



Human Rights Non-Governmental Organisations: Protection and Promotion of Human Rights in Sri Lanka

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Abstract

Human rights in recent years has received immense attention and increased discussion over whose rights do we talk about and who protects and promotes human rights. Human rights non-governmental organisations, with their unsparing accounts and reports of human rights practices in countries across the world have no doubt contributed to the growth in protection and promotion of human rights both at the international and national level. This article seeks to examine whether human rights non-governmental organisations and their activities in Sri Lanka has played an important role in improving respect, protection and promotion of human rights practice within the nation. It finds that protection and promotion of human rights in the country is minimal due to the interference of the government in the activities of the organisations while attempting to promote the rights of the people in the country. This article uses the data collected to prove that human rights non-governmental organisations play a very minimal role in protecting and promoting human rights in Sri Lanka.

Keywords: Human rights, NGOs, HRNGOs.

Introduction

Elaborate discussions on human rights are very frequent these days both nationally and internationally for intellectual discourse and also for discussions among politicians around the world. Fundamental questions relating to the concept of human rights today are, whose rights do we talk about- of the individual or of the society? Who gives, protects and promotes human rights? It must also be noted that the issue of human rights arises only when there is a denial or violation or imminent infringement of such rights. As it is evident human rights received much attention after the Second World War, where millions of people lost their lives. The devastation of life caused by the Second World War made members of the United Nations (UN) to take necessary measures to prevent such recurrence of human rights abuse. Eversince, human rights has over the years become an important issue in the international community as well as in the political discourse of almost every nation in the world. In this context understanding the role of human rights non-governmental organisations (HRNGOs) in protecting and promoting human rights is important.

A non-governmental organization (NGO) is a non-profit entity whose activities are determined by the collective will of its members who belong to one or more communities with which the NGO cooperates¹. Though there may be no universally accepted definition of NGOs, there is a widespread agreement that their numbers, influence and outreach are at unprecedented levels. In 1948, the United Nations granted 48 NGOs with consultative status who were formally accredited to co-operate and consult with the United Nations Economic and Social

Council (UN ECOSOC). In 1998, there were more than 1500 such groups with varying degrees of participation and access².

NGOs differ from state organizations which are primarily motivated by the need for social coercion. In contrast, NGOs are interested mainly in building communities for which they do not rely upon either coercive forces or profit making. Rather NGOs rely primarily on solidarity between the members of civil society and this solidarity is nurtured by them through decentralized management sustained by voluntary local participation³.

There are various types of NGOs. Some NGOs operate at national, local and some at international levels. NGOs can contribute to human resource development by their very existence and through development and introduction of new technologies⁴. They are sometimes the most appropriate agents for initiating development. NGOs are primarily interested in community building and empowering the poor. NGOs can be more efficient and responsive in meeting the needs of the poor because they are located closer to them than governmental agencies. They are more aware of the particularities of local resources and constraints which can make them more innovative in designing development projects. Such close proximity to these groups who need development, makes NGOs more transparent, accountable and more effective than government agencies at times⁵. NGOs mainly work as social pressure groups and serves as a forum for exchange of views on domestic issues such as spousal abuse, dowry deaths, alcoholism, human rights and developmental issues. Though NGOs may be effective in improving the situation on such issues, they have various limitations in pursuing their objectives. One of the main

limitations that NGOs suffer is their inability to cooperate with other similar organizations and institutions and governmental agencies⁶. Specifically governmental organizations are more authoritative in standard-setting and norm generating but are weak in monitoring and enforcement of state behaviour. NGOs have freedom from government control and it enables them to function as an effective watchdog against human rights violations⁷.

