve as coordinating mechanisms between government/international organization representatives, the military, and INGOs, among NGOs themselves, and between NGOs and the military.

19.5 DO INGOs FACE ANY SECURITY THREATS?

Security threats to NGOs vary according to the intensity and nature of the conflict. For example, in Afghanistan and Sri Lanka, during the recent phases of conflicts, INGOs operated in a security vacuum engendered both by the emergency itself and the unwillingness of internationally sanctioned forces to address the need for security. In Afghanistan, direct threats to the security of aid staff was greatest, though in Sir Lanka and Nepal staff were also killed or injured as a result of direct targeting or being caught in the cross fire. To a limited degree, protection was provided to NGO operation by international or regional peacekeepers (Afghanistan), government forces (Nepal and Sri Lanka) or non-state military actors (Afghanistan). However, too close association may lead to a blurring of the lines between military and humanitarian actors and a perceived loss of neutrality.

NGOs deploy a number of tactics to reduce their exposure to conflict-related risks. Some of the possible strategies could be: to develop security guidelines for staff, training for staff in security procedures, working through local partners, negotiating ground rules with de facto authorities in conflict-affected areas, avoiding bulky assets, adopting low-key approaches, and focusing on poverty alleviation and social support programmes. However, withdrawal may be a last resort. Following US missiles strikes in Afghanistan in 1998, most aid NGOs chose to temporarily evacuate to Pakistan facing reprisal attacks from the Taliban and other Islamic radicals.
Security of Aid workers

According to ‘Reuters Alertnet’, 122 aid workers were killed while carrying out their work in 2008, making it the most deadly year for aid workers on record. In 2009, 13 aid agencies were expelled from Sudan following an arrest warrant issuance against President Omar Hassan al-Bashir by the International Criminal Court. He accused the agencies of being “spies and thieves”, taking “99% of the budget for humanitarian works themselves, giving the people of Darfur 1%”.

Self Assessment Question

2) What do you understand by Civil-Military Operations Centre (CMOC)?
List the activities undertaken by CMOC.

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19.6 IHL AND HUMANITARIAN ASSISTANCE BY NGOs

Humanitarian assistance to civilian populations is an integral aspect of IHL, and its facilitation a legal obligation. The role of NGOs in this regard is long-established and recognized, and yet faces deep challenges. NGOs engaged in this work rely on principles of neutrality and humanitarianism to keep their mission separate from the political conflict and the political affiliation of populations in need, and such separation serves to protect both the humanitarians and the civilian populations they serve.

In Unit 18 you have learned that as many as 22 Articles in the Geneva Conventions of 1949 and its Additional Protocols of 1977 refer to humanitarian relief agencies. Article 23 of the fourth Geneva Convention IV specifically provides that a party shall allow free passage of certain goods through its territory, intended for the civilians of another party to the conflict. The obligation is subject to certain condition that the party is satisfied that there are no serious reasons for fearing: (a) That the consignment may be diverted from their destination, (b) That the control may not be effective, or (c) That a definite advantage may accrue to the military efforts or the economy of the enemy through the substitution of the above mentioned consignments of goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise for the production of such goods.

However, a question arises whether humanitarian aid can be genuinely neutral when it is subject to diversion by military forces, particularly in circumstances where the military forces are grossly abusive of human rights and IHL. For example the Khmer Rouge camps in Thailand, the Hutu camps in then-Zaire, or even North Korea, where there have been persistent difficulties in ensuring that aid is not diverted to the military and political elite. Another challenge has arisen when some portion of a civilian population is made the object of armed conflict and abuse by their own government, raising the question whether their right to
humanitarian assistance (i.e. their right to food, shelter, health, etc.) should be secured by the international community, if necessary, through military intervention. The siege and the slaughter set the stage for some NGOs to endorse military intervention in Kosovo as a humanitarian imperative.

The most recent challenge is the assumption of humanitarian functions by Parties to armed conflict as part of a “hearts and minds” strategy, was visible in Afghanistan and Iraq. The direct role of military in humanitarian assistance may create confusion in a distinction between military and humanitarian personnel. It results when one side to the conflict coordinates and controls access, activities and funding of private humanitarian efforts.

