

Scott Calnan. *The Effectiveness of Domestic Human Rights NGOs. A Comparative Study*. Leiden/Boston: Martinus Nijhoff, 2008. Pp. 358. €115. ISBN: 9789004170216.

While international human rights treaties define obligations of states and subjective rights of people living under their jurisdiction, and beyond (extraterritorial obligations of human rights treaties), it has become increasingly evident that civil society activities are crucial to helping establish a strong effective human rights system in any given country. NGOs collect critical information, advise victims how to complain, complain themselves publicly about weaknesses of state agencies, and even support legal cases before national, regional, and international expert committees and courts. In a national context, this can lead to political tension with the government in power and state agencies, because human rights issues are sometimes perceived as political or politicized by those in power. In addition questions of accountability, financing, and the internal democracy of NGOs may be critically raised – sometimes to distract from the human rights criticisms initially raised by the NGOs concerned.

What Dutch political scientist Peter R. Baehr recently concluded for international NGOs is also true for national human rights NGOs: '[d]espite the abundance of non-governmental human rights organizations little is actually known about their effectiveness or impact, except for the fact that they tend to rely on what is commonly known as the "mobilization of shame"'.¹ It is the topic of effectiveness of domestic human rights NGOs (DNGOs) Scott Calnan from the University New South Wales is interested in. Writing from a comparative law perspective, he refers in his introduction to older research on NGOs and human rights by authors such as Laurie Wiseberg, Harry M. Scoble, H.J. Steiner, and, more recently,

Claude E. Welch, Schwitter Marsiaj, and Paul J. Nelson.² His objective is to 'compare the mobilisation of law by human rights DNGOs in three jurisdictions with the aid of case studies' (at 17), namely the United States, the United Kingdom, and Germany. The focus is on the mobilization of domestic public law.

After the first chapter lays out his theoretical approach and method, Chapters 2 to 5 deal with tactics, structure, acquisition of resources, and goal effectiveness of DNGOs. Regarding the last subject, the author divides goal effectiveness into agenda, goal, and overall effectiveness. His major research subject is how DNGOs select tactics within the broader framework of the mandate of their organizations. He distinguishes between: first order tactics, i.e., broad mandate creation; second order tactics, i.e., categories of tactics used to implement the mandate and agenda, such as litigation or lobbying; and third order tactics, i.e., specific tasks to execute the second order of tactics, as for example impact litigation (at 36). Calnan also refers to the concept of a 'Comprehensive Tactical Stance' which determines how a DNGO chooses the most effective first, second, and third order tactics (at 44).

On the basis of his initial research, the author selected a number of candidate DNGOs as case studies in the United States, United Kingdom, and Germany. The last is a welcome addition because human rights policies in Germany – I confess my own bias – usually get neglected in many works on national and international human rights work compared with the Anglo-Saxon and Scandinavian world. The author

² See Claude E. Welch, ed., *NGOs and Human Rights. Promise and Performance*, Philadelphia: University of Pennsylvania Press, 2001; works on NGOs address overwhelmingly their role on the international level, e.g. Caroline E. Schwitter Marsiaj, *The Role of International NGOs in the Global Governance of Human Rights. Challenging the Democratic Deficit*, Zurich et al.: Schulthess, 2004 or on development, e.g. Paul J. Nelson/Ellen Dorsey, *New Rights Advocacy. Changing Strategies of Development and Human Rights NGOs*, Washington, D.C.: Georgetown University Press, 2008.

¹ Peter R. Baehr, *Non-Governmental Human Rights Organizations in International Relations*, Houndsmill: Pallgrave Macmillan, 2009, p. 123.

settled for the NAACP Legal Defence and Education Fund Inc., the Lawyers' Committee for Civil Rights Under Law, and the Centre for Constitutional Rights in the United States; in the United Kingdom for JUSTICE, British Irish Rights Watch (BIRW), The Committee on the Administration of Justice; and in Germany the Humanistic Union, The Committee on Basic Rights and Democracy (KGD), and The Society for the Protection of Basic Rights and Human Dignity (GBM). Of three other DNGOs, the American Civil Liberties Union (ACLU) and Liberty (United Kingdom) declined an offer to participate in the study, and the Union of Democratic Lawyers (Germany) did not respond to the author's inquiry (at 28 ff).

The study was conducted between 2000 and 2004. It is based *inter alia* on book and journal research, Internet, legal cases, case study publications, government and parliamentary sources, qualitative interviews and questionnaires, and archives of some of the DNGOs (at 29). By triangulation the author seeks to establish from the material to what extent DNGO action appears for example in official documents by parliament, with respect to the topics it chose to engage in. Triangulation focuses on two aspects. First, it is analysed what opinions the material expresses about the subject under investigation; secondly, some of the material was investigated "merely in terms of its proportional frequency on a website, Internet publication or the Internet generally" (at 238). Effectiveness is determined by comparing how often certain human rights topics of the DNGOs or the DNGOs themselves are being mentioned in different categories of sources such as media reporting, parliamentary documents, and court case law. The goal is to determine the degree of influence on relevant debates and case law.' I must say that I find the methodological explanations rather complicated and not clear.

In Chapter 5, the author observes that NGOs show an interesting spectrum of degree of effectiveness across the board, with British Irish Rights Watch and GBM being assessed as demonstrating a high effectiveness across the three dimensions (agenda,

goal, overall effectiveness), while at the other end KGD reaches only two 'low' and one 'high' degree of effectiveness. They exploit, the author argues in his conclusion, the opportunity structure through planning, maintaining a structure which would be responsive to the environment and which gives some capacity for long term work. Regarding resource acquisition, the successful DNGOs follow a diversified approach freeing them from donor control over their work (at 320). Primary determinants of effectiveness are organizational abilities rather than environmental factors (at 326, 327). DNGOs are in his view underestimating the extent to which this kind of research on DNGOs could improve their effectiveness. DNGOs, he stresses, should become more receptive to it. He discusses and develops the central findings of his study such as that 'organisational abilities determine effectiveness' or that 'the "major players" among DNGOs are not always the most effective'.

Scott Calnan has contributed an interesting volume to the academic research on the role of domestic non-governmental organizations in the mobilization of law. He uses an interesting mix of methodological approaches to evaluate agenda, goal, and overall effectiveness, and thereby contributes to the debate on measurement of effectiveness.

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