NGOs and Human Rights: NGOs in the field of human rights are of two types which may exist in a country. They are human rights international non-governmental organizations (HRINGOs) and local or regional human rights non-governmental organizations (HRNGOs). These organizations take their cue from the most widely endorsed international declarations to promote and protect human rights. Some HRINGOs are the Amnesty International (AI), the Human Rights Watch (HRW), Minority Rights Group (MRG), the Anti-Slavery Society (ASS), the International Committee of Red Cross (ICRC), the International Commission of Jurists (ICJ), etc. These groups have a specific objective to protect human rights. There are also HRNGOs whose human rights concerns are more general. Some of these groups are International League for Human Rights, International Commission of Jurists, etc. These NGOs work to uphold those rights which are listed in the International Covenant on Civil and Political Rights (ICCPR). Amnesty International concentrates on activities to promote freedom from torture and the death penalty. The International Committee of Red Cross is concerned with rights in armed conflicts and with the rights of political prisoners. Non-specialist organizations like the international commission of jurists have also been primarily concerned with civil and political rights. The commission's dedication to the universal acceptance of justice has meant that the procedures associated with the Rule of Law, might be held to be more substantive to notions such as distributive justice⁸.

HRNGOs have been instrumental in the global expansion of human rights issues in the post World War II scenario. Organizations such as Amnesty International and Human Rights Watch have played key roles in the formative years of global human rights by promoting international human rights instruments and publicizing gross human rights violations in various countries. HRINGOs' critical and unsparing reports of local human rights practices all over the world have been essential in the proceedings of United Nations human rights instruments such as the commission on human rights and the human rights council (hrc). many hringos namely, international save the children, (general status) amnesty international, human rights watch, international commission of jurists, human rights advocates (special status), minority rights group (roster status), etc, have also gained consultative status in the United Nations (UN) and have been actively promoting their visions of human rights in the new century⁹.

Article 71 of the United Nations charter creates provisions for consultations between the economic and social council and non-

governmental organizations. Article 71 implemented by the Economic and Social Council (ECOSOC) is regulated by the ECOSOC Resolution 1296 (XLIV) of May 23, 1968. It establishes a formal system that enables NGOs with consultative status to obtain any one of the three types of the consultative status with the United Nations namely i. General, ii. Special and iii. Roster. Consultative status of HRINGOs enables their representatives, subject to conditions and restrictions, to present reports to those organizations (UN, OAS, Council of Europe, and UNESCO) which help in formulating their agenda for the promotion of human rights practice in different countries. General status applies to large international non-governmental organizations whose interests cover most of the economic and social council's agenda. They can speak before delegates, circulate statements upto 2000 words long and place items on the agenda. They are expected to submit a quadrennial report outlining their contributions to the United Nations. Special status concerns with special competence in some fields of activity of the council. Non-governmental organizations with special status are also expected to submit quadrennial report, but they cannot place items on the agenda. Written statements are limited to 500 words only. Non-governmental organizations with Roster status are concerned with one or more specific issues. They may attend meetings, but cannot speak or circulate statements¹⁰.

The existence of the consultative system has encouraged the creation of more NGOs and the adoption of similar consultative systems by other international and regional organizations which have resulted in the increase of more HRNGOs¹¹. Consultative status under Article 71 of the economic and social council means that HRNGOs are allowed to sit as observers at public meetings of the council and the commission on human rights and the sub-commission on prevention of discrimination and protection of minorities. It also allows HRNGOs, in accordance with the rules established by the council, to make oral statements and submit written documents. Interventions by HRNGOs at such meetings call for attention to the human rights situation in different countries and also call for investigations to be carried out by the United Nations. They also assist in the actual drafting of declarations and treaties. HRNGOs may also submit reports on alleged violations of human rights, for confidential consideration by the sub-commission and the commission under the '1503' procedure¹². The views of HRNGOs are also sought on a wide range of issues for decisions to be taken by the general assembly, the economic and social council, the commission on human rights and its sub-commission on prevention of discrimination and protection of minorities¹³.

HRNGOs resemble domestic pressure groups or lobbies. HRNGOs play an important role in protecting and promoting human rights. Governments which violate human rights always try to evade or make sure that the applicable international human rights norms, institutions and procedures remain weak and ineffective. HRNGOs provide the needed counterpoint to these governmental attitudes and deserve much of the credit for the progress that has been made in recent decades in human rights

issues. NGOs employ various methods in pursuit of their goals which differ from one group to another. Some groups resort to only one or a limited number of techniques or activities, be it the preparation of reports, the filing of complaints with international organizations, the promotion of international legislation, lobbying before international and national bodies. Others may use all of the above tools to the protection of specific groups or specific concerns¹⁴.

