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HUMAN RIGHTS NGOS IN INDIA: GUARDIANS OF RIGHTS OR CHALLENGES TO STATE SOVEREIGNTY?

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Introduction

During the post-independence era, The State of India has witnessed a vibrant evolution in the civil society space, with human rights NGOs emerging as crucial actors in addressing legal, political, and socio-economic injustices. The Indian Constitution, through its robust guarantee of fundamental rights and directive principles (yet not justifiable), lays the foundation for the recognition and advancement of human rights. However, the enforcement and realization of these rights often depend on vigilant institutions outside of formal state mechanisms. Human rights NGOs step into this space, acting as facilitators, monitors, and advocates for the underrepresented and marginalized sections of society. Their interventions span a wide spectrum—legal aid, public interest litigation, fact-finding, policy research, humanitarian relief, and awareness campaigns. Despite these contributions, their role frequently invites disbelief from state institutions, especially when their activities challenge official narratives or seek accountability from the state machinery. The ongoing tension between state sovereignty and the autonomy of NGOs reflects broader global debates, but within the Indian context, it assumes unique contours shaped by democratic ideals, colonial legacies, federalism, and an evolving jurisprudence on rights. This paper seeks to explore the multifaceted roles of human rights NGOs in India, their legal and constitutional grounding, the implications of state oversight, and the normative concerns about sovereignty and foreign influence. We also examine major judicial pronouncements, legislative frameworks like the FCRA, and contemporary challenges faced by these organizations.

Constitutional Foundation of Human Rights and Role of NGOs

The Indian Constitution is a rich charter of human rights. Fundamental Rights under Part III and the Directive Principles of State Policy under Part IV reflect a holistic understanding of civil, political, economic, and social rights. While the state is the primary duty-bearer in ensuring these rights, its institutional limitations, political inertia, or even deliberate inaction

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often necessitate the intervention of civil society organizations. Human rights NGOs in India, like the People's Union for Civil Liberties (PUCL), Human Rights Law Network (HRLN), and the Commonwealth Human Rights Initiative (CHRI), have played transformative roles in realizing these constitutional mandates. For instance, PUCL was instrumental in initiating the right to food litigation, leading to the Supreme Court's landmark orders that expanded the right to life under Article 21 to include food security. NGOs also contributed immensely during the drafting of laws like the Right to Information Act, 2005³ and in enforcing workplace protections for women post-Vishaka v. State of Rajasthan (1997).⁴ NGOs have also acted as amicus curiae in various constitutional matters, helping courts understand social realities. Their ability to conduct ground-level research and gather testimonies makes them indispensable allies in a judicial system often burdened with procedural delays.

Judicial Recognition and Key Interventions

Over the years, the Indian judiciary has acknowledged the indispensable role of human rights NGOs in ensuring justice. In the case of D.K. Basu v. State of West Bengal (1997)⁵, which laid down detailed guidelines against custodial torture, NGOs played a pivotal role in bringing empirical evidence to the court's notice. Similarly, in Vishaka v. State of Rajasthan, inputs from women's rights NGOs led to judicial guidelines on workplace harassment, which served as a legal framework until the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁶ was enacted.

In Navtej Singh Johar v. Union of India (2018)⁷, the landmark case that decriminalized consensual same-sex relationships, the petitioners included LGBTQ+ rights activists and NGOs. The case demonstrated how civil society could influence constitutional morality and challenge majoritarian prejudice. Likewise, in Olga Tellis v. Bombay Municipal Corporation (1985)⁸, the right to livelihood was read into Article 21, influenced by Legal Aid NGOs representing pavement dwellers. These precedents reflect a strong jurisprudential trend of the judiciary engaging with NGOs as co-partners in the enforcement of constitutional rights. Such recognition also signals the institutional trust in the integrity and effectiveness of these

³ Right To Information Act, 2005 (Act No. 22 Of 2005) [As Modified Up To 1st February, 2011]

⁴ Air 1997 Supreme Court 3011

⁵ Dk Basu V. State Of West Bengal, Air 1997 Sc 610

⁶ The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013

⁷ Air 2018 Supreme Court 4321

⁸ 1986 Air 180

organizations.