19.7 WHAT IS THE FUTURE OF INGO INTERVENTION?

The nature of the wars the INGOs respond to has changed in the post-Cold War era. Many such wars are domestic, fought between groups within one nation. There are no longer clear battlefields, and the distinction between military and civilian is no longer clear. People increasingly attribute wars to their leaders’ greed, and to see war as destructive, ineffective, and self-perpetuating. War is no longer seen as a means of restoring justice. At the same time, opposing war is dangerous, as critics are seen as disloyal.

The changing nature of war leads to three new complexities for NGO interventions. First, such wars are not governed by the international codes of war. Second, it is difficult to decide where sovereignty and political legitimacy resides during a civil war. Third, it is difficult to decide where moral legitimacy resides during an opportunistic war or attempted coup. With whom should an NGO negotiate, and to whom should they lend aid in such cases?

In the face of such conflicts, NGOs should give up their apolitical stance. NGOs should denounce war itself. NGO interventions might then be directed toward supporting and protecting local opposition to war, and to fostering individual’s attempts to disengage from war. This will require developing alternative methods of distributing assistance, so that aid is less easily misdirected into the war effort. NGOs might also seek to foster economic cooperation and interdependence between non-combatant members of warring groups.

19.7.1 How INGO-Government Cooperation could be Improved?

There are a number of ways in which the capabilities of NGOs and governments can be more effectively harnessed. These are as follows.

1) Institutional mechanisms for cooperation or consultation, both in the field and at headquarters, can be made more effective.

2) Policy and strategies in key areas can be more closely coordinated, or at least a dialogue can be established.

3) Both NGOs and governments need to acknowledge the importance of the others’ role in conflict resolution and peace-building.

4) NGOs and governments need to work together to play a more active part in cases of intra-State conflict, for example by taking preventive measures,
improving humanitarian coordination, and contributing to greater international preparedness.

Achieving this coordination and cooperation will require an attitude of give-and-take on the part of both governments and NGOs. There will be times when it is difficult to reach a common position, and times when NGOs and governments will have to agree to disagree.

**Self Assessment Question**

3) State whether in a conflict situation, humanitarian aid can be genuinely neutral?

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19.8 INGOs: MISSIONS AND ACTIVITIES

Operating at a transnational level, often against great odds, INGOs have taken the lead in advocating such norms as respect for human rights, the rule of law, and the need to resolve political and ethnic differences through political processes. A brief account of the missions activities of four INGOs is as follows.

1) **Amnesty International** (AI) was founded in London in July 1961 by English labour lawyer Peter Benenson. Amnesty International is an international NGO which defines its mission as “to conduct research and generate action to prevent and end grave abuses of human rights and to demand justice for those whose rights have been violated.” AI draws attention to human rights abuses and campaigns for compliance with international laws and standards. It works to mobilize public opinion to exert pressure on governments who perpetrate abuses. The organization was awarded the 1977 Nobel Peace Prize for its “campaign against torture” and the United Nations Prize in the Field of Human Rights in 1978.

In the field of international human rights organizations AI has the longest history and broadest name recognition, and “is believed by many to set standards for the movement as a whole.” Amnesty International primarily targets governments, but also reports on non-governmental bodies and private individuals (non-state actors). There are seven key areas which Amnesty International deals with:

- Women’s Rights
- Children’s Rights
- Ending Torture
- Abolition of the death penalty
- Rights of Refugees
- Rights of prisoners of Conscience
- Protection of Human Dignity
What is the Role of other Institutions?

2) **Human Rights Watch** (HRW) began in 1978 with the creation of Helsinki Watch, designed to support the citizens groups formed throughout the Soviet bloc to monitor government compliance with the 1975 Helsinki Accords. Helsinki Watch adopted a methodology of publicly “naming and shaming” abusive governments through media coverage and through direct exchanges with policymakers. By shining the international spotlight on human rights violations in the Soviet Union and Eastern Europe, Helsinki Watch contributed to the dramatic democratic transformations of the late 1980s.