NGOs help to safeguard human rights against government infringement through techniques such as diplomatic initiatives, fact-finding missions, reports, public statements and mobilization of public opinion. These techniques have proven successful, since in most circumstances, NGOs are more independent from political forces than States or IGOs and thus are more able to identify and criticize human rights violations. Once NGOs bring a problem to a state's attention it becomes more difficult to ignore human rights violations. Most NGOs publicly report the results of their missions and thus provide valuable information about violations of human rights. Publicity is an important factor in the enforcement of human rights by NGOs

There is little doubt that NGOs have influenced the human rights practices of governments and popular perceptions of human rights. Agreement on what NGOs do best remains an area of continuing scholarly debate. Assessing the performance of NGOs by examining a number of significant organizations, including amnesty international, human rights watch, and the international commission of jurists, reveal promising evidence that transnational networks of organizations can both exert pressure on states and influence public opinion, resulting in the improved protection of human rights around the world.

Human Rights NGOs in Sri Lanka: Sri Lanka, since the early 1970s faced armed rebellion (LTTE) which came as the response to the state's repression on Tamil minorities. The armed rebellion also threatened the territorial integrity of Sri Lanka. The state's response to the armed rebellion was to suppress militancy with its military forces. In such a situation where the state and the armed group, namely the LTTE, showed total disregard to human rights, HRNGOs in Sri Lanka seemed to have played a role in the protection and promotion of human rights.

Sri Lanka has a long tradition of NGOs and voluntary welfare associations, but the 1980s and the 1990s saw a rapid growth of foreign aid funding and a corresponding growth in NGOs whose activities included development of economic, religious and political concerns and their intellectual approaches span a spectrum from political advocacy to neutral humanitarianism. Some NGOs were seen working closely with the Government of Sri Lanka while others keep a distance from governmental programmes. There has also been a proliferation of NGOs in Sri Lanka which have diverse backgrounds, agenda and activities. Based on their objective and activities, HRNGOs in Sri Lanka can be divided into first and second generation HRNGOs. NGOs

in Sri Lanka which functioned before the armed conflict were primarily church-based, welfare and charity organizations. Those NGOs which came into being after the conflict intensified in the 1980s was due to the availability of foreign funding since the early 1990s. In addition to local HRNGOs, a number of HRINGOs worked in Sri Lanka such as Save the Children Fund (SCF), amnesty international, human rights watch, Peace Brigades International (PBI), etc. Most of these organizations started to work as relief agencies in the north and east of Sri Lanka. Some of these NGOs like SCF and Oxfam have moved into development and rehabilitation activities. Apart from the International Committee of Red Cross (ICRC), few HRINGOs were involved in protection and promotion of human rights in the areas of conflict resolution¹⁵.

HRINGOs which worked in Sri Lanka such as the amnesty international, human rights watch, and peace brigades international are no longer present. This is due to the Sri Lankan Government's demand that if they wished to remain and work in Sri Lanka, they have to submit their reports to the government authorities prior to their publication. The only HRINGO which is present in Sri Lanka and has its offices and personnel functioning at present is the International Committee of the Red Cross (ICRC). Although, offices of the ICRC are present in Sri Lanka, it is confined to exchanging the bodies of the slain between the LTTE and Government of Sri Lanka's and vice-versa, who were killed during combat¹⁶.

In Sri Lanka there are more than thirty local HRNGOs working for the protection and promotion of human rights. However, about five HRNGOs work actively on human rights issues in Sri Lanka. The five NGOs are, i. the Home for Human Rights (HHR), ii. the Law and Society Trust (LST), iii. the Information Monitor (INFORM), iv. the Center for Policy Alternatives (CPA) and v. the Consortium of Humanitarian Agencies (CHA).

Home for Human Rights (HHR): Home for Human Rights (HHR) was established in 1977 by three attorneys concerned about human rights violations in the Jaffna region. It was one of the first legal aid organization created to support victims and survivors of the conflict between the government of Sri Lanka and the LTTE. At present the HHR has five field offices which provide a wide range of services to victims or survivors of human rights violations¹⁷. The field offices are in Akkaraipattu, Batticaloa, Hatton, Jaffna and Mannar with its head office in Colombo¹⁸.