Tensions around Sovereignty: The FCRA and Regulatory Framework

Despite their contributions, NGOs in India have been subject to increasing regulation, particularly in the context of foreign funding. The Foreign Contribution (Regulation) Act (FCRA), 2010 regulates the receipt of foreign funds by NGOs. While the Act ostensibly aims to ensure transparency and national interest, its implementation has raised concerns over the arbitrary and selective targeting of dissenting voices.

The cancellation of licenses for NGOs such as Greenpeace India and Amnesty International under the FCRA was cited as efforts to curb anti-development and anti-national narratives. Amnesty International India had to shut its operations in 2020 after its accounts were frozen.⁹ Critics argue that the law has become a tool to delegitimize organizations critical of state policies, particularly in sectors like human rights, minority rights, environmental justice, and tribal welfare.

Operational Challenges and Government Cooperation

Human rights NGOs in India operate under challenging circumstances. They often face logistical constraints, legal intimidation, vilification in the media, and denial of access to conflict zones. Despite these, many NGOs have partnered with governmental bodies for implementing welfare schemes and human rights programs. NGOs like SEWA (Self-Employed Women's Association)¹⁰ and Pratham¹¹ have collaborated with government departments in education, vocational training, and healthcare.

During the COVID-19 pandemic, NGOs played a critical role in relief distribution, migrant worker support, and dissemination of public health information. Their grassroots presence, agility, and trust among local populations enabled them to reach areas where the state could not. This shows that NGOs and governments need not operate in adversarial silos—they can

⁹ "Ed Attaches Rs 1.54 Crore Assets In Money Laundering Case Against Amnesty". *The Indian Express*. 8 October 2022.

¹⁰ Self Employed Women's Association (Sewa), Is The Single Largest Central Trade Union For The Women Workers In The Informal Economy In India. We Are Registered Under The Trade Union's Act, 1926 On April 12, 1972 With Registration Number G.938.

¹¹ Pratham Is An Innovative Learning Organization Created To Improve The Quality Of Education In India. Established In 1995 To Provide Education To Children In The Slums Of Mumbai, Pratham Has Grown In Both Scope And Scale, With Programs Today Reaching Children And Youth Across The Country.

work in tandem for public welfare.

However, the lack of a comprehensive national policy on NGOs, inconsistent state-level laws, and bureaucratic red tape continue to hamper their functioning. The overuse of sedition laws or the Unlawful Activities Prevention Act (UAPA) against activists also raises questions about the criminalization of rights-based work.

Sovereignty vs. Democratic Accountability

State sovereignty in India is founded on democratic principles and constitutionalism. Unlike authoritarian regimes where sovereignty is equated with absolute control, in India it is tempered by public accountability, rule of law, and fundamental rights. Hence, when NGOs demand transparency or criticize state excesses, they do not erode sovereignty—they reinforce it. The Supreme Court has affirmed this balance in several judgments. In *S.R. Bommai v. Union of India* (1994), the court emphasized constitutional morality and democratic values over majoritarianism. NGOs, in this framework, act as the conscience keepers of the Republic. Their critiques are often based on constitutional ideals—not foreign ideologies. Therefore, branding them as foreign agents undermines democratic pluralism. At the same time, concerns about unethical funding, biased reporting, or political misuse of NGO platforms cannot be dismissed. Transparency and accountability must be reciprocal—NGOs too should maintain financial integrity and openness. An independent regulator, rather than a punitive one, could bridge the trust deficit between the state and civil society.

Conclusion

Human rights NGOs in India embody the participatory and pluralistic ethos of the Constitution. They have pushed the frontiers of jurisprudence, compelled state responsiveness, and served communities that often remain invisible in formal policymaking. Their existence, however, is increasingly precarious amid regulatory pressures, public hostility, and institutional indifference. The relationship between state sovereignty and civil society need not be antagonistic. Both aim to serve the people—albeit from different perspectives. Rather than viewing NGOs as subversive elements, the state should embrace their potential as partners in inclusive governance. Strengthening regulatory mechanisms with fairness, promoting civic education, and facilitating dialogue between state and NGOs can ensure that India remains a vibrant democracy with a robust human rights culture.