Chapter Two

The Tactics of Human Rights DNGOs in United States, Britain and Germany

This chapter is an overview and critical analysis of the tactical choices that DNGOs make from the strategies available to them. In order to achieve this a typology of DNGO tactics is firstly put forward to aid the understanding of the material. Then, the tactics of each of the case studies are documented and analysed (mostly from the same points of view) to facilitate useful comparison. Some of the variables that influence the tactical decisions of the case studies are discussed within the exposition of each case study. The main analysis, however, is at the end of the discussion for each jurisdiction, and in the conclusion.

Reitz has argued that true Comparative Law scholarship lies in the tension between the similarities and differences in what is being compared. In line with this, it is argued below that the case studies show both differences and similarities in their tactics. It is further argued that the differences between the case studies stem from different conceptions of how human rights work should be done, while the similarities are determined both by the common need for DNGOs to gain legitimacy in local cultures, and their need to rationally adapt to the opportunities in their environment. DNGOs, it is argued, are compelled to achieve a balance between these two requirements. Other factors that influence DNGOs, such as the levels and types of resources or the type of structure, are mentioned here in passing and are dealt with in more detail in chapters four and five.

1 As mentioned in chapter one “strategy” in this work refers to the objective possible tactical choices of a DNGO in a given environment, while “tactics” refers to the choices that DNGOs make from among these objective possibilities in order to achieve their goals.
4 Or, as it will be put below, the need for a DNGO to rationally adapt to the opportunity structure around it. For a good definition of opportunity structure see M.E. Keck & K. Sikkink Activists Beyond Borders: Advocacy Networks in International Politics (Cornell University Press, Ithaca (NY), 1998) p. 7.


2.1. Typology of DNGO Tactics

In the discussion that follows the tactical decisions made by DNGOs are loosely divided into first order, second order and third order tactics. First order tactics concern the framing of a DNGO’s mandate and agenda. They are thus about setting goals at the most general level. Second order tactics are used to achieve the goals set out in the mandate or agenda (e.g., litigation or lobbying). Third order tactics concern the methods used by a DNGO to execute the second order tactics it chooses. This typology is not meant to suggest a chronological sequence: a DNGO might begin by using second and third order tactics and only later clarify its first order tactics.

Table One: The Orders of Tactics

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<thead>
<tr>
<th>Order of Tactics</th>
<th>What it Encompasses</th>
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<tr>
<td>First Order</td>
<td>Broad mandate creation. Creation of a series of issues it focuses upon (an agenda).</td>
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<tr>
<td>Second Order</td>
<td>Categories of tactics used to implement the mandate and agenda (e.g., litigation or lobbying).</td>
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<tr>
<td>Third Order</td>
<td>Specific tactics used to execute the second order category of tactics (e.g., impact litigation).</td>
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2.1.1. First Order Tactics

As Weissbrodt pointed out for INGOs, a DNGO needs to ask itself a number of questions when setting its mandate.\(^5\) These questions are:

1) is the DNGO to have a wide or narrow mandate?
2) should the DNGO focus on particular rights, or on groups that traditionally suffer violations? and
3) should the mandate be rigid, or allow flexibility to deal with new issues that arise?\(^6\)

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\(^5\) In this work, the mandate of a DNGO will be defined as that set of human rights violations that a DNGO states publicly that it is committed to redressing. The mandate is thus a DNGO’s reason for existence. In contrast, the agenda will be defined as those issues within the mandate that a DNGO actually focuses on addressing in its day to day work. This is a more simple approach than the use by Baehr of the concepts of object, mandate and method – see P.R. Baehr “Amnesty International and Its Self-Imposed Limited Mandate” (1994) 1 Netherlands Quarterly of Human Rights 5 at 7.

\(^6\) D. Weissbrodt “Strategies for the Selection and Pursuit of International Human Rights Objectives” (1981) 8 Yale Journal of World Public Order 62 at 64–65. Such a decision is heavily influenced by the ideology of the group, especially the ideas of the leaders who founded the DNGO.