Law and Society Trust (LST): The Law and Society Trust (LST) was founded in 1982, by Neelan Tiruchelvam, who was a member of Parliament of Sri Lanka. He was assassinated by an LTTE suicide bomber in July 1999. The Law and Society Trust was formed to create a society free from war discrimination and social injustice and based on human dignity for all citizens of Sri Lanka. It has its office in Colombo¹⁹.

Information Monitor (INFORM): Established in 1989, the inform human rights documentation center works primarily as a documentation center on human rights violations. The organization is based in Colombo and collects information of alleged human rights violations in Sri Lanka. The information collected is published in its monthly reports²⁰.

Centre for Policy Alternatives (CPA): The Centre for Policy Alternatives (CPA) was formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening. CPA is committed to programmes of research and advocacy. CPA is an independent non-partisan organization which is funded by the international and bilateral funding agencies and foundations.

Consortium of Humanitarian Agencies (CHA): The Consortium of Humanitarian Agencies (CHA) was formed in 1997. The consortium of humanitarian agencies is an association of agencies working to support the work on human rights issues in Sri Lanka. It functions as a network of humanitarian agencies and has a full-fledged secretariat. CHA has its offices in Amparai, Badulla, Batticaloa, Galle, Hambantota, Jaffna, Kalutara, Mannar, Matara, Puttalam and Trincomalee districts of Sri Lanka²¹.

Common Objectives of the HRNGOs: In Sri Lanka HRNGOs have the following objectives: i. providing human rights education, ii. counseling victims of human rights violations, iii. providing rehabilitation to the victims, iv. providing socio-economic development at the grassroots level, v. documentation of human rights abuses, vi. conducting research on human rights issues, vii. to contribute to public accountability in governance creating awareness in society in respect of public policy and implementation and viii. to provide policy alternatives aimed at safeguarding and strengthening democracy, pluralism, the rule of law, human rights and social justice.

Role of HRNGOs in Sri Lanka: HRNGOs in general have the grass-roots knowledge and direct contact with the victims and have established relations and trust with victim communities and other civil society groups, including religious groups, unions and other institutions. The following are the different ways in which HRNGOs potentially play a role in protecting and promoting human rights: i. Document patterns of violations. ii. Conduct forensic examinations. iii. Publish reports and other information on violations. iv. Submit information on violations of the norms of the national courts or the International Criminal Court (ICC). v. Provide general legal memoranda and research assistance to national courts or the International Criminal Court. vi. Monitor national proceedings on human rights violations and report to the public or to the international criminal court. vii. Explain the international criminal court the role of the office of the prosecutor (OTP) to affected communities. viii. Advise the office of the prosecutor on communication with victims and witnesses in affected communities. ix. Provide the international criminal court with information regarding displacement of people and

flows of refugees. x. Identify potential witnesses and act as a channel to reach and gain trust of such individuals for the office of the prosecutor. xi. Advise the office of the prosecutor on witness protection. xii. Provide support to victims or witness such as psychological, medical and humanitarian support after they have been interviewed by the office of the prosecutor. xiii. Organize victims for the purpose of participation and reparations. xiv. Provide training to those lawyers who might represent victims or suspects accused. xv. Act as amicus curiae (friend of the court) in court proceedings²².

Notwithstanding the stated role and functions, HRNGOs in Sri Lanka, play a limited role in protecting and promoting human rights. This is because of governmental restrictions placed on these organizations to work primarily in the north and east of Sri Lanka. HRNGOs in Sri Lanka, i. receive complaints on violations of human rights, ii. investigate those complaints received on alleged violations, iii. provide legal aid for individual victims of human rights violations, iv. co-ordinate work with national and international HRNGOs, v. publish reports on human rights violations and vi. provide education on human rights to civilians as well as government personnel²³. HRNGOs in Sri Lanka provide human rights education by conducting seminars, conferences, workshops and awareness programmes. Participants to these educational programmes are mainly students and teachers from schools, colleges and universities and also, human rights activists, social workers, civil servants, armed forces personnel, victims of human rights abuses, community leaders, leaders of political parties, etc. These programmes are usually conducted two to three times in a year. Only the consortium of humanitarian agencies conducts such programmes every three months and organizes open discussions annually.