Americas Watch was founded in 1981 while bloody civil wars engulfed Central America. Relying on extensive on-the-ground fact-finding, Americas Watch not only addressed abuses by government forces, but applied international humanitarian law to investigate and expose war crimes by rebel groups. In addition to raising its concerns in the affected countries, Americas Watch also critically examined the role played by foreign governments, particularly the United States, in providing military and political support to abusive regimes. In rapid succession in the 1980s, Asia Watch (1985), Africa Watch (1988), and Middle East Watch (1989) were added to what was then known as “The Watch Committees”. In 1988, the organization formally adopted the all-inclusive name Human Rights Watch.

Human Rights Watch is one of the world’s leading independent organizations dedicated to defending and protecting human rights. Its staff consists of human rights professionals including country experts, lawyers, journalists, and academics of diverse backgrounds and nationalities. It is known for its accurate fact-finding, impartial reporting, effective use of media, and targeted advocacy, often in partnership with local human rights groups. Each year, Human Rights Watch publishes more than 100 reports and briefings on human rights conditions in some 90 countries, generating extensive coverage in local and international media.

Issues raised by Human Rights Watch in its reports include social and gender discrimination, torture, military use of children, political corruption, and abuses in criminal justice systems. Human Rights Watch, documents and reports violations of the IHL. It has supported and critiqued the international tribunals for the former Yugoslavia and Rwanda, sought prosecutions of abusive leaders including Augusto Pinochet of Chile and Hissene Habre of Chad, and played a prominent role in the drafting of the Rome Statute to create the International Criminal Court. Human Rights Watch in 1997 shared in the Nobel Peace Prize as a founding member of the International Campaign to Ban Landmines, and it played a leading role in the 2008 treaty banning cluster munitions.

3) **Oxfam International** was formed in 1995 by a group of independent non-governmental organizations. Their aim was to work together for greater impact on the international stage to reduce poverty and injustice. The name “Oxfam” comes from the Oxford Committee for Famine Relief, founded in Britain in 1942. The group campaigned for food supplies to be sent through an allied naval blockade to starving women and children in enemy-occupied Greece during the Second World War.

Though Oxfam’s initial concern was the provision of food to relieve famine, over the years the organization has developed strategies to combat the causes of famine. Oxfam works on agriculture, trade justice, education, debt and livelihoods, health, gender equality, conflict (campaigning for an international
arms trade treaty), natural disasters, democracy and human rights, and climate change.

Today, there are 14 member organizations of the Oxfam International confederation. They are based in: Australia, Belgium, Canada, France, Germany, Great Britain, Hong Kong, Ireland, Mexico, The Netherlands, New Zealand, Quebec, Spain and the United States.

4) **The International Commission of Jurists (ICJ)**, a Geneva based NGO has a vision of the world in which, through the rule of law, a just, democratic and peaceful society can be achieved. A vision based on the rule of law, not as a static set of rules, but as a dynamic concept that protects against arbitrary power, expands freedoms and embraces justice.

The ICJ’s vision is one in which everyone in society is equal before the law and protected from human rights violations by the law and in practice; in which those in power are held accountable and brought to justice if they violate human rights; where victims have access to remedies and justice and those who come before the courts receive a fair trial and never face the death penalty.

The ICJ is formed by a group of up to 60 Commissioners, all prominent jurists, coming from all parts of the world. The ICJ is also a network: in addition to its Commissioners, this network consists of Honorary Members, National Sections and Affiliated Organizations. The ICJ forms strategic alliances with like-minded organizations to carry out specific actions. The ICJ Network is a very powerful advocacy platform, capable of mobilizing action at the highest level. It also offers a vast diversity of legal expertise from all continents.

The ICJ Network of judges and lawyers is united by a belief that international law and the rule of law are powerful instruments to further the enjoyment of human rights by everyone. The “rule of law” broadly reflects the idea that law must be just (i.e. in accordance with human rights norms) and able to protect people from the arbitrary exercise of power. The “rule of law” also implies that the State must develop effective executive, judicial and legislative institutions as checks and balances, to respect, protect and fulfil the human rights of all people and to hold the State accountable when it violates rights.