Limitations of the Role of HRNGOs in Sri Lanka: Although HRNGOs are expected to make significant contributions for the betterment in the practice of human rights, there are a number of important factors which place limitations on their role in protecting, promoting and investigating human rights violations. Firstly, HRNGOs and activists are not trained in documenting and investigating human rights violations. Though they might be trained in some cases their role, however, in documenting and investigating human rights violations it is different from that of the international criminal court or of any court whether national or international. Secondly, a particular concern of HRNGOs is protecting confidential relationships including the identities of sources. HRNGOs are understandably concerned with the security of individuals with whom they interact. Often HRNGOs have longstanding presence in the area where violations take place and have a strong interest in preserving their long term ability to protect and support victims of human rights violations. It should also be noted that HRNGOs are always not able to operate freely and in many countries such as Sri Lanka, they are vulnerable to interference in their work from government officials and non-official agencies. Thus, they may not be in a position to operate independently and impartially. For instance, in any given conflict, a HRNGO may be closely associated with

one party to the conflict or have a particular political or other agenda which could carry a bias in their documentation of human rights violations²⁴.

In Sri Lanka, HRNGOs suffer from other limitations as well which prevent them from functioning effectively. The most important factor in the limitations for HRNGOs is security concerns. HRNGOs are often placed in precarious conditions with regard to their security. If a HRNGO is said to sympathize with the rights of the Tamils in Sri Lanka, they are often labelled as traitors to the nation and receive threats to their life from paramilitaries and other governmental agencies²⁵. Therefore, they receive threats and warning letters from various agencies of the government such as the police, army personnel, special task force, political party leaders, etc. HRNGOs in Sri Lanka lack funding, professionalism and lack of coordination with other human rights agencies. The other factor which prevents these organizations from functioning effectively is the restrictions placed by the government to work in these vulnerable regions of north and east of Sri Lanka on grounds of war and security reasons¹⁰. Censorship is another important factor which hampers the work of these organizations. It is also found that HRINGOs such as Amnesty International, Peace Brigades International, etc,

left Sri Lanka due to censorship of their work by the government. Peace Brigades International (PBI) stated in its news release that HRINGOs are forced to leave Sri Lanka because of the demand by the Sri Lankan Government to submit its report and findings before publication. This demand made by the GOSL is understood by the HRNGOs as a move to censor such reports before release²⁶. HRNGOs also state that most of the civilians in the north and east of Sri Lanka do not have any knowledge of the existence of such organizations leave alone accessing their support.

Various views expressed by the respondents revealed that HRNGOs in Sri Lanka are not very effective in protecting and promoting human rights in the north and east. 28 percent of the respondents felt that the HRNGOs are effective in protecting and promoting human rights whereas 20 percent said that they are not effective in the Tamil areas of Sri Lanka. The remaining 52 percent of the respondents said they are not aware about the effectiveness of the HRNGOs in protecting and promoting human rights in the Tamil areas of Sri Lanka. Therefore, we can understand that the people in Sri Lanka feel that the HRNGOs in Sri Lanka do not play an effective role in protecting and promoting human rights in Sri Lanka.

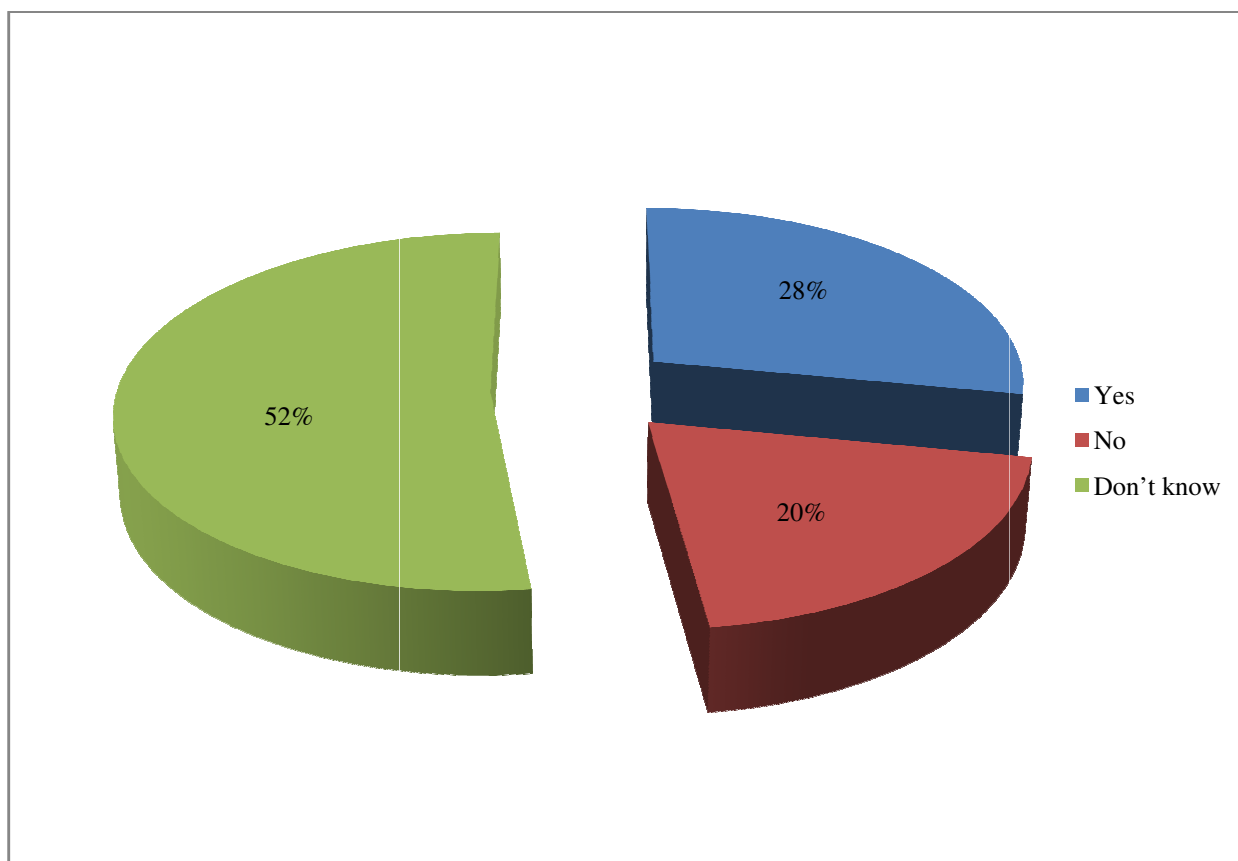


Figure-1
Effectiveness of HRNGOs in Sri Lanka

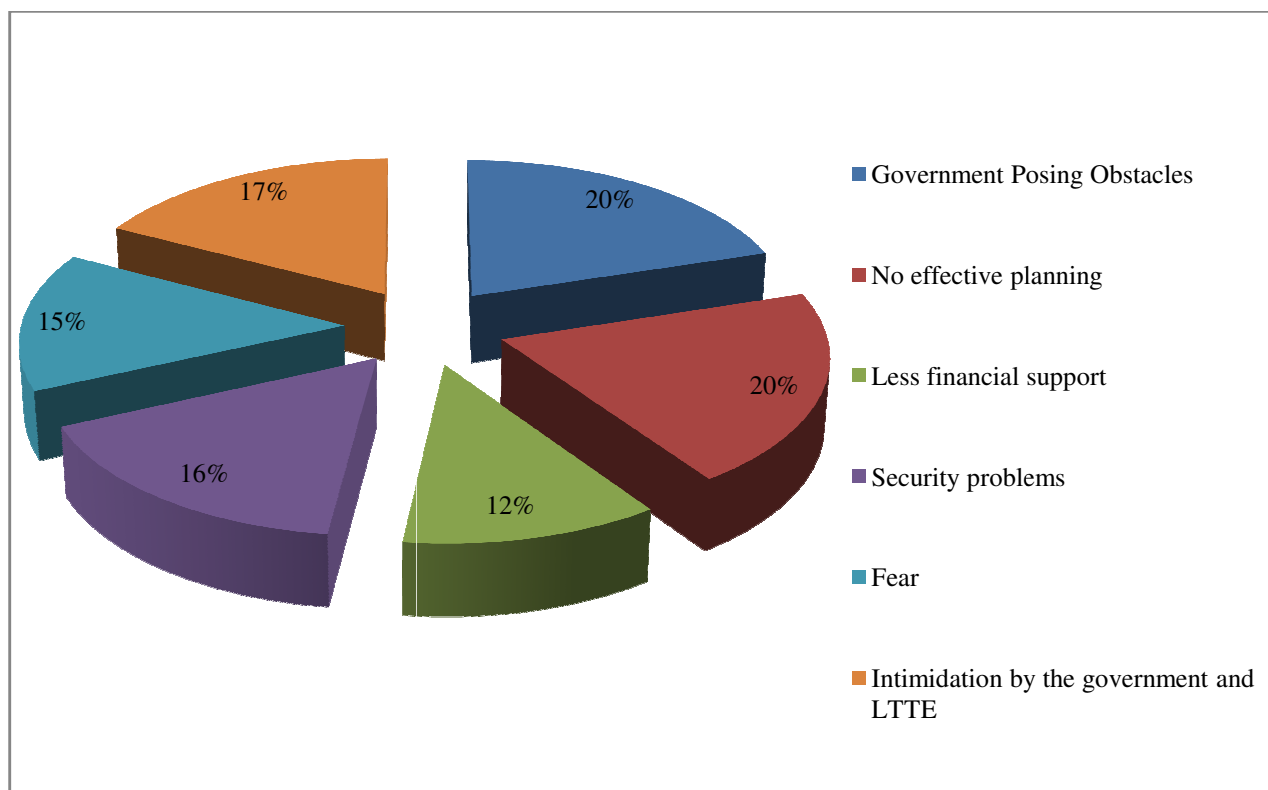


Figure-2
Limitations in Protecting Human Rights in Tamil Areas of Sri Lanka by HRNGOs

With regard to the limitation faced by HRNGOs in protecting and promoting human rights in the Tamil areas of Sri Lanka various opinions were expressed by the respondents. 20 percent of the respondents said that the government posed obstacles while another 20 percent stated that there is no effective planning made by HRNGOs in Sri Lanka to protect and promote human rights in the Tamil areas of Sri Lanka. 17 percent of the respondents said that intimidation by the government and the LTTE was one of the limitations faced by HRNGOs in Sri Lanka while 16 percent of the respondents stated that HRNGOs faced security problems while working for the protection and promotion of human rights in the region. 15 percent of the respondents said that fear was another limitation while the remaining 12 percent of the respondents stated that HRNGOs lacked proper financial support to protect and promote human rights in the Tamil areas of Sri Lanka.

Conclusion

Hence, from the discussion it is revealed that HRNGOs in Sri Lanka are not very effective in protecting and promoting human rights in the Tamil areas of Sri Lanka. Although, HRNGOs in Sri Lanka have represented many cases in relation to human rights violations in the courts, they have not been able to achieve any positive results for the victims they have represented. For

example, the Nallaratnam Singarasavs Attorney General of Sri Lanka, case, where the victim (NallaratnamSingarasa) was represented by the home for human rights and other lawyers did not produce any positive results for the victim. Although, it was alleged that charges against Singarasa were fabricated by statements which were obtained through torture, they were accepted by the Supreme Court of Sri Lanka as prima facie evidence against him.

The role of HRINGOs or HRNGOs in protection and promotion of human rights in Sri Lanka is very minimal although the legal framework for protection of human rights is very strong. HRNGOs also state that the presence of HRINGOs is necessary to improve the human rights protection in Sri Lanka. It was also stated by HRNGOs that human rights abuses could be prevented effectively if HRINGOs and their offices were present in these regions. While these groups were present, both the government agencies and the LTTE were found to have refrained from abusing human rights atleast to a certain extent²⁸. Therefore, the role of HRNGOs in protecting and promoting human rights in Sri Lanka appears to be very limited also due to governmental interference in the work of these organisations to promote and protect human

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