The ICJ has been a driving force behind the adoption of numerous declarations and standards including the UN Basic Principles of the Role of Lawyers, the European Convention Against Torture, the UN Basic Principles on the Independence of the Judiciary and the African Charter of Human and Peoples’ Rights.

19.9 CASE STUDIES

1) Ottawa Treaty – A Success Story of International NGOs

If there are proofs that International NGOs started to gain influence and respectability on the international scene, the Ottawa Treaty is just one of them. The Ottawa Treaty is considered as one of the major successes of NGOs. Called formally “the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction”, it aims to ban the use, production, development, stockpiling, and transferring of anti-personnel mines.

When the International Campaign to Ban Landmines (ICBL) was formally launched in October of 1992, few imagined that the grassroots movement would capture the public imagination and build political pressure to such a degree that, within five years, the international community would come together to negotiate a treaty banning antipersonnel landmines.

What made the ICBL so successful and a possible model for others?

The ICBL began entirely as an effort of International NGOs. The initial effort was made by the ICRC. Its surgeon staff was particularly alarmed at the sharp increase in the number of limb amputations amongst landmine victims. It persuaded the ICRC to raise the issue in its diplomatic, legal and public awareness efforts. A coalition of international NGOs came together to initiate what later became known as ICBL. The initial groups which had met in various ways and combination in the run up to the formal launch of the ICBL were Handicap International (France), Human Rights Watch (US), Medico International (Germany), Mines Awareness Group (UK), Physicians for Human Rights (US), and Vietnam Veterans of America Foundation (US), which became the first ICBL steering Committee. The ICBL expanded over the next few years, more than 1,200 NGOs in some 65 countries joined it.

One of the reason for the success of ICBL campaign was that it had a simple, easily understood message – a complete and comprehensive ban, nothing less. The message was so simple that it could fit whole into an advertisement or public awareness message. It preserves the spirit of transparent language and clear, uncompromising and unambiguous undertakings.

In response to international pressures, core influential governments endorsed the ban treaty. The sympathetic governments adopted a new principle of negotiating a treaty among like-minded states. The governments eventually began to come on board the landmine ban because of two principal reasons: (i) NGOs pressure
brought to them an awareness of the genuine extent of the problem and put it on their policy agenda, (ii) many governments recognized that for them the decision to ban landmines was essentially cost and risk free. It became very clear that to eliminate the problem, it would be necessary to eliminate the weapon - landmines would have to be banned. The ICBL has become a coalition of over 1,200 organizations working together in 80 countries, to achieve the common goal of a ban on antipersonnel landmines.

**A Non-Bureaucratic Campaign**

The ICBL is a true coalition made up of independent NGOs. There has been no secretariat. No central office. The NGOs that make up the ICBL have been joined together through their common goal of banning landmines. The ICBL was deliberate in not establishing a central office; each NGO had to find a way to participate in making the campaign work. This structure helped to insure that the ICBL ‘belongs’ to all of its members and that these members would have to be active in the process to achieve the Campaign’s goals.

**Mail-Fax-Electronic Mail**

Certainly the ease and speed of communication as a result of technological developments have had a great impact on the ability of civil society from diverse cultures to dialogue and formulate global political strategies, but e-mail alone has not “moved the movement”. In the early years of the ICBL, there was extensive use of the fax, and regular mailings to campaign members of documents and informational updates. The fax machine was relatively new, it was “exciting”. Information arriving almost instantaneously by fax was perceived to be more important - and thus more deserving of immediate response – than regular mail. Thus, it was fax and telephone communication upon which the ICBL relied for much of its almost daily communications. Electronic mail has permitted the ICBL to carry out its priority of frequent and timely internal communication to a greater degree than ever before.

**Binding International Law**

As the world knows, in December of 1997, 121 governments came to Ottawa to sign the Mine Ban Treaty. And the numbers continue to grow – and the momentum remains unrelenting – 158 governments have signed the Treaty. The Mine Ban Treaty became binding international law on March 1, 1999.

**1997 Nobel Peace Prize**

The process that brought about the Mine Ban Treaty, has added a new dimension to diplomacy and hope for its wider applicability. When it announced that the International Campaign to Ban Landmines had been awarded the 1997 Nobel Prize for Peace, the Nobel Committee recognized not only the achievement of the ban, but also the promise of the model created with the ban movement. The Committee noted that the Campaign had been able to “express and mediate a broad range of popular commitment in an unprecedented way. With the governments of several small and medium-sized countries up the taking… this work has grown into a convincing example of an effective policy for peace.” The Committee concluded: “As a model for similar processes in the future, it could prove to be of decisive importance to the international effort for disarmament and peace.”
Self Assessment Question

5) What were the reasons for success of the International Campaign to Ban Landmines (ICBL)?

2) The Role of INGOs in the Establishment of the International Criminal Court

You have learnt about the Rome Statute and the establishment of the International Criminal Court (ICC) in Block 3, Units 9 and 11. The creation and implementation of the ICC can be seen as a success for INGOs working to bring about normative changes in relation to human rights and international law. NGOs, through a process of complementary and parallel diplomacy, were able to propel human rights issues onto the international security agenda, and have participated actively at all stages of the Court’s evolution.

The first moves towards an International Criminal Court were, in fact, initiated by NGOs. In the late 19th century Gustav Moynier, president of the ICRC, suggested an international tribunal to deal with the atrocities committed in the Franco-Prussian War 1870-71. Following the post-WWII trials (the International Military Tribunal at Nuremburg and Tokyo), the UN General Assembly established the “Committee on the Progressive Development of International Law and its Codification” to continue the general principles set out in the charter of the Nuremberg Tribunal. In December 1950, the General Assembly appointed officials to prepare a draft statute, but due to Cold War political divisions within the UN, nothing could be achieved in the next 30 years.

In this post-Cold War environment where human rights were brought squarely onto the international agenda, the Security Council established the tribunals for Yugoslavia (1993) and Rwanda (1994). These tribunals were an important step in legitimating the idea of punishment for war crimes, as the tribunals were not the biased products of military victory, but established by the Security Council. However, there remained a lack of cohesive legislation to complete this norm.

In the late 1980s and early 90s, only a small group of NGOs had active programs supporting the establishment of an ICC. In February 1995, about 25 of these groups met in New York, formed the NGO Coalition for an International Criminal Court (CICC) and established an informal steering committee. This was significant as it brought together diverse NGOs with different goals and focus areas. It enabled them to act in a cohesive manner to achieve set ends, and created a network to observe the ICC process. NGOs participated in the ICC process in a variety of ways. These can be broadly grouped into three areas: (i) International agenda setting, (ii) Facilitating the ratification process and bringing organizational expertise, and (iii) On-going development and support of the Court.

From 1992-94, at the request of the General Assembly, the International Law Commission (ILC) drafted a statute, beginning a seven-year process for the
establishment of a permanent International Criminal Court to try war crimes. A Preparatory Committee (Prepcom) was established for preliminary negotiations, and a coalition of NGOs participated actively in formulating the various elements of the draft statute. At Prepcom, the CICC outlined the issues they felt should be included in the draft statute, and identified the primary goals they would hope to see achieved in the creation of the Court. They set about constructing networks of activists and experts who would help their cause, especially in regard to international law and human rights advocacy.


On 17 July 1998 the most significant step towards ending impunity for perpetrators of war crimes came with the adoption of the Rome Statute for the ICC. The Statute set out the Court’s jurisdiction, structure and functions, and essentially represents the blue print for what the ICC hopes to achieve. For the NGOs involved, the statute was the culmination of three and a half years of intense advocacy and unprecedented levels of co-operation between NGOs themselves, as well as between NGOs and the UN Secretariat.

But most significantly, it was not just governments that came to the negotiating table, but also numerous NGOs acting in support of the cause, education, lobbying and advocacy. The CICC grew to 800 members, and 235 NGOs were accredited by the UN General Assembly to participate in the Rome Conference. By an estimate 450 representatives of these 235 NGOs were in attendance at the Rome Conference. Some larger NGOs such as Amnesty International and Human Rights Watch sent larger delegations than most countries.

Today, the CICC has been recognized as a tightly organized, politically savvy group consisting of an assembly of 1,000 NGOs from all regions of the world, involved with the establishment and running of the ICC. The Coalition has grown to include many sectors of interest and global civil society, including human rights, arms control, the rights of women and children, peace, international law, humanitarian assistance, the rights of victims, and religion. With entry into force of the Rome Statute for the ICC on July 1, 2002, the primary thrust of NGOs activities is over, and their new roles have taken on two distinct directions: (i) work towards further entrenching the ICC (ii) monitoring human rights abuses to “trigger” prosecutions.

What is the role of NGOs in Relations to ICC Investigations?

Human rights NGOs are often among the first to reach the scene of gross violations of human rights and humanitarian law. They often have direct knowledge of violations and contacts with victim and witness communities. NGOs also may be able to document violations shortly after they occur and to compile information regarding patterns of violations. Indeed, NGOs may be the main sources of
What is the Role of other Institutions?

Information drawing the attention of the ICC Prosecutor to situations where crimes have been committed.

According to Article 15 of the Rome Statute and Rule 104 of the ICC Rules of Procedure and Evidence, the Prosecutor may receive and seek information from reliable sources he deems appropriate. Article 15 further provides that, if on the basis of such information the Prosecutor concludes there is a reasonable basis to proceed with an investigation, he shall request the Pre-Trial Chamber to authorize an investigation. NGOs are capable of providing valuable assistance to the ICC Prosecutor.

What are the ways in which the NGOs could help ICC investigations?

The following are just some of the ways in which the NGOs could potentially work in relation to ICC investigations:

- Map or document patterns of violations
- Conduct forensic examinations
- Publish reports and other information on violations
- Submit information on violations to national courts or the ICC
- Provide legal memoranda and research assistance to national courts or the ICC
- Advise the Office of the Prosecutor (OTP) on communication with victims and witnesses in affected communities
- Provide the ICC with information regarding displacement of people
- Identify potential witnesses and act as a channel to reach and gain trust of such individuals for the OTP
- Advise the ICC on witness protection
- Provide support to victims or witnesses – such as psychological, medical and humanitarian support – after they have been interviewed by the OTP
- Organize victims for the purpose of participation and reparations
- Provide training to lawyers who might represent victims or suspects or accused
- Act as amicus curiae in court proceedings

NGOs are becoming increasingly involved in international conflict. The reality of today’s predominantly civil conflicts has made it difficult for NGOs to maintain their neutral status through their involvement. NGOs are having difficulties deciphering the players in the conflict from innocent civilians and lose their impartiality at many times by inadvertently supporting one side of the conflict or unknowingly exacerbating the conflict themselves through their operations. Also, NGOs are becoming the targets of warring parties making security enormous concern for many international NGOs operating in conflict settings.
19.10 SUMMARY

- In this unit we have discussed about the lead role played by the INGOs in alleviation of sufferings of innocent victims. We have also seen the exceptional coping abilities of INGOs in meeting such challenges.

- Further, we saw that in war-torn societies, though INGOs and the military have different work cultures, but they can work towards the same goal of establishing peace and stability.

- We further discussed the future of INGOs intervention in conflict ridden societies and how the capabilities of NGOs and governments could be harnessed more effectively.

- We have discussed the mission and activities of four INGOs, Amnesty International, Human Rights Watch, OXFAM International and the International Commission of Jurists.

- In the two case studies, we have seen the role of INGOs in advocacy and law making to ban antipersonnel landmines and establishment of the International Criminal Court.

19.11 TERMINAL QUESTIONS

1) Explain the different kinds of activities in which INGOs are involved. Illustrate with suitable examples.

2) Discuss difference in work culture of the military and NGOs and suggest how two organizations can cope with the difference to meet the humanitarian challenges?

3) Discuss briefly the role played by INGOs in Mine Ban Treaty and establishment of the International Criminal Court.

19.12 ANSWERS AND HINTS

Self Assessment Questions

1) Refer for Section 19.3

2) Refer for Sub-section 19.4.1

3) Refer for Section 19.6

4) Refer for Section 19.8

5) Refer for Section 19.9
What is the Role of other Institutions?

6) Refer for Section 19.9

Terminal Questions

1) International NGOs operate in as many different areas, but generally concentrate on four quite distinct kinds of activities. These are (i) research and think tanks, (ii) advocacy (iii) field operations-training and dispute mediation and (iv) humanitarian aid.

The ‘thinking’ INGOs are the research institutes and think tanks, whose product is books and papers, and who engage in data gathering, idea generating, network building, paper publishing and conference organizing. Their rationale tends to be contributing to the ideas pool and general debate, though some are more sharply focused. For example the International Commission of Jurists, Geneva.

The advocacy INGOs engage in research and analysis, but their primary emphasis is on spotlighting governmental abuses. Examples are Asia Watch and Amnesty International. The field INGOs focus on field operations which bring people together, build confidence, and mediate disputes. They are also involved in improving governance through training and general capacity building programs. Examples are Search for Common Ground, International Alert and the Community of San Egidio. The humanitarian aid INGOs are associated with humanitarian relief work in places of conflict.

2) The military and INGOs have different cultures. The military’s role in conflict situations is to ensure a secure environment and carry out its operational goals. Military is a structured, hierarchical, and rule-based organization. Each component in its chain of command has specific functions. In contrast, INGOs hold strong values of neutrality, independence, and impartiality. Their line of command is consensual and decentralized. There is extensive pre-deployment training in the military where NGO training primarily takes place on the job. There is a great need for both organizations to bridge their cultural and institutional gaps, and this feat can be accomplished through mutual respect and joint training.

In humanitarian emergencies the military need to take advantage of the skills NGOs posses. They have tremendous understanding of the sensitivities of the local culture and the immediate needs of the population. In order to meet the challenges, a Civil-Military Operations Centre (CMOC) need to be established promptly to ensure military forces complement humanitarian assistance with NGOs efficiently. Personal relationships should be made with NGOs who are willing and able to operate with military forces during crisis. The militaries should work together with NGOs to recognize existing problems, advocate workable solutions, and promote these solutions before crises occur. The activity of the CMOC may include daily security briefings provided by the military, security for NGOs’ convoys; general security and safety, emergency response; technical and communication assistance and access to facilities under military control, such as ports and airfields.

3) The International Campaign to Ban Landmines (ICBL) was launched in October of 1992. It was the grassroots movement to build political pressure on States to negotiate a treaty banning antipersonnel landmines. ICBL was a true democratic association. The NGOs that make up the ICBL have been joined together through their common goal of banning landmines. One of the main reasons for the success of the ICBL campaign was that it had a simple,
easily understood message—a complete and comprehensive ban on antipersonnel landmines. The message was simple and it could fit into an advertisement or public awareness message. The ICBL also exploited the new communication system and made extensive use of the fax, and regular mailings to campaign members of documents and informational updates. Electronic mail has permitted the ICBL to carry out its priority of frequent and timely internal communication to a greater degree than ever before.

The NGO Coalition for an International Criminal Court (CICC) was established as an informal steering committee in 1995. It consisted of 25 diverse INGOs with different goals and focus areas. This diversity enabled NGOs to participate in the ICC process into three areas: (i) International agenda setting, (ii) Facilitating the ratification process and bringing organizational expertise, and (iii) On-going development and support of the Court. The CICC participated actively in formulating the various elements of the draft Rome Statute. The CICC also outlined the issues they felt should be included in the draft statute, and identified the primary goals they would hope to see achieved in the creation of the Court. They set about constructing networks of activists and experts who would help their cause, especially in regard to international law and human rights advocacy.

19.13 GLOSSARY

The Office of the Prosecutor: (OTP) is one of the four organs of the International Criminal Court. Under the authority of the Rome Statute, the Prosecutor determines whether to open an investigation into a situation, investigates and prosecutes individuals for the commission of crimes of genocide, crimes against humanity and war crimes.

Amicus Curiae: It is a legal Latin phrase, meaning “friend of the court”, that refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

19.14 REFERENCES AND SUGGESTED READINGS


